



**Arbitration CAS 2014/A/3701 Genoa Cricket and Football Club S.p.A. v. AC Sparta Praha, award of 11 May 2015**

Panel: Mr Hendrik Willem Kesler (The Netherlands), President; Prof. Massimo Coccia (Italy); Mr Michele Bernasconi (Switzerland)

*Football*

*Transfer of a player with a participation agreement*

*Discretion of a CAS panel to exclude evidence in accordance with Article R57 para. 3 of the CAS Code*

*Definitive transfer of the player despite the fact that the totality of the economic rights were not transferred*

*Triggering of the sell-on clause*

- 1. Article R57.3 of the CAS Code should be construed in accordance with both the fundamental principle of the *de novo* power of review and the right to be heard of the parties. As such, the discretion to exclude evidence should be exercised with the utmost caution, for example, in situations where a party may have engaged in abusive procedural behaviour, or in any other exceptional circumstances where the CAS panel might, in its discretion, consider it either unfair or clearly inappropriate to admit new evidence. Such is not the case where it appears that a party after having received the appealed decision attempted to collect additional evidence to support its previously expressed position, which additional evidence is completely in line with the arguments and evidence already presented throughout the proceedings before the FIFA Single Judge.**
- 2. Although a definitive transfer must be distinguished from a definitive transfer with a participation agreement, in both cases there is a definitive transfer of the player's sporting rights. The mere fact that only 50% of a player's economic rights are transferred does not change the fact that the player's sporting rights are definitely transferred. Also, in a situation where a player is definitively transferred to the buying club, but with the particularity that the transferring club effectively retains 50% of the economic rights of the player in question, if the player is then subsequently transferred back to the transferring club, this must be regarded as another definitive transfer, with the important particularity that the 50% of the player's economic rights retained by the transferring club in fact remain with the transferring club. As such, the second 50% of the player's economic rights are never liquidated.**
- 3. A sell-on fee which does not specifically make reference to 100% of the economic rights of a player can be triggered even if only a portion of economic rights is transferred, as long as the rights to the player's sporting performances are definitively transferred and based on the contractual amount agreed by the parties.**

## I. PARTIES

1. Genoa Cricket and Football Club S.p.A. (hereinafter: “Genoa” or the “Appellant”) is a football club with its registered office in Genoa, Italy. Genoa is registered with the Italian Football Federation (*Federazione Italiana Giuoco Calcio* – hereinafter: the “FIGC” or the “Italian FA”), which in turn is affiliated to the Fédération Internationale de Football Association (hereinafter: “FIFA”).
2. AC Sparta Praha (hereinafter: “Sparta” or the “Respondent”) is a football club with its registered office in Prague, Czech Republic. Sparta is registered with the Football Association of the Czech Republic (hereinafter: the “FACR”), which in turn is also affiliated to FIFA.

## II. FACTUAL BACKGROUND

### A. Background Facts

3. Below is a summary of the main relevant facts, as established on the basis of the parties’ written and oral submissions and the evidence examined in the course of the present appeals arbitration proceeding and the hearing. 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 5 January 2011, Genoa and Sparta concluded a transfer agreement (hereinafter: the “Transfer Agreement”) in order to transfer J. (hereinafter: the “Player”), a professional football player of Czech nationality, to Genoa.
5. The Transfer Agreement determines, *inter alia*, the following:
  - “8) *Genoa and Sparta Praha agree and commit that, in case of future definitely transfer of the PLAYER’s sports performances and economic rights from Genoa to another Club for a total amount higher than € 3.250.000,00, (including the possible loan fee for the loan of the player to the third club) Genoa will be obliged to pay to Sparta Praha a 15 % fee to be calculated from the amount exceeding the above mentioned amount of € 3.250.000,00== Should the Bonus fee agreed under article 5), par. A) be due, the Parties agree that such a 15% fee shall be calculated upon the final amount anyhow exceeding Euro 3.500.000,00=.*
  - 9) *The outstanding amount agreed and above mentioned in article 7) shall be paid according to the same terms and conditions Genoa has agreed with the third party Club and the amount will be due (even partially) within 15 days upon receiving the payments (or instalments) by Genoa from the third club”.*
6. On 29 August 2011, Genoa and the Italian football club FC Internazionale Milano (hereinafter: “Inter”), simultaneously entered into an agreement titled “*variazione di tesseramento*” (hereinafter: the “Second Transfer Agreement”) by which the Player was definitely transferred to Inter with an “*accordo di partecipazione*” (hereinafter: the “Participation Agreement”) by which Genoa and Inter agreed that the Player would be transferred to Inter for a transfer fee of EUR 16,000,000, but it was stipulated that Genoa would pay an amount of EUR 8,000,000 to Inter

at the same time. In effect, Inter thus paid an amount of EUR 8,000,000 to Genoa to acquire the federative rights of the Player and 50% of the Player's economic rights.

7. Also on 29 August 2011, Genoa and Inter concluded a loan agreement (hereinafter: the "Loan Agreement"), in order to loan the Player back to Genoa.
8. On 31 August 2011, Mr Martin Procházka, in-house counsel of Sparta, sent an email to Mr Alessandro Zarbano, legal representative of Genoa, requesting a copy of the transfer agreement between Genoa and Inter in order to "*get acquainted with the structure of the transfer*".
9. On 14 September 2011, Mr Zarbano answered the email of Mr Procházka, informing him that "*up to date this transfer has not taken place*".
10. On 22 June 2012, Genoa and Inter mutually terminated the Participation Agreement. Pursuant to this agreement, the Player was transferred back to Genoa for a transfer fee of EUR 13,000,000, but it was stipulated that Inter would pay an amount of EUR 6,500,000 to Genoa at the same time. In effect, Genoa thus paid an amount of EUR 6,500,000 to acquire the federative rights of the Player and 50% of the Player's economic rights.

B. *Proceedings before the Single Judge of the Players' Status Committee of FIFA*

11. On 26 August 2013, Sparta lodged a claim against Genoa with the Single Judge of FIFA's Players' Status Committee (hereinafter: the "Single Judge") requesting Genoa to be ordered to pay the amount of EUR 1,912,500 (15% sell-on fee based on the transfer fee paid by Inter to Genoa (EUR 16,000,000) after deduction of the transfer fee paid by Genoa to Sparta (EUR 3,250,000)) to Sparta, plus interest at a rate of 5% *p.a.* as from 31 August 2011.
12. Genoa contested Sparta's allegations by arguing that no definitive transfer took place and that, in any event, the income derived from the Player's transfer to Inter by Genoa did not exceed the threshold of EUR 3,250,000.
13. On 23 April 2014, the Single Judge rendered his decision (hereinafter: the "Appealed Decision"), with, *inter alia*, the following operative part:

"1. *The claim of [Sparta] is accepted.*

2. *[Genoa] has to pay the amount of EUR 1,912,500 to [Sparta], within 30 days as from the date of notification of this decision, plus default interest at a rate of 5% p.a. on said amount as of 31 August 2011 until the date of effective payment.*

(...)

