



Arbitration CAS 2011/A/2477 FC Spartak Moscow v. Football Union of Russia (FUR) & FC Rostov, award of 29 October 2012

Panel: Mr Christian Duve (Germany), President; Mr José María Cruz (Spain); Prof. Massimo Coccia (Italy)

Football

Transfer and training compensation

Scope of CAS review

Training compensation according to the Russian RSTP

Right of the previous club of a professional player to receive training compensation

Aim and interpretation of the provisions governing training compensation

Credibility of the transfer as a requirement for training compensation

- 1. The scope of CAS review, which is in any event limited to the scope of the appealed decision, is defined in Article R57 CAS Code. As a CAS panel has the full power to review the facts and the law, appeals before CAS are heard *de novo*. It is the duty of a CAS panel in an appeals arbitration procedure to make its independent determination of whether the Appellant's and Respondent's allegations are correct on the merits rather than to limit itself to assessing the correctness of the previous procedure and decision.**
- 2. According to Article 15 paras 2 (2) and 3 and Article 22 para 1 of the FUR Regulations on the Status and Transfer of Players (RSTP), training compensation shall be paid on each transfer of a professional football player until the end of the season of his 23rd birthday. The obligation to pay the training compensation arises whether the transfer of a professional player takes place during or at the end of the player's employment contract. Contrary to Article 6 para 3, Annex 4 FIFA RSTP, which is applicable to transfers within the territory of the EU/EEA, but not to transfers in Russia, FUR RSTP does not provide for the requirement to have offered new employment contracts.**
- 3. As a general principle, if a player is transferred to another club pursuant to Article 15 para 2 (2) FUR RSTP, only the previous club of a professional player has a right to receive training compensation. This is confirmed by FIFA Circular No. 826 which reflects the understanding of FIFA and the general practice of the federations and associations belonging thereto and which is relevant for the interpretation of the FUR RSTP.**
- 4. Any circumvention of the rules on training compensation, intended to reduce or avoid the payment of training compensation, contradicts the aim to encourage more and better training of young football players, and especially violates the solidarity among clubs. Such circumvention of the rules on training compensation shall be prevented.**

The formal requirements set out in the respective provisions, therefore, have to be interpreted in a way that gives meaning and effect to the provisions. In the light of the case law of the CAS a club is entitled to receive training compensation from another club, if the latter has benefited from the training efforts invested by the former.

5. There may be exceptional circumstances in which a player is, not necessarily in bad faith, first transferred to a club playing in a lower division, before he is immediately transferred to a club of a higher division. Therefore, under the circumstances, a third requirement has to be fulfilled to be entitled to receive training compensation from the club of the higher division: the credibility of the transfer and the awareness of the new club that it might be held liable for training compensation.

I. THE PARTIES

1. Football Club Spartak Moscow (*"Appellant"* or *"FC Spartak"*) is a top division Russian football club with its registered office in Moscow, Russia. It is affiliated with the Football Union of Russia (*"Respondent 1"* or *"FUR"*), being the governing body of football in the Russian Federation and a member of Fédération Internationale de Football Association (*"FIFA"*). Currently, the Appellant competes in the Russian Football Premier League (*"RFPL"*), organising the *"SOGAZ Russian Football Championship"*, being the top division of professional Russian football. The national Russian football league system includes the following divisions (from top to bottom): RFPL, First Division, Second Division and the Amateur Football League.
2. Football Club Rostov (*"Respondent 2"* or *"FC Rostov"*) is a top division Russian football club, with its registered office in Rostov, Russia. It is affiliated with FUR and also competes in the RFPL.

II. BACKGROUND

3. The Appellant has brought a dispute before the Court of Arbitration for Sport (*"CAS"*) against Respondents by means of an appeal challenging a decision of the Players' Status Committee of the FUR (*"PSC"*) dated 24 May 2011. The decision of the PSC concerns the Appellant's request to oblige FC Rostov to pay an equitable amount of training compensation for the transfer of the football players G, M and F (*"Player G"*, *"Player M"* and *"Player F"*). The PSC decided that the transfer contracts (i) between FC Spartak and Football Club Mitos Novocherkassk (*"FC Mitos"*), a football club playing in the second division, and (ii) between FC Mitos and FC Rostov regarding the transfer of the Players G, M and F (*"Players"*) were valid and dismissed the Appellant's request for training compensation.

4. Appellant, with this appeal, requests the Panel (i) to dismiss the decision of the PSC dated 24 May 2011, and (ii) to render a new decision obliging FC Rostov to pay training compensation for the Players in the amount of RUB 19,420,650 (EUR 483,255.25).

A. THE TRANSFER OF PLAYERS TO FC ROSTOV

5. On 31 December 2010, the labour agreements between Players G and M and FC Spartak expired. On the same date, FC Spartak and Player F mutually consented to terminate Player F's employment contract with FC Spartak.
6. On that date and since 1 June 2010, Player G, born in 1990, was registered as a professional player of FC Spartak. Before that, Player G had been registered as an amateur player of FC Spartak. Player M was born in 1990; he was first registered as an amateur player and since 2 June 2010 as a professional player of FC Spartak. Player F was born in 1993 and on the date his employment contract with FC Spartak expired, i.e. on 31 December 2010, he was 17 years old. Player G is a member of the Russian national under-21 football team.
7. In January 2011, information that Player G would move to FC Rostov was published on the official website of FC Rostov. On 20 January 2011, Player G played for FC Rostov for the first time in a training match against SV Mattersburg. From 4 to 14 February 2011, Player G participated in a training camp with and participated in friendly matches for FC Rostov.
8. On 15 February 2011, FC Rostov showed interest in hiring the Players. After having been approached by FC Rostov, FC Spartak calculated the training compensation for the Players in the amount of USD 1 million; hence, FC Rostov decided not to pursue negotiations with FC Spartak and did not conclude employment contracts with the Players.
9. On 18 February 2011, Players G and M went to another training camp of FC Rostov. Player G played for FC Rostov in friendly matches on 21, 24 and 28 February 2011.
10. On 18 February 2011, FC Mitos concluded employment contracts with the Players. The agreed monthly wages for all three Players were RUB 20.000. Before the conclusion of the employment contracts, FC Spartak had never received any requests from FC Mitos to conclude training compensation contracts in respect of the Players.
11. On 21 February 2011, FC Mitos sent a letter to FC Spartak asking FC Spartak to provide FC Mitos with so-called "transfer contracts" for all Players.
12. On 28 February 2011, FC Mitos transferred the Players – who had never trained with nor played for FC Mitos – to FC Rostov on a loan basis from 1 March 2011 to 29 December 2011, i.e. the Russian football season of 2011. According to these loan agreements, FC Rostov was not obliged to pay compensation for the loan but only the wages of the Players and other remuneration. Upon expiry of the loan agreements, the Players were expected to return to FC Mitos. Following the conclusion of the loan agreements, on 1 March 2011, FC Rostov and the Players concluded employment agreements for the football season 2011. The agreed monthly wages for Players G and M were RUB 15.000.

13. The employment agreement of Player G with FC Mitos contained a buy-out clause in the Addendum No. 1 to the said contract. Article 7.6 of the Addendum states as follows:

“The Parties agreed that the Football Player is entitled to unilaterally terminate the employment agreement ... at any time subject to payment by the Football Player or his future club of the compensation in the amount of 7 571 154 roubles within 30 calendar days following the execution by the Football Player of the employment agreement with a new club”.

14. On 3 March 2011, FC Spartak sent a letter to FC Mitos asking not to conclude employment contracts with the Players, as such transfers were allegedly attempted to cover the transfer to FC Rostov.
15. On 10 March 2011, the registration period of the RFPL expired. During the last day of the registration period, no newspaper released any information about the registration of the Players by FC Rostov.

B. FC MITOS' CLAIM AGAINST FC SPARTAK

16. After FC Spartak refused to conclude contracts on training compensation (the so-called “transfer contracts”, see *supra* at para. 11) with FC Mitos, FC Mitos filed a claim with the Dispute Resolution Chamber of the FUR (“DRC”) on 22 March 2011, stating that FC Spartak intentionally avoided concluding the contracts on training compensation for the Players, and requesting that the DRC resolve the dispute and allow FC Mitos to register the Players with FC Mitos.
17. On 23 March 2011, FC Spartak filed a counterclaim in which it requested the DRC to determine the training compensation for the Players in the amount that FC Rostov would have had to pay if the Players had been transferred directly from FC Spartak to FC Rostov, i.e. training compensation in the amount of the Players’ total profit for the period of work for Appellant in the last five years, multiplied by FC Rostov’s coefficient of 3, instead of a figure multiplied by FC Mitos’ coefficient of 1.
18. On 25 March 2011, the DRC (i) acknowledged the validity of the Players’ transfer from FC Spartak to FC Mitos, (ii) obliged FC Spartak to conclude “transfer contracts” with FC Mitos within 7 calendar days from the moment of this decision, and (iii) rejected FC Spartak’s counterclaim.
19. On 29 March 2011, the FUR registered the employment contracts between the Players and FC Mitos.
20. On 31 March 2011, FC Spartak concluded transfer contracts with FC Mitos for all Players. Subsequently, FC Mitos paid to FC Spartak training compensation for the Players in the amount of RUB 9,710,325, i.e. an amount of training compensation calculated on the basis of a coefficient of 1.

21. FC Spartak's appeal against the decision of the DRC of 25 March 2011 was dismissed by the decision of the PSC dated 6 April 2011. Appellant's additional counterclaim of 4 April 2011, in which it requested (i) to oblige FC Rostov to conclude new transfer contracts and (ii) to determine the training compensation for the Players based on the FC Rostov's coefficient of 3, has not been decided by the PSC as it had not been raised before the DRC.

C. FC SPARTAK'S CLAIM AGAINST FC MITOS AND FC ROSTOV

22. On 07 April 2011 and 13 April 2011, FC Spartak filed another claim with the DRC in which it, *inter alia*, requested (i) to annul the DRC decision of 25 March 2011, (ii) to acknowledge as invalid the transfer contracts between FC Spartak and FC Mitos as well as the transfer contracts between FC Mitos and FC Rostov, (iii) to oblige FC Rostov to conclude transfer contracts with FC Spartak and to pay training compensation in the amount FC Rostov would have had to pay if the Players had been transferred from FC Spartak to FC Rostov.
23. On 21 April 2011, the DRC dismissed FC Spartak's claims; subsequently, on 24 May 2011, the PSC dismissed FC Spartak's appeal.
24. After the loan contracts with FC Rostov expired and the Players returned to FC Mitos, Player G was transferred from FC Mitos to FC Lokomotiv on 1 January 2012. Player M was transferred from FC Mitos to the football club Tom-Tomsk on 20 February 2012.

III. THE PARTIES' RESPECTIVE REQUESTS FOR RELIEF

25. Preliminarily, the Panel wishes to point out that the following short summaries of the parties' positions are only roughly illustrative and do not purport to detail the submissions of the parties. However, the Panel has thoroughly considered in its discussion and deliberations all of the evidence and arguments submitted by the parties, even if there is no specific or detailed reference to that evidence and those arguments in this award.
26. According to Appellant, before the termination of the employment contracts of FC Spartak with the Players, FC Spartak offered new employment contracts to Players G and M with improved terms.
27. The Appellant alleges that the transfer of the Players from FC Spartak to FC Mitos and from FC Mitos to FC Rostov on a loan basis had the purpose of decreasing the amount of training compensation that had to be paid to FC Spartak, and that the transfers are null and void. According to Appellant, it is difficult to understand (i) why a player of a top club playing in the highest division of Russia, who has attracted the attention of another club playing in the RFPL, would choose to move to a club in the Second Division, and (ii) why FC Mitos would pay training compensation to FC Spartak and then immediately transfer the Players to FC Rostov without any compensation.
28. Appellant calculated the difference of the amount already paid by FC Mitos and the amount to be paid by FC Rostov, if the Players had been transferred directly to FC Rostov, to be RUB

19,420,650. The Appellant, however, requested that he be compensated in Euro. The Appellant initially claimed training compensation of EUR 485,000, before subsequently decreasing this amount to EUR 483,225.25. The amounts themselves and their calculation have not been disputed by Respondents.

29. Appellant further alleges that FC Mitos and FC Rostov agreed to circumvent the FUR Regulations regarding the training compensation by fabricating a situation where players trained by FC Spartak would register for a Second Division club in Russia, and immediately, without having trained with or played for FC Mitos, move to a top division team of the RFPL – FC Rostov.
30. Appellant alleges that on 10 March 2011, when the registration with RFPL had expired, the Players had not yet been validly registered by FC Mitos and FC Rostov respectively. Appellant asserts that the DRC, in its decision of 25 March 2011, did not allow FC Mitos to register the players outside of the registration period.
31. In its Statement of Appeal of 13 June 2011, Appellant requested the Panel:
 - 1) *To accept this appeal against the decision of the Committee on Football Players' Status of the Russian Football Union, "RFU", dated 24 May 2011.*
 - 2) *To adopt an award annulling the said decision and adopt a new one declaring that the Appellant is entitled to receive 485,000 EUR compensation in accordance with the RFU Regulations for the Status and Transfer of Players.*
 - 3) *To adopt an award obliging the RFU to enforce said award and oblige FC Rostov to make payment of the said 485,000 EUR for training compensation due to FC Rostov's circumvention of the principles of said regulations because of their conduct with FC Mitos, and the principles of good faith.*
 - 4) *To condemn the First Respondent to oblige FC Rostov to pay a 5% interest rate per annum on the amount of 485,000 EUR compensation from the date of the registration of the players.*
 - 5) *To fix a sum of 30,000 CHF to be paid by the Respondents to the Appellant, to help the payment for its defence fees and costs.*
 - 6) *To condemn the Respondent to the payment of the whole CAS administration costs and the Arbitrators' fees.*
32. In its Appeal Brief of 24 June 2011, Appellant amended its initial requests, asking the Panel:
 - 1) *To accept this appeal against the decision of the RFU PSC dated 24 May 2011.*
 - 2) *To annul the decision of the RFU PSC dated 24 May 2011, the decision of the RFU DRC dated 21 April 2011, the decision of the RFU PSC dated 6 April 2011, and the RFU DRC decision dated 25 March 2011.*