4. *The final costs of the proceedings in the amount of CHF 25,000 are to be paid by [Genoa] within 30 days as from the notification of the present decision, as follows:*

4.1 *The amount of CHF 20,000 to FIFA (...)*

4.2 *The amount of CHF 5,000 to [Sparta].*

(...)"

14. On 22 July 2014, the grounds of the Appealed Decision were communicated to the parties, determining the following:

- *As to the question whether the simultaneous conclusion by Genoa of a transfer agreement and a “sharing agreement” with Inter triggered the consequences enshrined in article 8 of the Transfer Agreement, “the Single Judge was keen to underline that it remained uncontested between the parties that the player was transferred on a permanent basis to [Genoa] in conformity with art. 3 of the agreement. Then, the Single Judge emphasized that it is equally undisputed that [Genoa] entered into an agreement pertaining to the definitive transfer of the player to Inter, by means of the relevant contract dated 29 August 2011.*
- *This being established, the Single Judge deemed that firstly, it was to be determined whether the sell-on clause of art. 8 of the transfer agreement was actually triggered, i.e. if the player was formally transferred to Inter for an amount exceeding EUR 3,250,000.*
- *In this respect, the Single Judge recalled that, as confirmed by the FIGC, the player was registered on a permanent basis with Inter on 30 August 2011 and loaned back to [Genoa] on the same day. In this respect, the Single Judge formed the belief that the registration of the player with Inter, i.e. the first transfer and the loan of the player back from Inter to [Genoa] reflect the fact that two separate transactions had been concluded between Inter and [Genoa].*
- *Consequently, the Single Judge was eager to emphasise that, although the player never played for Inter and despite [Genoa’s] argument that the “sharing agreement” was only a mean to minimize financial risks in connection with the development of a player, the fact that the player was registered with Inter on the basis of the transfer agreement concluded with [Genoa] and against the payment of transfer compensation, clearly indicates that a transfer in the sense of art. 8 of the transfer agreement between [Sparta] and [Genoa] took place. In support of this argumentation, the Single Judge again pointed to the wording of the relevant provision of the NOIF which, in art. 102bis clearly stipulates that a “sharing agreement” can be simultaneously concluded in connection with the definitive transfer of a player. In this context, the Single Judge recalled the wording of the “sharing agreement” in which Inter is called the club “owning the rights pertaining to the player”, which indicates that the registration was definitely transferred to Inter. With those considerations in mind, the Single Judge came to the conclusion that the “sell-on-clause” of said art. 8 of the transfer agreement was triggered insofar as the requirement of the player having been the subject of a definitive transfer from [Genoa] to a third club.*
- *As to the consequences of such conclusion, “the Single Judge again referred to art. 102bis of the NOIF which illustrates the model of allowing clubs to register players on a permanent basis and enter into “sharing agreements” simultaneously. In this regard and consistently with the aforementioned, the Single Judge found it worthwhile to underline once more that the player’s registration on a permanent basis in favour of Inter and the loan of the player back from Inter to [Genoa] had to be regarded as two separate transactions reflecting two separate contractual agreements, which have to be regarded independently from each other when determining the value of the actual transfer of the player from [Genoa] to Inter.*
- *In line with the above, it appeared to the Single Judge that the “sharing agreement” and the amount of EUR 8,000,000 it provides was not part of the transfer of the player from [Genoa] to Inter, but was rather part of the transfer of the player from Inter back to [Genoa], which was in fact ultimately performed against payment of EUR 6,500,000 when the “sharing agreement” was terminated. Hence, given that neither the “sharing agreement” and its termination nor the loan of the player were part of the actual transfer of the player triggering the “sell-on-clause” of the transfer agreement, the Single Judge*

*came to the conclusion that, consequently, neither the amount of EUR 8,000,000 nor the amount of EUR 6,500,000 had to be taken into account when calculating the respective “sell-on-fee”.*

- *On that basis, and in view of the general legal principle of pacta sunt servanda, which in essence means that agreements must be respected by the parties in good faith, the Single Judge held that [Genoa] must fulfil the obligation it freely entered into with [Sparta] by means of the transfer agreement signed between the parties on 5 January 2011, and therefore, in light of art. 8 in conjunction with art. 3 of said transfer agreement, must pay to [Sparta] 15% of the amount exceeding the amount of EUR 3,250,000. Given that the amount of EUR 16,000,000 was paid as transfer compensation by Inter to [Genoa] for the transfer of the player to Inter, [Genoa] has to pay to [Sparta] 15% of EUR 12,750,000 (EUR 16,000,000 minus EUR 3,250,000), i.e. the amount of EUR 1,912,500 plus interest of 5% p.a. as of the date following the transfer of the player, i.e. as of 31 August 2011, bearing in mind that [Genoa] had failed to comply with its contractual obligations since the occurrence of the transfer.*
- *In view of all the above, the Single Judge decided to accept the claim of [Sparta] and held that [Genoa] must pay to [Sparta] the total amount of EUR 1,912,500, plus interest as established above (...)."*

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

15. On 12 August 2014, Genoa lodged a Statement of Appeal, pursuant to Article R48 of the Code of Sports-related Arbitration (hereinafter: the “CAS Code”). In this submission, Genoa nominated Prof. Massimo Coccia, Law Professor and Attorney-at-law in Rome, Italy, as arbitrator.
16. On 21 August 2014, FIFA renounced its right to request its possible intervention in the present appeals arbitration proceedings.
17. On 25 August 2014, Sparta nominated Mr Michele A.R. Bernasconi, Attorney-at-law in Zurich, Switzerland, as arbitrator.
18. On 29 August 2014, Genoa filed its Appeal Brief, pursuant to Article R51 of the CAS Code. This document contained a statement of the fact and legal arguments giving rise to the appeal. Genoa challenged the Appealed Decision, submitting the following requests for relief:
  - “1) *REVIEWING the present case as to the facts and to the law, in compliance with article R57 of the Code of Sports – related Arbitration.*
  - 2) *ISSUING a new decision, which replaces the decision appealed against, confirming that the conditions to pay the “sell-on-fee” to the Respondent have not been met and that the Appellant shall therefore not pay to the Respondent the sell-on amount ordered by FIFA.*
  - 3) *DECLARING that no interest be paid on any sums that may be due to the Respondent.*
  - 4) *DECLARING that also the part of the decision appealed against condemning the Appellant to pay procedural costs of CHF 5’000 to the Respondent be annulled.*
  - 5) *ORDERING the Respondent to reimburse the Appellant CHF 20’000 of procedural costs to FIFA pursuant to the decision appealed against.*