- 3) *To oblige FC Rostov to conclude transfer contracts for the Players with the Appellant and subsequently oblige FC Rostov to pay the amount of EUR 483,225.25 to the Appellant as payment for the appropriate amount of training compensation arising from said transfers.*
 - 4) *In the alternative, to oblige FC Rostov to pay EUR 483,225.25 to the Appellant as payment for the appropriate amount of training compensation because of their abuse and circumvention of the RFU RSTP.*
 - 5) *Alternatively and in no way prejudicing the previous claims of the Appellant, to declare the transfer contracts between the Appellant and FC Mitos in respect of the transfer of the Players as null and void from the moment of their execution.*
 - 6) *Alternatively and in no way prejudicing the previous claims of the Appellant, to declare the transfer contracts between FC Rostov and FC Mitos in respect of transfer of the Players as null and void from the moment of their execution.*
 - 7) *Further, alternatively and in no way prejudicing the previous claims of the Appellant, to declare FC Mitos' registration of the Players as invalid as it occurred after the first registration period closed in accordance with the definition of said period contained in Article 12 of the SOGAZ Regulations.*
 - 8) *Further, alternatively and in no way prejudicing the previous claims of the Appellant, to declare FC Rostov's registration of the Players as invalid as it occurred after the first registration period closed in accordance with the definition of said period contained in Article 12 of the SOGAZ Regulations.*
 - 9) *To oblige FC Rostov to an additional payment of 5% interest on the amount of compensation awarded from the date that this amount became due in accordance with the RFU RSTP in accordance with Swiss law.*
 - 10) *To fix a sum of CHF 30.000 to be paid by the Respondent to the Appellant, to help the payment for its defence fees and costs.*
 - 11) *To condemn the Respondent to the payment of the whole CAS administration costs and the Arbitrators fees.*
33. In its Answer to the Appeal, Respondents request the Panel to issue an award:
- 1) *Ruling that the Appeal is not admissible and confirming the decision of the FUR Player Status Committee of 24 May 2011;*
or, in the alternative,
 - 2) *Rejecting the Appeal of Spartak Moscow and confirming the decision of the FUR Player Status Committee of 24 May 2011;*
and, in any event,

- 3) *Ordering Spartak Moscow to (i) pay any arbitration costs in full, and (ii) pay in full, or pay a contribution towards the legal fees and other expenses incurred by the Football Union of Russia and by FC Rostov in connection with these proceedings.*
34. Respondents argue that Appellant provided no evidence with respect to the alleged offer of new employment contracts to the Players on improved terms.
35. Respondents further argue that the FUR Regulations on training compensation have not been circumvented and that all contracts are valid. Respondents allege that the Players G, M and F decided to conclude the employment agreements with FC Mitos because they were worried that they would not find a club to play for before the end of the registration period. The employment contracts with FC Mitos were the only possibility for the players to assure that they would play in the football season of 2011. When the players and FC Mitos concluded the employment agreements, it was not foreseeable that they would soon play for FC Rostov. Later, FC Mitos gave the players the possibility of playing in the RFPL by accepting the loan to FC Rostov. The rationale of that was: FC Mitos would benefit from having the players playing in the RFPL and upon expiry of the loan with FC Rostov, FC Mitos would be in a position to possibly trade the Players to another club.
36. Respondents further allege that the Players were registered in time by FC Mitos and by FC Rostov.

IV. PROCEEDINGS BEFORE CAS

37. On 13 June 2011, Appellant filed its Statement of Appeal together with 4 Annexes and on 24 June 2011, Appellant filed its Appeal Brief together with 24 Annexes.
38. On 19 August 2011, Respondents filed their Answer together with 23 Exhibits.
39. On 2 December 2011, the Panel informed the parties that the document requested by Appellant in its evidentiary proceeding request had been submitted by Respondents as Exhibit R6 of their Answer.
40. On 15 February 2012, Respondents filed additional evidence: the transfer agreement between FC Lokomotiv and FC Mitos with regard to the Player G's transfer, dated 30 December 2011 (Exhibit R24).
41. On 29 February 2011, Respondents submitted additional evidence: the passport of Player G, dated 14 February 2012 (Exhibit R25) and the passport of Player M, dated 29 February 2012 (Exhibit R26).
42. On 1 March 2012, Appellant submitted new evidence: Addendum No. 1 to the Player G's contract with FC Mitos (Annex 25).

V. WITNESSES' EVIDENCE

43. The oral hearing and examination of witnesses took place on 6 March 2012 at the CAS premises in Lausanne. The Panel examined the following witnesses called by Respondents: Player G, Player M, Mr. Evgeny Izvarin (in-house lawyer of FC Mitos) and Mr. Meschanchuk (Sports Director of the RFPL).

A. EXAMINATION OF PLAYER G

44. Player G testified that FC Spartak had not offered him a new contract upon termination of his contract on 31 December 2010. Even though he was hoping for an offer from FC Rostov, FC Rostov did not make such an offer because FC Spartak requested a very high amount of training compensation. However, Player G asserted that he continued to play for FC Rostov because it was essential for him to keep playing and further develop his skills. When he was approached by FC Mitos, he accepted the offer because he was afraid to stay without a club for the 2011 sports season. Player G asserted that he chose not to look for another club before signing a contract with FC Mitos, even though he had 20 days until the transfer period expired, as FC Mitos agreed to loan him to the Premier League club if such a club expressed an interest afterwards.

B. EXAMINATION OF PLAYER M

45. Player M asserted that, on 28 December 2010, FC Spartak made him an offer to renew his contract, including a salary increase. However, he refused the offer because he was not satisfied with its terms. Player M stated that he concluded a contract with FC Mitos because he was afraid to stay without a club for the 2011 sports season and FC Mitos promised to loan him to a Premier League club if such a club would express an interest. When he signed the contract with FC Mitos he did not know he would be loaned to FC Rostov later. After the employment agreement with FC Rostov expired, he decided to terminate his contract with FC Mitos because he received several offers from Premier League clubs. Consequently, he was transferred from FC Mitos to Tom-Tomsk.

C. EXAMINATION OF MR. IZVARIN

46. Mr. Izvarin asserted that it is not unusual for a second division club to hire a player from the Premier League club and such precedent exists in the club's history. He further asserted that FC Mitos loaned the players to FC Rostov free of charge because it was a beneficial deal for the club. The rationale behind a transfer was that the Players' value would significantly rise after they had a chance to play for the Premier League club which would allow FC Mitos to subsequently sell the players for a very good price to another club upon their return to FC Mitos.

D. EXAMINATION OF MR. MESCHANCHUK

47. Mr. Meschanchuk stated that the RFPL registered the players for the participation in the SOGAZ Championship, as FC Rostov submitted all the necessary documents for registration of Players and RFPL registered them on 10 March 2011.

VI. LAW

A. CAS JURISDICTION

48. The jurisdiction of the CAS, which has not been disputed and has been confirmed by the signing of the Order of Procedure dated 29 February 2012, derives from Article R47 of the Code of Sport-related Arbitration (the “CAS Code”) together with Article 46 of the Statutes of the Football Union of Russia (“FUR Statutes”), according to which any appeal against a final decision of the FUR may be resolved by the CAS.

49. Article 30 of the FUR Regulations on the Status and Transfer of Players 2011, in force as of 1 May 2011 (“FUR RSTP”), clearly stipulates that a decision of the DRC may be appealed to the PSC and a decision of the PSC may be appealed to the CAS. However, according to Article 33 FUR RSTP:

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

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

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

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

B. ADMISSIBILITY

51. The Appellant appealed against the PSC decision dated 24 May 2011. Appellant, therefore, under Article R49 of the CAS Code, had 21 days until 14 June 2011 to file its statement of appeal with CAS, which it did file on 13 June 2011. As the appeal was filed within the

stipulated deadline and complied with all other requirements of Articles R47-49 CAS Code, it is, therefore, admissible.

52. An Appeal against the decisions of the DRC dated 25 March 2011 and of the PSC dated 6 April 2011 has not been filed within the deadline stipulated by Article R49 CAS Code, i.e. within 21 days until 27 April 2011.

C. SCOPE OF REVIEW

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

“The Panel shall have full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. Upon transfer of the file, the President of the Panel shall issue directions in connection with the hearing for the examination of the parties, the witnesses and the experts, as well as for the oral arguments. He may also request communication of the file of the federation, association or sports-related body, whose decision is the subject of the appeal. Articles R44.2 and R44.3 shall apply.

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

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

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

D. APPLICABLE LAW

55. According to Article R58 CAS Code:

“The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

56. As the challenged decisions were issued by the DRC and the PSC, which are both bodies of the FUR, the Panel finds that the FUR RSTP apply. When this dispute arose, at the latest on 22 March 2011 when Appellant filed its first claim to the DRC, it arose prior to the entry into force of the FUR RSTP on 1 May 2011. Therefore, according to Article 33 FUR RSTP, the 2006 edition of the FUR RSTP applies to the substance of this dispute.

57. The Panel notes that the applicability of FUR RSTP to this case is confirmed by Article 1, para 2, of the FIFA Regulations on the Status and Transfer of Players, edition 2010, (*FIFA RSTP*), which specifically provide as follows:

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

58. In the present case the Players were transferred between clubs belonging to the same association, the FUR.

59. The Panel also finds that, pursuant to Article R58 of the CAS Code (*supra* at 55) together with Article 4 para 1 FUR RSTP, providing that

“The legal relations between professional players and professional football clubs in the sphere of professional football are governed by labour and other law of the Russian Federation as well as by FIFA, UEFA, FUR Regulations and by these Regulations”,

Russian law is applicable on a subsidiary basis.

60. As Article 20 FIFA RSTP stipulates that FIFA RSTP are not directly applicable to national transfers, FIFA RSTP and, additionally, Swiss law are not applicable in this proceeding pursuant to Article 60 para 2 FIFA Statutes, edition 2011.

E. PROCEDURAL ISSUES

61. According to Article R56 CAS Code, after the exchange of written submissions the parties are not authorised to produce further evidence unless they mutually agreed to it or the Panel exceptionally authorised it. At the oral hearing, the Appellant and Respondents 1 and 3 explicitly accepted all late submissions by the other Parties, especially, but not exclusively, the Addendum No. 1 to the Player G’s contract, the transfer agreement between FC Lokomotiv and FC Mitos dated 30 December 2011, Player G’s new passport, dated 14 February 2012 and Player M’s new passport, dated 29 February 2012.

62. During the CAS hearing, Respondents objected to the presence of Mr. Krechetov, in-house counsel of Football Club Lokomotiv Moscow, in the oral hearing. Respondents based the objection on the fact that Mr. Krechetov would appear as a legal representative in the parallel proceedings CAS 2011/A/2478. Mr. Krechetov asserted that he was attending the present hearing as assistant to Appellant’s in-house counsel and, therefore, as legal representative of Appellant.

63. In this regard, Article R30 of the CAS Code provides that the parties may be represented or assisted by persons of their choice. In addition, Article 6 para 3 c) of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe (*“ECHR”*) provides for the right of free choice of the legal representative (cf. Swiss Federal Tribunal, judgement 6B 30/2010 of 1 June 2010). Even if the Panel is not bound directly by Article 6 para 3 c) ECHR, the Panel is of the view that it shall account for the content of the

provisions of the ECHR within the framework of Swiss procedural public policy (*cf.* CAS 2011/A/2384-2386 and CAS 2011/A/2426).

64. The Panel decided, in the oral hearing, that Mr. Krechetov had the right to be present, since he appeared as a party representative of Appellant in the oral hearing and not as a third party. Respondents did not object to the decision of the Panel.
65. The parties did not raise further procedural issues or objections at the oral hearing. They did not make any objections either with regard to the composition of the Panel and more generally with regard to the proceedings held until the date of the hearing. At the end of the hearing, they explicitly acknowledged that they did not have any objections as to the Panel's conduct of the proceedings including the oral hearing.