- 6) *ORDERING the Respondent to bear all procedural costs and expenses relating to the present procedure.*
  - 7) *ORDERING the Respondent to cover all Appellant's legal costs and expenses relating to the present procedure in the amount of CHF 25,000".*
19. On 15 October 2014, pursuant to Article R54 of the CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the parties were informed that the Panel appointed to decide the present matter was as follows:
- Mr Hendrik Willem Kesler, Attorney-at-law, Enschede, the Netherlands, as President;
  - Prof. Massimo Coccia, Law Professor and Attorney-at-law, Rome, Italy, and;
  - Mr Michele A.R. Bernasconi, Attorney-at-law, Zurich, Switzerland, as arbitrators
20. On 15 October 2014, Sparta filed its Answer, pursuant to Article R55 of the CAS Code, whereby it requested CAS to decide that:
- I. *The appeal filed by Genoa Cricket and Football Club in this arbitration procedure is dismissed.*
  - II. *The decision issued by the Single Judge of the FIFA PSC on 23 April 2014 is confirmed.*
  - III. *Genoa Cricket and Football Club shall be ordered to sustain all the costs of this arbitration procedure.*
  - IV. *Genoa Cricket and Football Club shall be ordered to reimburse A.C. Sparta Praha football as all the legal fees and other costs suffered in connection with this arbitration procedure, in an amount to be determined at the Panel's discretion".*
21. On 22 October 2014, the CAS Court Office informed the parties that the Panel had decided to hold a hearing.
22. On 7 November 2014, following an inquiry to this effect of Sparta, Genoa explained that Mr Flavio Ricciardella would take part in the hearing in his capacity as Head of Genoa's Administration, Planning and Control department.
23. On 3 and 10 December 2014 respectively, Sparta and Genoa returned duly signed copies of the Order of Procedure.
24. On 22 January 2015, a hearing was held in Lausanne, Switzerland. At the outset of the hearing, both parties confirmed not to have any objection as to the constitution and composition of the Panel.
25. In addition to the Panel, Mr Brent J. Nowicki, Counsel to the CAS, and Mr Dennis Koolaard, *Ad hoc* Clerk, the following persons attended the hearing:
- a) For Genoa:
    - 1) Mr Paolo Lombardi, Counsel.

b) For Sparta:

- 1) Mr Luca Tettamanti, Counsel;
- 2) Mr Martin Procházka, In-house Counsel of Sparta.

26. No witnesses nor experts were heard; however, certain factual questions were posed to Mr Procházka, who was considered to be a party representative. Although Genoa initially requested to hear evidence of Mr Ricciardella, Genoa's Head of Administration, Planning and Control, by telephone, this request was withdrawn during the hearing.
27. The parties had ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel.
28. Before the hearing was concluded, both parties expressly stated that they did not have any objection to the procedure adopted by the Panel and that their right to be heard had been respected.
29. The Panel confirms that it carefully heard and took into account in its discussion and subsequent deliberations all of the submissions, evidence and arguments presented by the parties, even if they have not been specifically summarized or referred to in the present award.

#### **IV. SUBMISSIONS OF THE PARTIES**

30. Genoa's submissions, in essence, may be summarized as follows:
  - Genoa does not, in principle, deny its obligation to pay Sparta the 15% sell-on fee pursuant to the Transfer Agreement, but only when the conditions agreed upon under clause 8 of the Transfer Agreement are met and finds that this is not the case.
  - Furthermore, Genoa argues that the Participation Agreement with Inter does not constitute an ordinary permanent transfer agreement triggering clause 8 of the Transfer Agreement.
  - Genoa maintains that the true and common intention of Genoa and Inter when concluding the whole transaction consisting of the Participation Agreement and the Loan Agreement, was for Genoa to transfer 50% of the Player's economic rights to Inter, while retaining his sports performances and not to conclude a permanent agreement.
  - Genoa submits that in order for the sell-on fee to be due under the Transfer Agreement at least four compulsory conditions shall be met: i) the Player shall be transferred on a permanent basis; ii) all sports performances shall be transferred on a permanent basis from Genoa; iii) all economic rights shall be transferred on a permanent basis from Genoa; and iv) the sell-on fee is due only if the total amount exceeds EUR 3,250,000. Genoa finds that none of these four conditions were met.
  - Finally, Genoa argues that because Sparta was already aware of the transaction on 31 August 2011, but only filed its claim with FIFA in August 2013, no interest shall be

awarded to Sparta; alternatively, interest should only start to accrue as from 11 August 2013 (*i.e.* the day the claim was filed with FIFA).

31. Sparta's submissions, in essence, may be summarised as follows:

- Sparta maintains that, pursuant to article 102bis of the internal organisation rules of the FIGC (hereinafter: the "NOIF"), in order to conclude a participation agreement between two Italian clubs a previous permanent / definitive transfer agreement must be signed between the same clubs. In this regard, Sparta maintains that the definitive transfer agreement is the only relevant agreement to the dispute at hand in that it triggered Sparta's entitlement to its sell-on fee pursuant to clause 8 of the Transfer Agreement.
- Sparta finds that Genoa's interpretation of clause 8 of the Transfer Agreement lacks any merit. It finds that the purported second and third condition of the sell-on clause, *i.e.* that all the sport performances (federative rights) and economic rights of the Player had to be transferred by Genoa to Inter, were met in this dispute. Sparta finds that the rules are clear and that they should therefore not be interpreted. As such, Sparta argues that the rules should be applied by CAS and no value or attention can be given to what Genoa calls the "*real aim*" of the parties.
- Sparta contends that there is no doubt that the overall economic value of the transaction in this dispute is EUR 16,000,000 and that, thanks to this high amount, Genoa was able to register capital gain of more than EUR 12,000,000 in its balance sheets whilst Sparta is still waiting for its 15% part after more than three years.
- As to the fourth condition mentioned by Genoa, Sparta finds that Genoa's position is clearly not sustainable and flawed because whether a participation agreement was entered into does not affect Sparta's rights, let alone how that participation agreement came to an end. Sparta finds that the conclusion of the participation agreement is a *res inter alios acta* for Sparta which does not and cannot affect Sparta's rights to request the payment of its sell-on percentage over the first definitive transfer of the Player from Genoa to Inter.
- Sparta maintains that, pursuant to clause 8 of the Transfer Agreement, the difference between the transfer fee of EUR 16,000,000 and the previous transfer amount of EUR 3,250,000 is EUR 12,750,000. The percentage of EUR 12,750,000 pertaining to Sparta amounts to EUR 1,912,500.
- Finally, with reference to article 104(1) of the Swiss Code of Obligations (hereinafter: the "SCO"), Sparta submits that Genoa shall pay default interest at a rate of 5% *per annum* starting from the respective date of maturity of the outstanding amount until the date of its effective payment to Sparta. As to the delay in filing its claim with FIFA, Sparta maintains that Genoa consistently concealed all the information at its disposal, obliging Sparta to conduct deep investigations to be sure of its right to receive the sell-on fee.



**V. ADMISSIBILITY**

32. The appeal was filed within the 21 days set by article 67(1) of the FIFA Statutes (2014 edition). The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fees.
33. It follows that the appeal is admissible.

**VI. JURISDICTION**

34. The jurisdiction of CAS, which is not disputed, derives from article 67(1) of the FIFA Statutes as it determines that “[a]ppeals against final decisions passed by FIFA’s legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question” and Article R47 of the CAS Code.
35. The jurisdiction of CAS is further confirmed by the Order of Procedure duly signed by the parties.
36. It follows that CAS has jurisdiction to decide on the present dispute.