F. MERITS

66. Appellant has already received and accepted training compensation for the Players from the Second League club FC Mitos in the amount of RUB 9,710,325. However, if training compensation is to be paid according to the FUR RSTP, the amount of training compensation depends *inter alia* on the new club's coefficient: the higher division the new club plays, the higher the coefficient is.
67. The Appellant, therefore, requests the Panel (i) to dismiss the decision of the PSC dated 24 May 2011, and (ii) to render a new decision obliging the Premier League club FC Rostov to pay the difference between the amount already paid by FC Mitos (RUB 9,710,325) and the maximum amount of training compensation for the Players, calculated on the basis of FC Rostov's coefficient of 3 (RUB 29,130,975), i.e. RUB 19,420,650.
68. The Panel partially upholds Appellant's appeal. By rendering a new decision and dismissing the decisions of the PSC dated 24 May 2011 and of the DRC dated 21 April 2011, the Panel finds that Appellant is entitled to receive training compensation from FC Rostov (*see infra* under 1) in the amount of RUB 19,420,650 (request no. 4; *see infra* under 2). The requirements of training compensation pursuant to Articles 15 to 22 FUR RSTP are fulfilled, even though the Players were not directly transferred from Appellant to FC Rostov. FC Rostov benefited from the training efforts invested in the Players by FC Spartak. Without ever having trained or played for FC Mitos, the genuineness of the transfer of the Players to FC Mitos is doubtful. FC Rostov is, therefore, obliged to pay the difference between the amount that has already been paid by FC Mitos and the amount that Appellant would have received from FC Rostov, if the Players had been transferred directly from Appellant to FC Rostov.
69. Furthermore, the Panel partially upholds Appellant's claim for interest. If the amount of RUB 19,420,650 has not been by paid within 30 calendar days after the notification of the award, FC Rostov is ordered to pay FC Spartak interest on RUB 19,420,650, at the bank discount interest rate at Moscow, Russia, on the effective date of payment, but not more than 5% *per annum* from the day the deadline expired (request no. 9; *see infra* under 3).

70. As the Panel partially upholds Appellant's appeal and fully grants Appellant's request no. 4, the Panel has not to decide the ancillary motions and the questions as to whether the transfer contracts between FC Spartak and FC Mitos and between FC Rostov and FC Mitos are null and void and whether the registrations of the Players were invalid (Appellant's requests no. 5 to 8).

1. Appellant is entitled to receive training compensation

71. The decisions of the DRC and the PSC of 25 March 2011 and 6 April 2011 are final and binding as far as any potential claims of Appellant against FC Mitos are concerned. However, they do not address Appellant's claims for training compensation against FC Rostov, as the latter was neither sued nor a party to the proceedings (see *infra* under a.).

72. The Panel, therefore, has the power to hear the case and finds that Appellant is entitled to receive training compensation for the Players from FC Rostov according to Articles 15 to 22 Chapter VIII FUR RSTP on "*Training and Education Compensation for Players*" (see *infra* under b.).

73. Appellant is entitled to receive training compensation, since Appellant invested considerable training efforts before the Players – all under the age of 23 – signed new employment contracts (see *infra* under c.). The crucial question, however, is if Appellant is entitled to receive training compensation from FC Rostov, as Appellant was not, from a formal point of view, the "*previous club*" of the Players when they signed employment contracts with FC Rostov (see *infra* under d.). FC Rostov's payment obligation is justified: It was FC Rostov that benefitted from the training efforts made by FC Spartak (see *infra* under e.); and the transfer of the Players to FC Rostov through FC Mitos lacks credibility (see *infra* under f.).

a. No binding effect of decision of DRC and PSC as to training compensation to be paid by FC Rostov

74. Neither the DRC nor the PSC in its decisions dated 25 March 2011 and of 6 April 2011, which are indeed final and binding (see above at para 52), established whether Appellant is entitled to receive training compensation for the Players from FC Rostov. The decisions did not address the Appellant's claims for training compensation against FC Rostov. FC Rostov was not a party to the proceedings. Furthermore, Appellant's counterclaim of 4 April 2011, in which it requested (i) to oblige FC Rostov to conclude new transfer contracts and (ii) to determine the training compensation for the Players based on FC Rostov's coefficient of 3, has not been decided by the PSC as it had not been raised in first instance before the DRC.

b. Legal basis for Appellant's claim to receive training compensation

75. Appellant's claim for training compensation against FC Rostov is based on Articles 15 to 22 FUR RSTP concerning training compensation.

76. Article 15 paras. 2 and 3 FUR RSTP stipulates that:

“2. The compensation for the education, training and improving player’s performance (hereafter referred to as – training compensation) shall be paid to a player’s training club(s):

(1) when a player acquires for the first time the status of a professional player and signs his first employment contract as a Professional - professional football athlete;

(2) on each transfer of a Professional until the end of the Season of his 23rd birthday.

3. The obligation to pay the training compensation arises whether the transfer of a professional player takes place during or at the end of the player’s employment contract subject to the condition that the mentioned player has not attained the age of 23 (twenty three).

4. Training compensation is not due:

a) if the player is transferred from one amateur football club (sports school) to another amateur football club (sports school);

b) if the professional player is transferred from a professional football club to an amateur football club;

c) if the professional player at the age of 23 (twenty three) and over is transferred after the expiry of the validity of his employment contract with a professional football club”.

77. Article 18 FUR RSTP provides that

“1. When a professional player that is under 23 signed an employment contract with a professional football club and then this employment contract is prematurely terminated on the initiative of the professional football club without any offensive actions (inaction) on behalf of the professional player and at the moment of the contract termination the professional player is still under 23, the amount of the training compensation for the player is calculated on the basis of actual expenses of the professional football club (the revenue without application of the coefficient of the football club category). The same procedure of calculating the amount of the training compensation is applied when the term of the employment contract with the professional club expired but the provisions under the mentioned employment contract are not completely or partly fulfilled by the professional football club.

2. When a professional player that is under 23 signed an employment contract with a professional football club and then this employment contract is prematurely terminated on the initiative of the professional football club without any offensive actions (inaction) on behalf of the professional player and at the moment of the contract termination the professional player attained the age of 23 the training compensation is not due.

3. When a professional player that is under 23 signed an employment contract with a professional football club and then this employment contract is prematurely terminated on the initiative of the professional player without any violation of laws or other normative legal acts contained the norms of the labour law, provisions of the collective agreement, any other agreement or the employment contract itself on behalf of the club or without a sporting just cause and at the moment of the contract termination the professional player attained the age of 23 the training compensation is due with application of the coefficient of the football club category”.

78. Articles 17, 19 and 20 FUR RSTP set out the rules for the calculation of the compensation amount. According to Article 22 para 1 FUR RSTP,

“Only respective professional football clubs, amateur football clubs and sports schools are entitled to receive the training compensation in accordance with these Regulations”.

c. *FC Spartak is generally entitled to receive training compensation*

79. According to Article 15 paras 2 (2) and 3 and Article 22 para 1 FUR RSTP, training compensation shall be paid on each transfer of a professional football player until the end of the Season of his 23rd birthday.

80. It is undisputed between the Parties that the Players had been registered with FC Spartak, a professional football club, as professional players and had been trained by FC Spartak during their formative years. When the Players signed new employment contracts with FC Rostov, they were under 23 years old.

81. The obligation to pay the training compensation arises whether the transfer of a professional player takes place during or, as in the present case, at the end of the player’s employment contract (*cf.* Article 15 para 3 FUR RSTP). Whether or not FC Spartak had offered to Players G and M new employment contracts, it is not relevant in the present case. Contrary to Article 6 para 3, Annex 4 FIFA RSTP, which is applicable to transfers within the territory of the EU/EEA, but not to transfers in Russia, FUR RSTP does not provide for the requirement to have offered new employment contracts.

82. Furthermore, none of the exceptions stipulated in Article 15 para 4 or Article 18 FUR RSTP are fulfilled. The Players were not transferred to an amateur football club and were under 23 (Article 15 para 4 FUR RSTP). Furthermore, the employment contracts with Appellant were not prematurely terminated on the initiative of Appellant and the Players did not attain the age of 23 when the employment contracts ended (Article 18 FUR RSTP).

83. FC Spartak is, therefore, entitled to receive training compensation for the Players. However, the question is whether Appellant is entitled to receive training compensation from FC Rostov, since Appellant was formally not the previous club of the Players when they signed employment contracts with FC Rostov.

d. *Was FC Spartak the “previous club” of the Players?*

84. As a general principle, if a player is transferred to another club pursuant to Article 15 para 2 (2) FUR RSTP, only the previous club of a professional player has a right to receive training compensation. This is confirmed by FIFA Circular No. 826 of 31 October 2002, p. 3, which reflects the understanding of FIFA and the general practice of the federations and associations belonging thereto and which is relevant for the interpretation of the FUR RSTP (*cf.* CAS 2006/A/1018; CAS 2004/A/594).

85. FIFA Circular No. 826 provides

“However, the principles concerning subsequent transfers will be simplified until the review of the revised regulations at the end of the 2003/2004 season has been completed. Until then, for any subsequent transfer up to the age of 23, including transfers from clubs belonging to the third or fourth categories as referred to on art. 5.2 (c) of the Applications Regulations, training compensation will only be owed to the previous club of the player for the time he was effectively trained by the club”.

86. This was confirmed by the FIFA DRC (*cf.* DRC 46146B of 27 April 2006 and DRC 26135 of 21 February 2006) and this rule has remained in force following the introduction of the FIFA Regulations for the Status and Transfer of Players of 2005 (*cf.* BAKER, *The Training Compensation System*, *The International Sports Law Journal* 2008, p. 31) and following the introduction of the FIFA Regulations on the Status and Transfer of Players of 2010.
87. As a consequence, FC Mitos – being the club first signing new employment contracts with the Players – would have to pay training compensation to Appellant. FC Rostov was not the first club signing professional employment contracts with the Players pursuant to Article 15 para 2 FUR RSTP, but the second. Therefore, FC Rostov would be obliged, if at all, to pay training compensation to FC Mitos as the previous club.
88. However, the exceptional circumstances of the case entitle Appellant to receive training compensation from FC Rostov. If a player is first transferred to a club of a lower division and only subsequently to a club of a higher division, the formal requirements of training compensation are only met as regards to the club of the lower division. Less compensation is to be paid to the training club. Therefore, the compensation and solidarity system could be circumvented by an intermediate transfer through a club of a lower division.
89. Articles 15 to 22 FUR RSTP do not provide for any rules in case of such circumvention by transferring a Player through a club of a lower division.
90. However, Article 15 to 22 FUR RSTP are designed to encourage more and better training of young football players, and to create solidarity among clubs, by awarding financial compensation to clubs which have invested in training young players. This interpretation is corroborated by FIFA Circular No.769 dated 24 August 2001, p. 2 and 10.
91. Any circumvention of the rules on training compensation, intended to reduce or avoid the payment of training compensation, contradicts the aim to encourage more and better training of young football players, and especially violates the solidarity among clubs. Such circumvention of the rules on training compensation shall be prevented. The formal requirements set out in the respective provisions, therefore, have to be interpreted in a way that gives meaning and effect to the provisions (*cf.* CAS 2006/A/1152).
92. Accordingly, the panel in CAS 2009/A/1757 has established general rules under which a club may be entitled to receive training compensation even though not all formal requirements may have been fulfilled.
93. In CAS 2009/A/1757, a player under 23 was registered by MTK Budapest (“MTK”), a club playing in the top division of the Hungarian national football league. Since negotiations on

the player's transfer from MTK to FC Internazionale Milano SpA ("*Inter*"), a club playing in the top division of the Italian Football Association, were unsuccessful, the player was transferred to Inter through the Maltese club, Pieta Hotspurs. MTK has neither received compensation from Inter nor from Pieta Hotspurs. Even though not all formal requirements to establish a claim of training compensation had been met, the CAS Panel awarded MTK to be entitled to receive training compensation from Inter.

94. The panel in CAS 2009/A/1757 established that

"...the rationale for the provisions in the FIFA Regulations regarding training compensation is that clubs should be encouraged to train players and those clubs that carry out the training process successfully should be rewarded for their training efforts. By the same token, those other clubs which enjoy the fruits of that training process should be obliged to pay something in compensation for the training efforts engaged in by others" (see at para 13).

95. Furthermore, the panel in CAS 2009/A/1757 decided that

"...having regard to the fundamental principle of fair play ... the aims of sporting justice shall not be defeated by an overly formalistic interpretation of the FIFA Regulations which would deviate from their original intended purpose" (see at para 31).

96. In the light of the afore mentioned principles and the case law of the CAS established by the panel in CAS 2009/A/1757, Appellant is entitled to receive training compensation from FC Rostov, since FC Rostov has benefited from the training efforts invested by FC Spartak (see *infra* under e.). In the context of training compensation, the transfer of the Players to FC Mitos and the loan agreement to FC Rostov are not a credible transfer (see *infra* under f.).

e. *FC Rostov has benefited from the training efforts invested by FC Spartak*

97. As a general rule, the club that benefits from the training efforts invested by another club in young players shall pay training compensation to that training club.

98. In CAS 2009/A/1757, the panel ruled that:

"...it appears that MTK invested considerable training efforts during the key formative years of F's training and education (namely, from the age of 15 to 18). Furthermore, the Panel understands that the training efforts expanded by MTK in relation to F. are not questioned by either side in this case. Moreover, the training seems to have been productive and largely successful ... For these reasons, the Panel considers it to be justified that MTK should receive training compensation for the player F...

...since it is Inter that has benefited from the training efforts invested by MTK, it is also Inter that should be obliged to pay any sum of training compensation determined by the Panel. In this respect, Pieta Hotspurs does not appear to have benefited from the training efforts invested by Inter because, as the record shows, the player was only registered with that club for 9 days and never even played a competitive match in Malta" (see paras 23 to 25) [emphasis added].