**VII. APPLICABLE LAW**

37. Article R58 of the CAS Code provides the following:
- “The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.*
38. The Panel notes that article 66(2) of the FIFA Statutes stipulates the following:
- “The provisions of the CAS Code of Sports-Related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.*
39. The parties thus agreed to the application of the various regulations of FIFA and, subsidiarily, to the application of Swiss law. The Panel is therefore satisfied to accept the subsidiary application of Swiss law should the need arise to fill a possible gap in the various regulations of FIFA.
40. The Panel however observed that both parties also referred to the already mentioned provisions of the Italian FA known as NOIF. As such, since neither party objected to the application thereof, the Panel will additionally apply the NOIF, particularly in relation to the different agreements concluded between Genoa and Inter regarding the Player, as these

agreements were concluded in Italy and, as such, governed by the relevant regulations of the Italian FA.

## VIII. PRELIMINARY ISSUES

### A. *Admissibility of Mr Ricciardella's witness statement*

41. Together with its Appeal Brief, Genoa filed a “witness statement” of Mr Ricciardella, Genoa’s Head of Administration, Planning and Control.
42. Sparta primarily objected to the admissibility of this witness statement based on Article R57 of the CAS Code. Subsidiarily, Sparta argued that Mr Ricciardella’s witness statement should be considered as not reliable because Mr Ricciardella is not a witness but a party representative.
43. After having heard both parties’ respective positions and after having deliberated on this issue, the Panel informed the parties during the hearing that the statement of Mr Ricciardella was admitted to the case file, but that it would not be regarded as a witness statement but as a statement from a party representative.
44. In coming to this decision, the Panel observed that Article R57 of the CAS Code provides as follows - as relevant:  
  
*“The Panel has full power to review the facts and the law. (...) The Panel has the discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered (...)”.*
45. Before this amendment, CAS jurisprudence was clear regarding the interpretation of Article R57 of the CAS Code:  
  
*“(...) [T]here is a long line of CAS awards, even going back many years, which have relied on article R57 of the CAS Code to firmly establish that the CAS appeals arbitration allows a full de novo hearing of a case, with all due process guarantees, which can cure any procedural defects or violations of the right to be heard occurred during a federation’s (or other sports body’s) internal procedure. Indeed, CAS appeals arbitration proceedings allow the parties ample latitude not only to present written submissions with new evidence, but also to have an oral hearing during which witnesses are examined and cross-examined, evidence is provided and comprehensive pleadings can be made” (CAS 2009/A/1880 & 1881, §18).*
46. Question is whether the amendment of Article R57 of the CAS Code has any influence on this long line of CAS jurisprudence.
47. A Panel’s power to review an appeal on a *de novo* basis is well established in a long line of CAS jurisprudence. Indeed, this basis of review is, in essence, the foundation of the CAS appeals system and the standard of review should not be undermined by an overly restrictive interpretation of Article R57 of the Code.

48. The Panel’s inherent discretion to exclude certain evidence under this provision of the CAS Code is just that, *i.e.* a discretionary power to exclude (or admit) certain evidence based on the Panel’s own assessment of the case at hand. Thus, the Panel is free to accept or reject any such evidence and doing such should not disrupt the fundamental principle of *de novo* review.

49. The Panel is of the opinion that Article R57.3 of the CAS Code should be construed in accordance with both the fundamental principle of the *de novo* power of review and the right to be heard of the parties. As such, the Panel also considers that the discretion to exclude evidence should be exercised with the utmost caution, for example, in situations where a party may have engaged in abusive procedural behaviour, or in any other exceptional circumstances where the Panel might, in its discretion, consider it either unfair or clearly inappropriate to admit new evidence.

50. In this regard, the Panel concurs with the legal scholars who have argued the following:

*“[T]his new provision should be applied with caution, so as not to impinge upon the fundamental principle of de novo review by the CAS. The amendment may make sense in those cases where the CAS acts as a second instance arbitral tribunal, reviewing an award rendered by another arbitral panel at the end of genuine arbitral proceedings. But in appeals proceedings against decisions rendered by the hearing bodies of the sports-governing organizations, where the curing effect of a full, de novo review by the CAS assumes all its importance, we believe Panels should use the discretion now granted to them by Article R57 only in those cases where the adducing of pre-existing evidence amounts to abusive or otherwise unacceptable procedural conduct by a party. [...] As an example of such abusive conduct one could think to a club that files a totally unsubstantiated claim against another club before the FIFA Dispute Resolution Chamber with the obvious intent to put forward its case only once the FIFA decision should be appealed in CAS. In that case, the dispute resolution process provided for by FIFA would be de facto circumvented as the FIFA instance would be put in the difficult situation of having to make a decision based on a poorly substantiated case, with the risk that such decision would then be overturned by CAS simply because all the relevant arguments and evidence have been put forward (only) at that stage”* (RIGOZZI/HASLER/QUINN, The 2011, 2012 and 2013 revisions to the Code of Sports-related Arbitration, Jusletter, 3 June 2013, p. 14).

51. It is the Panel’s understanding that Genoa – after having received the Appealed Decision – attempted to collect additional evidence to support its previously expressed position, which additional evidence is completely in line with the arguments and evidence already presented throughout the proceedings before the Single Judge. As such, the Panel finds that Genoa neither engaged in abusive procedural behaviour, nor does the Panel consider it unfair or inappropriate to admit the “new” evidence adduced by Genoa.

52. As such, the Panel saw no reason not to admit the newly submitted evidence to the case file.

## **IX. MERITS**

### *A. The Main Issues*

53. As a result of the above, the main issues to be resolved by the Panel are:

- a. Was the Player definitely transferred from Genoa to Inter, triggering the consequences enshrined in clause 8 of the Transfer Agreement concluded between Sparta and Genoa?
  - b. What amount of sell-on fee is Sparta entitled to receive from Genoa?
  - c. As from which date shall interest start to accrue?
- a) Was the Player definitely transferred from Genoa to Inter, triggering the consequences enshrined in clause 8 of the Transfer Agreement concluded between Sparta and Genoa?
- aa) The positions of the parties
54. As set out above, whereas Genoa contends that the Player was not definitively transferred to Inter, Sparta argues that the Player was definitively transferred. As such, whereas Genoa submits that the consequences enshrined in clause 8 of the Transfer Agreement are not triggered, Sparta maintains that they are and that it is entitled to receive a sell-on fee from Genoa.
55. Genoa argues that the Participation Agreement with Inter does not constitute an ordinary permanent transfer agreement. It argues that it is important to understand that FIGC provides different types of standard transfer contracts, among which there are two different agreements with different economic and practical effects: i) contracts for permanent transfer; and ii) contracts for transfer with participation agreement. Pursuant to article 102bis of the NOIF, a club may retain 50% of the economic rights over a player following a transfer to another club.
56. Genoa maintains that the true and common intention of Genoa and Inter when concluding the whole transaction consisting of the Participation Agreement and the Loan Agreement, was for Genoa to transfer 50% of the Player's economic rights to Inter, while retaining his sports performances and not to conclude a permanent transfer agreement. Genoa clarifies that should the Player be transferred from Genoa to another club in the future, Sparta would in principle be entitled to a percentage of this transfer fee. Genoa finds it imperative to point out that after the expiry of the participation agreement, the amount paid for 50% of the Player's economic rights is not refunded. In other words, to get the player back, his old club must return 50% to his new club and simultaneously reacquire 100%, rather than simply reacquire another 50%.
57. Genoa submits that in order for the sell-on fee to fall due pursuant to the Transfer Agreement at least four compulsory conditions shall be met: i) the Player shall be transferred on a permanent basis; and ii) all sports performances shall be transferred on a permanent basis from Genoa; and iii) all economic rights shall be transferred on a permanent basis from Genoa; and iv) the sell-on fee is due only if the total amount exceeds EUR 3,250,000. Genoa finds that none of these four conditions was met.
58. Finally, Genoa expresses the view that because the Player's sports performances and economic rights were not permanently transferred from Genoa to another club for a total amount higher than EUR 3,250,000, no sell-on fee is due.