99. However, similarly to the facts in CAS 2009/A/1757, all Players are talented. The training efforts of FC Spartak have been productive and largely successful. FC Rostov, therefore, showed interest in hiring the Players and had approached Appellant in order to agree on compensation amounts.
100. Only after FC Rostov had ceased to show interest in transferring the Players, FC Mitos concluded the employment agreements with the Players for the period from 18 February 2011 until 29 June 2012 (14 months). However, the Players have never trained or played for FC Mitos prior to their subsequent transfer to FC Rostov. Players G and M had signed the employment contracts with FC Mitos only 10 days before concluding new employment contracts with FC Rostov on 28 February 2011. Player F concluded an employment contract with FC Mitos on 25 February 2011 for the period from 25 February 2011 until 29 June 2012 (14 months) and, therefore, was legally affiliated with FC Mitos for only 3 days before concluding an employment contract with FC Rostov. Therefore, FC Mitos did not – from a sporting perspective – benefit from the training investment done by FC Spartak.
101. Furthermore, FC Mitos' economical benefit was very limited. FC Mitos loaned the Players to FC Rostov without agreeing on any compensation for the loan, even though FC Mitos was obliged to pay training compensation to FC Spartak according to the decisions of the DRC and PSC of 25 March 2011 and 6 April 2011. Indeed, Respondents argue and Mr Izvarin asserted that FC Mitos considered that the Players' values would rise if the Players were loaned to another Premier League Club. However, according to the buy-out clause in the Addendum no. 1 of Player G's employment contract, FC Mitos agreed on a buy-out of the Players in the amount of only 10% more than the training compensation amount that the club had to pay to FC Spartak. FC Mitos, therefore, had to pay training compensation to FC Spartak and had to bear the full risk of not being able to transfer the Players to a Premier League club, as it may have happened with Player F, for the benefit of only 10%. This amount can be regarded like a handling fee for stepping in and reducing the amount of training compensation.
102. To the contrary, FC Rostov fully benefited from the training efforts invested by FC Spartak. The Players trained and played for FC Rostov from January 2011 until the end of the season of 2011; FC Rostov did not pay training compensation to FC Spartak and did not pay any loan compensation to FC Mitos. It did not even bear the financial risk of a subsequent transfer of the Players to a new club.

f. Lack of credibility

103. However, there may be exceptional circumstances in which a player is, not necessarily in bad faith, first transferred to a club playing in a lower division, before he is immediately transferred to a club of a higher division. Therefore, under the circumstances, a third requirement has to be fulfilled to be entitled to receive training compensation from the club of the higher division: the credibility of the transfer and the awareness of the new club that it might be held liable for training compensation.

104. Accordingly, the panel in CAS 2009/A/1757 noted that:

“... in certain previous cases (for example, CAS 208/A/1521)...CAS was reluctant to oblige a new club to pay training compensation in circumstances where the new club may really not have known that it might be liable to pay training compensation in the event of the transfer of the player, for example, as the new club was not privy to any negotiations that may have taken place between the player and his previous club (see, in particular, paragraph 65 of the Award in CAS 2008/A/1521). However, the Panel considers that the present case represents a different set of circumstances and notes, in particular, that Inter has not suggested that it was unaware that it might be obliged to pay training compensation in the case of F. Indeed, the facts of the case point to the opposite conclusion” (see at para 26).

105. In the present case, the new club, i.e. FC Rostov, was aware of the potential liability to pay training compensation. The DRC and PSC established in the decisions of 25 March 2011 and 6 April 2011 that, in general, FC Spartak is entitled to receive training compensation for the Players and FC Rostov had even received a request from FC Spartak to pay US \$ 1 million as training compensation for the Players. Accordingly, FC Rostov cannot claim to have been unaware that it might be obliged to pay training compensation.

106. Furthermore, the panel in CAS 2009/A/1757 questioned the credibility of the player's transfer and stated:

“... the Panel also observes that it is difficult to understand why a player who is rated highly and who has captained the Hungarian under 19 team and who was attracted the attention of Inter Milan should elect to move to a club in Malta and stay there for little more than a week before moving on to Italy” (see at para 27).

107. Similarly, Players G, M and F, one of which is a member of the Russian national under-21 football team, moved from FC Spartak, a club of the top division and one of the oldest and most popular football clubs in Russia, to a club in the second division, FC Mitos. It seems as if the fact that FC Rostov is located nearly 1000 kilometres from Moscow, but FC Mitos is located in Novocherkassk, a city only a few kilometres away from Rostov, may not be a mere coincidence.

108. Indeed, Players G and M asserted that, when the Players concluded employment contracts with FC Mitos, they did not know that they would be subsequently loaned to FC Rostov. Furthermore, the Players alleged that the move to FC Mitos was based on the fear to remain without a club for the 2011 season. However, at the time that Players G and M signed employment contracts with FC Mitos, 20 days were still left until the end of the 2011 registration period and both Players had already trained in several training camps and played in various friendly matches for FC Rostov, another top division club that had already shown serious interest in contracting the Players. In addition, Players G and M signed employment contracts with FC Mitos, a Second League club (i.e. the third Russian division, see *supra* at para. 1), providing for monthly wages in the amount of RUB 20.000. Respondents did not convincingly explain to the Panel on what grounds the Players would have waived 25 % of their wages by signing the employment contracts with FC Rostov, a Russian Premier League Club, which provided for monthly wages only in the amount of RUB 15.000.

109. Furthermore, neither Player G nor Player M had any personal contact to officials or representatives of FC Mitos before they signed the employment agreements on 18 February 2011 when they both were on a training camp with FC Rostov in Turkey. None of the Players ever trained or played for FC Mitos. Respondents did not even establish and prove that the Players ever had any contact to officials or representatives, let alone coaches or trainers, of FC Mitos during those 10 days before signing the employment agreements with FC Rostov.

110. Therefore, the transfer of the Players to FC Rostov, through FC Mitos, is not credible with respect to the purpose of the training compensation. FC Rostov benefited from the training efforts invested by FC Spartak. Therefore, it is FC Rostov that should be obliged to pay the training compensation established by the FUR RSTP.

2. The amount of training compensation to be paid by FC Rostov is RUB 19,420,650

111. Appellant is entitled to receive additional training compensation from FC Rostov in the amount of RUB 19,420,650.

112. Article 17 para. 1 a) FUR RSTP establishes that

“... the amount of compensation complies with the professional player’s revenue (in Rubbles) for the working period of the professional player in a professional football club in accordance with the employment contract but not more than for last 5 (five) years multiplied by the coefficient of the club’s category”.

113. According to Annex 1 FUR RSTP, the coefficient of FC Rostov is 3, the coefficient of FC Mitos is 1. The maximum amount of compensation that Appellant is entitled to receive from FC Rostov, has been calculated by Appellant and has not been contested by Respondents: RUB 29,130,975.