59. Sparta maintains that, pursuant to article 102bis of the NOIF, in order to conclude a participation agreement between two Italian clubs a previous permanent / definitive transfer agreement must be signed between the same clubs. In other words, it is possible to see a definitive transfer take place without a participation agreement but a participation agreement cannot be concluded without a previous definitive transfer having been entered into. In this regard, Sparta maintains that the definitive transfer agreement is the only relevant agreement to the dispute at hand in that it triggered Sparta's entitlement to its sell-on fee pursuant to clause 8 of the Transfer Agreement.
60. Sparta also argues that Genoa's statement that "*by means of the Sharing Agreement Genoa transferred only 50% of the economic rights to Inter*" is wrong and ungrounded, as stated in the Appealed Decision. On the contrary, under a sharing agreement the player's registration and 100% of his economic rights pass in full to the new club which may then sell back the 50% of the player's economic rights to the transferring club. With reference to CAS jurisprudence, Sparta maintains that the overall economic value of the transaction and the financial profit derived to Genoa is to be taken into account, irrespective of its treatment from an accounting point of view and of the existence of any agreement concerning the economic rights of the Player in which the club of origin was not a party.
61. Sparta also maintains that what eventually transpired from the Participation Agreement, like what was concluded between Genoa and Inter with the actual Participation Agreement, is a *res inter alios acta* for Sparta, which does not and cannot affect Sparta's right to request the payment of its sell-on fee in percentage over the first definitive transfer of the Player from Genoa to Inter.
62. Sparta finds that Genoa's interpretation of clause 8 of the Transfer Agreement lacks any merit, it finds that also the purported second and third condition of the sell-on clause, *i.e.* that all the sport performances (federative rights) and economic rights of the Player had to be transferred by Genoa to Inter, were met in this dispute. Sparta finds that the rules are clear and that they should therefore not be interpreted. As such, Sparta argues that the rules should be applied by CAS and no value or attention can be given to what Genoa calls the "*real aim*" of the parties.
63. Finally, Sparta contends that there is no doubt that the overall economic value of the transaction in this dispute is EUR 16,000,000 and that, thanks to this high amount, Genoa was able to register capital gain of more than EUR 12,000,000 in its balance sheets whilst Sparta is still waiting for its 15% part after more than three years.

ab) The findings of the Panel

64. The Panel observes that clause 8 of the Transfer Agreement determines the following:

*"Genoa and Sparta Praha agree and commit that, in case of future definitely transfer of the PLAYER's sports performances and economic rights from Genoa to another Club for a total amount higher than € 3.250.000,00, (including the possible loan fee for the loan of the player to the third club) Genoa will be obliged to pay to Sparta Praha a 15 % fee to be calculated from the amount exceeding the above mentioned amount of*

€ 3.250.000,00== Should the Bonus fee agreed under article 5), par. A) be due, the Parties agree that such a 15% fee shall be calculated upon the final amount anyhow exceeding Euro 3.500.000,00= ”.

65. The Panel observes that Genoa, Inter, and the Player concluded five agreements on 29 August 2011, all of them on standard forms provided by the Italian top professional league “Serie A” in accordance with the regulations of the Italian FA:

1. The Second Transfer Agreement

66. This “*variazione di tesseramento*” (or: “registration variation”) with reference number 0849/A, is a tripartite agreement concluded between Genoa, Inter, and the Player. The Panel remarks that the original Italian document – a standard Serie A form – has seven different boxes under point 2 of the agreement of which only one may be ticked by the contractual parties. The content of this Italian document was discussed at the occasion of the hearing. The contemplated options for a player’s transfer are the following:

- a) *Definitiva* (Final);
- b) *Definitiva con accordo di partecipazione* (Final, with participation agreement);
- c) *Temporanea* (Temporary);
- d) *Temporanea con diritto di opzione* (Temporary, with option right);
- e) *Temp. con diritto di opzione-controopzione* (Temporary, with option right – counter-option);
- f) *Temp. con diritto di opzione con accordo di partecipazione* (Temporary, with option right with participation agreement); and
- g) *Temp. con diritto di opzione con accordo di partecipazione-controopzione* (Temporary, with option right with participation agreement – counter-option).

67. The Panel observes that the parties opted for option b) and that this Second Transfer Agreement was duly signed by the Player and the representatives of Genoa and Inter.

2. The addendum to the Second Transfer Agreement

68. The Second Transfer Agreement contains an addendum on a Serie A form without a specific title, but it specifically refers to the “*documento di variazione di tesseramento N. 0849/A*”. This agreement is not signed by the Player, but only by the representatives of Genoa and Inter, is also dated 29 August 2011 and determines that the total amount of the transaction is EUR 16,000,000 (+VAT), and that this amount is to be paid in three instalments: EUR 3,000,000 in the sport season 2011/2012, EUR 10,000,000 in the sport season 2012/2013 and EUR 3,000,000 in the sport season 2013/2014.

### 3. The Participation Agreement

69. Also on 29 August 2011, Genoa and Inter concluded a bilateral Participation Agreement, again on a standard Serie A form, the translation into English of which determines, *inter alia*, the following:

*“[Inter], owner of the rights relating to the sports performance of the [Player], following to the final transfer agreement stipulated with [Genoa], hereby recognizes to the latter Club [Genoa], which accepts, a 50% right of participation for the economic rights relating to the subject agreement.*

*Such a participation right is transferred for the following total amount:*

*Euro 8.000.000,00= (...)*

*[Genoa] commits to pay such an amount through the competent League, according to the following annual terms:*

*2011 – 2012 Euro 1.500.000,00 (...)*

*2012 – 2013 Euro 5.000.000,00 (...)*

*2013 – 2014 Euro 1.500.000,00 (...).”*

70. The Participation Agreement further determines that Inter and Genoa agree on the following:

*“Agreement between the Parties, to be stipulated in compliance with the prescribed terms and conditions; the agreement shall include either the payment of the participation rights to the Club Owner, or the Player’s final transfer to the former Club” and that “[s]hould the Parties not come to an agreement, each of them shall present to the competent League its own sealed envelope; the higher offer is to prevail”.*

71. The Panel observes that Genoa and Inter agreed that when the Participation Agreement would come to an end, either Genoa or Inter would acquire the full 100% of the Player’s economic rights.