114. However, the decisions of the DRC and the PSC dated 25 March 2011 and 6 April 2011 are final and binding as far as any potential claims against FC Mitos are concerned and, accordingly, Appellant has already received and accepted training compensation for the Players from FC Mitos in the amount of RUB 9,710,325. Therefore, Appellant requests the Panel to oblige FC Rostov only to pay the difference between the amount that has already been paid by FC Mitos and the amount that FC Spartak would have received from FC Rostov according to the FUR RSTP, i.e. RUB 19,420,650. In the light of the circumstances of the case and considering the financial and sports related benefit received by FC Rostov, the Panel has no reason to rule beyond the claim submitted to it (*ultra petita*).

115. Finally, the Panel rejects Appellant’s claim to be compensated in Euros, as all amounts for training compensation have been calculated by Appellant in Russian Rubles and Appellant has not established on which legal basis it is entitled to receive the amount in Euros. Furthermore, keeping the amounts in Rubles, none of the parties shall benefit from a variable exchange rate.

3. Interest on the amount of training compensation

116. Appellant requests to oblige FC Rostov to an additional payment of 5% interest on the amount of compensation awarded from the date that this amount became due in accordance with FUR RSTP and Swiss law (Appellant's requests no. 9).
117. The FUR RSTP, as the FIFA RSTP, do not provide for the payment of interest on the amount of training compensation. In the absence of a specific contractual clause, national law has to be applied (cf. CAS 2007/A/1320-1321 at para 59; CAS 2006/A/1027 at para 43). Pursuant to Article R58 of the CAS Code (*supra* at para. 55) together with Article 4 para 1 FUR RSTP, Russian law is applicable on a subsidiary basis in the present case (see above at para. 60).
118. According to Article 395 of the Civil Code of the Russian Federation ("RCC"), legal interest is to be paid in case of any kind of delay in payment:
- "1. For the use of the other person's money as a result of its illegal retention, or the avoidance of its return or of another kind of delay in its payment, or as a result of its ungroundless receipt or saving at the expense of the other person, the interest on the total amount of these means shall be due"* [emphasis added].
119. However, FC Rostov's payment of training compensation is not delayed, as the deadline to pay training compensation has not yet expired. Whereas Article 3 para 2 Annex 4 FIFA RSTP stipulates that the deadline for the payment of training compensation is 30 days following the registration of the player, according to Art 20 RSTP,
- "1. The compensation sum for the player's training is payable by the new professional club not later than 30 (thirty) calendar days after the employment contract with a professional player is signed, unless the transfer contract parties agree otherwise. If the deadline set out in this paragraph is violated, the Dispute Resolution Chamber may impose the sanctions accordingly.*
- 2. If the professional football clubs cannot settle the issue concerning the amount of the compensation for player's education to be paid while player's transfer, the decision is taken by the Dispute Resolution Chamber,*
- 3. The amount of compensation for training and education set out by the Dispute Resolution Chamber must be transferred by the club which engages the player within 30 (thirty) days from the day on which the Dispute Resolution Chamber took its decision. The non-fulfilment or a not timely fulfilment of the Dispute Resolution Chamber decision shall result in appropriate sanctions"* [emphasis added].
120. According to the general rule set out in Article 20 RSTP, the deadline to pay training compensation ends only 30 days after the amount has been determined, either by agreement or by decision of the DRC. Without such agreement or a decision of the DRC, training compensation has not to be paid. In the present case, the amount of training compensation has neither been agreed nor determined by the DRC or the PSC. FC Rostov is, therefore, obliged to pay training compensation within 30 days from the day on which the Panel renders the present award.
121. Any interest is, therefore, calculated from the 31st day after the end of the deadline to pay training compensation, i.e. from the 31st day after the notification of the award. This is in line

with CAS jurisprudence (*cf.* CAS 2003/O/527; CAS 2006/A/1027; CAS 2009/A/1810 & 1811; CAS 2009/A/1880 & 1881).

122. Article 395 RCC does not provide for a fixed interest rate. According to Article 395 para. 1 sentence 2 RCC,

“The interest rate shall be defined by the discount rate of the bank interest, existing by the date of the discharge of the pecuniary obligation or of the corresponding part thereof at the place of the creditor’s residence, and if the creditor is a legal entity - at its seat” [emphasis added].

123. According to the Decision of the Plenum of the Supreme Court of the Russian Federation No. 6 and the Plenum of the Higher Arbitration Court of the Russian Federation No. 8 of 1 July 1996 on Selected Questions Related to the Applicability of the First Part of the RCC, para 51,

“At the moment interest rates due for payment between legal entities and citizens of the Russian Federation should be calculated according to the interest rate established by the Russian Central Bank for loans issued to commercial banks (refinancing rate)” [emphasis added].

124. Since 26 December 2011, the refinancing rate established by the Russian Central Bank is 8 %. However, the interest rate may change after the notification of the award. Furthermore, the Panel may not rule beyond the claim submitted to it because it would be *ultra petita* and could lead to the invalidity of the award. FC Rostov is, therefore, ordered to pay FC Spartak interest on RUB 19,420,650 in the amount of the refinancing rate on the 31st day after the notification of the award established by the Russian Central Bank, but to a percentage of no more than 5 % *per annum*, from the 31st day after the notification of the award until the effective date of payment.

4. Validity of the transfer contracts and of the registrations of the Players

125. The Appellant argued that the transfer contracts between FC Spartak and FC Mitos and between FC Rostov and FC Mitos were null and void and that the registrations of the Players were invalid.
126. The Panel, having examined the available evidence, considers it conceivable that the transfer contracts were valid and that the registrations of the Players both with FC Mitos and with FC Rostov were properly done. However, as the Panel has determined that FC Rostov must anyway pay training compensation to the Appellant – because it circumvented the applicable rules and benefitted of the training investment done by the latter – it need not examine in detail these issues, given their irrelevance to the outcome of the arbitration.
127. In short, the Appellant’s claims related to these issues, together with any other motions and prayers for relief on which the Panel has not elaborated or explicitly decided, are thus dismissed without further ado.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appealed decision of the PSC of 24 May 2011 is set aside and the appeal filed by FC Spartak is partially upheld.
2. FC Rostov is ordered to pay FC Spartak the amount of RUB 19,420,650 within 30 calendar days after the notification of the award.
3. If the amount of RUB 19,420,650 has not been by paid within 30 calendar days after the notification of the award, FC Rostov is ordered to pay FC Spartak interest on RUB 19,420,650 in the amount of the refinancing rate on the 31st day after the notification of the award established by the Russian Central Bank, but at a rate of no more than of 5 % *per annum*, from the 31st day after the notification of the award until the effective date of payment.
4. (...).
5. (...).
6. All other motions or prayers of relief are dismissed.