### 4. The Loan Agreement

72. This document is also titled *“variazione di tesseramento”* and has reference number “0848/A”. This is again a tripartite agreement concluded between Genoa, Inter and the Player, using a standard form provided by the Serie A League. This time Inter, Genoa and the Player ticked box c) (*i.e.* “Temporary”).

73. With this agreement, Genoa, Inter and the Player agreed that the Player would be loaned from Inter to Genoa.

### 5. The addendum to the Loan Agreement

74. The Loan Agreement contains an addendum on a Serie A form without a specific title, but it specifically refers to the *“documento di variazione di tesseramento N. 0848”*. This bilateral agreement

is not signed by the Player, but only by the representatives of Genoa and Inter, is also dated 29 August 2011 and determines that the loan is free of charge.

75. The Panel further observes that article 102bis of the NOIF, in a translation filed by Genoa and not objected to by Sparta (and in which the Participation Agreement is referred to as a “sharing agreement”), determines, *inter alia*, the following:

*“1. A club that has signed a professional player following a permanent transfer may simultaneously conclude an agreement (sharing agreement) with the player’s old club pursuant to which the latter may obtain an equal share of the economic benefit deriving from the player’s registration.*

*(...)*

*4. The duration of the sharing agreement is one year and it must be terminated in such a way that is indicated in the relevant form and within the time limit indicated by the relevant association committee each year. The clubs involved may however decide to terminate the sharing agreement by mutual consent before its termination date during the time frame indicated by the relevant association committee each year and by completing the form provided by the Leagues. The early termination of the sharing agreement must be approved by the player, who shall sign the relevant form.*

*(...)*

*9. The club party to the sharing agreement may transfer to a third club its share of the economic benefit deriving from the player’s registration, within the time limits provided yearly by the relevant association committee for player transfers. In order to be valid the relevant transaction must be concluded on the forms provided by the Leagues and signed for approval by the club that the player is registered with”.*

76. In view of the above background, the Panel finds that this combination of agreements concluded on 29 August 2011 is not a situation of an ordinary definitive transfer of a player that undoubtedly triggers the consequences contemplated in clause 8 of the Transfer Agreement concluded between Genoa and Sparta, but that the construction needs further examination.
77. The Panel finds that if the parties intended to conclude an ordinary definitive transfer, they would have opted for option (a) (*i.e.* “*Final*”) on the standard Serie A form titled “*variazione di tesseramento*”. By selecting option (b) (*i.e.* “*Final, with participation agreement*”), they made a choice that contained certain particularities, because a participation agreement had to be concluded simultaneously.
78. Different from the position of Sparta, the Panel finds that these two agreements cannot be regarded as two separate agreements, but that they are to be regarded as a combination of simultaneously concluded agreements that are closely intertwined with regard to both the Player’s sporting and economic rights. This is different with the Loan Agreement, as the Panel finds that the conclusion of the Loan Agreement on the same date as the Second Transfer Agreement and the Participation Agreement only concerns the sporting rights to the Player and has thus no relevant legal consequences for the present case.



79. Although the Panel is of the view that a definitive transfer must be distinguished from a definitive transfer with a participation agreement, the Panel finds that in both cases there is a definitive transfer of the Player's sporting rights. Accordingly, the Panel finds that the Player was definitively transferred from Genoa to Inter.
80. Because the Second Transfer Agreement and the Participation Agreement are closely related, the Panel finds that Genoa and Inter intended, in fact, to transfer 50% of the Player's economic rights to Inter. It would be artificial, and contrary to the NOIF rules (which in para. 1 of art. 102bis use the term "simultaneously") to construe the operation as a transfer of 100% of the Player's economic rights to Inter and a subsequent transfer back of 50% of the economic rights to Genoa. Although the Panel finds that this reasoning affects the consequences set out in clause 8 of the Transfer Agreement, the Panel is of the view that the mere fact that Genoa only transferred 50% of the Player's economic rights does not change the fact that the Player's sporting rights were definitely transferred to Inter.
81. Different from the position of Genoa, the Panel finds that it is not required for the consequences of clause 8 of the Transfer Agreement to materialise that Inter acquires 100% of the Player's economic rights; the sell-on fee does not specifically make reference to 100% of the economic rights and is thus triggered even if only a portion of economic rights is transferred. Since clause 8 of the Transfer Agreement determines that a sell-on fee needs to be paid "*in case of future definitely transfer of the PLAYER's sports performances and economic rights from Genoa to another Club for a total amount higher than € 3.250.000,00*", the Panel finds that this clause is triggered because i) the rights to the Player's sporting performances were definitively transferred from Genoa to Inter; ii) the Player's economic rights were also definitively transferred from Genoa to Inter (albeit not 100% of them); and iii) the amount received by Genoa related to the transaction of the Player's sporting performance and economic rights exceeds the amount of EUR 3,250,000.
82. The Panel finds it important that throughout the duration of the Participation Agreement, Genoa could not unilaterally force Inter to sell its 50% of the Player's economic rights and, as such, considers this transfer of economic rights to be definitive. It is in this sense that the Panel considers the preconditions of clause 8 of the Transfer Agreement to be complied with.
83. Consequently, the Panel finds that the Player was definitively transferred from Genoa to Inter, triggering the consequences enshrined in clause 8 of the Transfer Agreement concluded between Sparta and Genoa.
- b) What amount of sell-on fee is Sparta entitled to receive from Genoa?
- ba) The positions of the parties
84. Having established that a definitive transfer was concluded between Genoa and Inter, the Panel must discuss the consequences of this transfer for Genoa and Sparta based on clause 8 of the Transfer Agreement.

85. Genoa maintains that it only made a profit of EUR 1,500,000 on the transactions with Inter regarding the Player as it initially sold 50% of the Player's economic rights for an amount of EUR 8,000,000, but later reacquired these economic rights for an amount of EUR 6,500,000. Since this amount remains below the threshold of EUR 3,250,000 as agreed between the parties, no sell-on fee would be due.
86. Genoa further contends that the transfer of a player within a participation agreement is not a permanent transfer, but simply a vehicle to create a temporary regime, which may have three possible outcomes: i) final transfer to a third club, ii) final transfer to the new club, or iii) return to the old club.
87. As already mentioned *supra*, Genoa finds that because the Player's sports performances and economic rights were not permanently transferred from Genoa to another club for a total amount higher than EUR 3,250,000, no sell-on fee is due.
88. Sparta further argues that it is fundamental to analyse the content of both the Second Transfer Agreement and the subsequent Participation Agreement, together with the relevant balance sheets of Genoa and Inter.
- bb) The findings of the Panel
89. Based on the NOIF, the Panel is satisfied that a transfer with a simultaneous participation agreement is a single operation and a definitive situation, which triggered Sparta's right to the sell-on fee.
90. The Panel finds that 1) the reality of the legally simultaneous payment / counter-payment makes clear that as a matter of fact Inter paid no more than EUR 8,000,000 to Genoa; 2) the sell-on fee must be calculated on this amount; 3) Genoa did not receive any further amount for the remaining 50% and so no further accrual of the sell-on fee is needed or shall be calculated, respectively; 4) when Genoa bought back the other 50% of the Player's economic rights from Inter, this was a new definitive transfer which is irrelevant to the determination of the sell-on fee.
91. Emphasising on the specific characteristics of the above-described transaction, the Panel reiterates that under the FIGC rules, a transfer agreement and a participation agreement are closely intertwined. The Panel finds that in a situation where a player is definitively transferred to the buying club, but with the particularity that the transferring club effectively retains 50% of the economic rights of the player in question and that if the player is then subsequently transferred back to the transferring club, this must be regarded as another definitive transfer, with the important particularity that the 50% of the Player's economic rights retained by the transferring club in fact remain with the transferring club. As such, the second 50% of the player's economic rights are never liquidated.
92. The Panel finds that this is particularly true because the value of the 50% of the Player's economic rights that remained with the transferring club is fictitious, and can only be liquidated if sold to another club, for if the transferring club would be required to pay a sell-

on fee based on this fictitious amount, it would be required to pay a sell-on fee over an amount that it would effectively never receive.

93. The Panel feels itself comforted in this conclusion by the considerations of another CAS panel:

*“In the opinion of the Panel, it is common practice in the world of football that contracting parties deviate from initially agreed fictitious amounts. The Panel considers that a sell-on fee is to be based on the amount actually to be received by a club for selling a player to a subsequent club and not on an indicative amount”* (REEB (Ed.), CAS Bulletin, 2013/2, p. 62; CAS 2012/A/2875, §73).

94. On this basis, the CAS panel in CAS 2012/A/2875 proceeded by observing that the transferring club first received EUR 5,000,000 for transferring the first 50% of the player’s economic rights. As such, the indicative amount of 100% of the player’s economic rights was EUR 10,000,000. However, eventually, the transferring club received only EUR 4,200,000 for the second 50% of the player’s economic rights. The CAS panel therefore considered that the amount to be used for calculating the sell-on fee was EUR 9,200,000 and not EUR 10,000,000.

95. The Panel adheres to the view expressed in CAS 2012/A/2875 insofar as it differs from the approach taken in CAS 2013/A/3317.

96. Applied to the matter at hand, the Panel finds that the total amount actually received by Genoa from Inter for the transfer of the Player is EUR 8,000,000 and that, therefore, the sell-on fee is in principle to be calculated on the basis of this amount.

97. The Panel deems that this is only different if it can be established that the transferring club somehow reacquired the full 100% of the player’s economic rights in bad faith in order to prevent having to pay a sell-on fee based on 100% of the player’s economic rights, but instead only on 50% of the player’s economic rights.

98. The Panel finds that it cannot be required from Genoa to pay Sparta 15% over the amount of EUR 16,000,000, because Genoa effectively only received EUR 8,000,000 from Inter for the transfer of the Player.

99. Besides this amount of EUR 8,000,000, Genoa finally did not derive any additional income related to the transfer of the Player to Inter. As Sparta is only entitled to a sell-on fee over the subsequent transfer of the Player (*i.e.* the transfer of the Player from Genoa to Inter), the return of the Player to Genoa and any possible future transfer of the Player from Genoa to a third club are irrelevant for the calculation of the sell-on fee to be paid to Sparta within the framework of the present arbitration.

100. Hence, since Genoa effectively only received EUR 8,000,000 for the transfer of the Player to Inter, the Panel finds that, absent any evidence of bad faith from the side of Genoa, this is the amount that shall be taken into account for the calculation of the sell-on fee to be paid by Genoa to Sparta.

101. Pursuant to clause 8 of the Transfer Agreement, the 15% sell-on fee shall be calculated upon the final amount anyhow exceeding EUR 3,250,000. As such, Sparta is entitled to receive a sell-on fee of EUR 712,500 (15% x (EUR 8,000,000 – EUR 3,250,000)) from Genoa.
- c) As from which date shall interest start to accrue?
- ca) The positions of the parties
102. Genoa argues that because Sparta was already aware of the transaction on 31 August 2011, but only filed its claim with FIFA in August 2013, no interest shall be awarded to Sparta, or alternatively, that interest should only start to accrue as from 11 August 2013 (*i.e.* the date the claim was filed with FIFA).
103. At the occasion of the hearing, Genoa corrected this date, requesting interest to accrue as from 16 September 2013 (*i.e.* the date Sparta's claim was forwarded by FIFA to Genoa). Genoa also drew the attention of the Panel to the content of clause 9 of the Transfer Agreement and that the Single Judge apparently overlooked this provision.
104. Genoa maintains that the only explanation for Sparta's behaviour is to inflate the interest on the sum claimed at FIFA. As such, Genoa finds that no interest shall be awarded to Sparta, or alternatively, to determine that interest shall only start to accrue as from the date Genoa became aware of Sparta's claim.
105. Sparta argues that default interest shall be paid starting from the respective date of maturity of the outstanding amount until the date of its effective payment to Sparta. As Genoa is in default of paying the sell-on fee from the end of August 2011, when it concluded the Player's definitive transfer to Inter, this means that the Single Judge correctly upheld Sparta's request by condemning Genoa to pay interest at a rate of 5% per year on the amount of UER 1,912,500 starting from 31 August 2011 until the date of effective payment to Sparta.
106. Sparta further contends that Genoa consistently concealed all information at its disposal in this dispute both before a procedure was initiated at FIFA, and during the FIFA proceedings, Sparta was obliged to conduct deep investigations to be sure of its right to receive the sell-on fee and this took time.
- cb) The findings of the Panel
107. The Panel observes that clause 9 of the Transfer Agreement determines as follows:
- “The outstanding amount agreed and above mentioned in in article 7) shall be paid according to the same terms and conditions Genoa has agreed with the third party Club and the amount will be due (even partially) within 15 days upon receiving the payments (or instalments) by Genoa from the third club”.*

108. Although clause 9 of the Transfer Agreement refers to clause 7 of the Transfer Agreement, based on the statements of Genoa during the hearing – to which Sparta did not object – the Panel understands that the parties intended to refer to clause 8 of the Transfer Agreement.
109. On the basis of this clause, the Panel does not find it relevant when Genoa became aware of Sparta's claim regarding the sell-on fee since it finds that the sell-on fee needs to be paid *pro rata* in accordance with the payment schedule agreed upon between Genoa and Inter concerning the amount of EUR 8,000,000, of which the amount of EUR 3,250,000 is deducted, applying the same *pro rata* schedule.
110. From the cash flow overview provided by Genoa, it appears that the following payments were made by Inter and Genoa:

<i>Invoices issued by Inter</i>		<i>Invoices issued by Genoa</i>	
<i>Invoice date</i>	<i>Net out of Genoa League Account</i>	<i>Invoice date</i>	<i>Net out of Inter League Account</i>
31.08.2011	450 000,00	31.08.2011	900 000,00
30.09.2011	150 000,00	30.09.2011	300 000,00
31.10.2011	150 000,00	31.10.2011	300 000,00
30.11.2011	150 000,00	30.11.2011	300 000,00
31.12.2011	150 000,00	31.12.2011	300 000,00
31.01.2012	150 000,00	31.01.2012	300 000,00
29.02.2012	150 000,00	29.02.2012	300 000,00
31.03.2012	150 000,00	31.03.2012	300 000,00
31.08.2012	1 500 000,00	31.08.2012	3 000 000,00
30.09.2012	500 000,00	30.09.2012	1 000 000,00
31.10.2012	500 000,00	31.10.2012	1 000 000,00
30.11.2012	500 000,00	30.11.2012	1 000 000,00
31.12.2012	500 000,00	31.12.2012	1 000 000,00
31.01.2013	500 000,00	31.01.2013	1 000 000,00
28.02.2013	500 000,00	28.02.2013	1 000 000,00
31.03.2013	500 000,00	31.03.2013	1 000 000,00
31.10.2013	150 000,00	31.08.2013	900 000,00
16.09.2013	300 000,00	30.09.2013	300 000,00
31.10.2013	300 000,00	31.10.2013	300 000,00
30.11.2013	150 000,00	30.11.2013	300 000,00
20.12.2013	150 000,00	31.12.2013	300 000,00
29.01.2014	150 000,00	31.01.2014	300 000,00
28.02.2014	150 000,00	28.02.2014	300 000,00
31.03.2014	150 000,00	31.03.2014	300 000,00
	<b>8 000 000,00</b>		<b>16 000 000,00</b>

111. Since almost on every date mentioned in the overview, Genoa paid Inter half of the fees paid by Inter to Genoa, the Panel finds that the sell-on fee shall be calculated over half of each of

the amounts transferred by Inter to Genoa, totalling to an amount of EUR 8,000,000. The initial transfer fee paid by Genoa to Sparta shall be deducted from this amount *pro rata*. Interest shall start to accrue as of 15 days of these payments having been received by Genoa.

112. Hence, Genoa shall pay to Sparta a sell-on fee of EUR 712,500, plus interest at a rate of 5% *per annum* as follows until the date of effective payment:

- Interest over EUR 40,078.12 as from 15 September 2011;
- Interest over EUR 13,359.38 as from 15 October 2011;
- Interest over EUR 13,359.38 as from 15 November 2011;
- Interest over EUR 13,359.38 as from 15 December 2011;
- Interest over EUR 13,359.38 as from 15 January 2012;
- Interest over EUR 13,359.38 as from 15 February 2012;
- Interest over EUR 13,359.38 as from 15 March 2012;
- Interest over EUR 13,359.38 as from 15 April 2012;
- Interest over EUR 133,593.75 as from 15 September 2012;
- Interest over EUR 44,531.25 as from 15 October 2012;
- Interest over EUR 44,531.25 as from 15 November 2012;
- Interest over EUR 44,531.25 as from 15 December 2012;
- Interest over EUR 44,531.25 as from 15 January 2013;
- Interest over EUR 44,531.25 as from 15 February 2013;
- Interest over EUR 44,531.25 as from 15 March 2013;
- Interest over EUR 44,531.25 as from 15 April 2013;
- Interest over EUR 40,078.12 as from 15 September 2013;
- Interest over EUR 13,359.38 as from 15 October 2013;
- Interest over EUR 13,359.38 as from 15 November 2013;
- Interest over EUR 13,359.38 as from 15 December 2013;
- Interest over EUR 13,359.38 as from 15 January 2014;
- Interest over EUR 13,359.38 as from 15 February 2014;
- Interest over EUR 13,359.38 as from 15 March 2014;
- Interest over EUR 13,359.38 as from 15 April 2014

*B. Conclusion*

113. Based on the foregoing, and after taking into due consideration all the evidence produced and all arguments made, the Panel finds that:
- The Player was definitely transferred from Genoa to Inter, triggering the consequences enshrined in clause 8 of the Transfer Agreement concluded between Sparta and Genoa.
  - Sparta is entitled to receive a sell-on fee of EUR 712,500 (15% x (EUR 8,000,000 – EUR 3,250,000) from Genoa.
  - Genoa shall pay to Sparta a sell-on fee of EUR 712,500, plus interest at a rate of 5% *per annum* in accordance with the schedule set out above, starting as from 15 September 2011.
114. Any further claims or requests for relief are dismissed.

## ON THESE GROUNDS

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

1. The appeal filed on 12 August 2014 by Genoa Cricket and Football Club S.p.A. against the Decision issued on 23 April 2014 by Single Judge of the Players' Status Committee of the Fédération Internationale de Football Association is partially upheld.
2. Genoa Cricket and Football Club S.p.A. shall pay to AC Sparta Praha an amount of EUR 712,500 (seven hundred twelve thousand and five hundred Euro), plus interest at a rate of 5% *per annum* as follows until the date of effective payment:
  - Interest over EUR 40,078.12 as from 15 September 2011;
  - Interest over EUR 13,359.38 as from 15 October 2011;
  - Interest over EUR 13,359.38 as from 15 November 2011;
  - Interest over EUR 13,359.38 as from 15 December 2011;
  - Interest over EUR 13,359.38 as from 15 January 2012;
  - Interest over EUR 13,359.38 as from 15 February 2012;
  - Interest over EUR 13,359.38 as from 15 March 2012;
  - Interest over EUR 13,359.38 as from 15 April 2012;
  - Interest over EUR 133,593.75 as from 15 September 2012;

- Interest over EUR 44,531.25 as from 15 October 2012;
  - Interest over EUR 44,531.25 as from 15 November 2012;
  - Interest over EUR 44,531.25 as from 15 December 2012;
  - Interest over EUR 44,531.25 as from 15 January 2013;
  - Interest over EUR 44,531.25 as from 15 February 2013;
  - Interest over EUR 44,531.25 as from 15 March 2013;
  - Interest over EUR 44,531.25 as from 15 April 2013;
  - Interest over EUR 40,078.12 as from 15 September 2013;
  - Interest over EUR 13,359.38 as from 15 October 2013;
  - Interest over EUR 13,359.38 as from 15 November 2013;
  - Interest over EUR 13,359.38 as from 15 December 2013;
  - Interest over EUR 13,359.38 as from 15 January 2014;
  - Interest over EUR 13,359.38 as from 15 February 2014;
  - Interest over EUR 13,359.38 as from 15 March 2014;
  - Interest over EUR 13,359.38 as from 15 April 2014
3. (...).
  4. (...).
  5. All other motions or prayers for relief are dismissed.