



**Arbitration CAS 2019/A/6096 FC Lugano SA v. FC Internazionale Milano S.p.A., award of 17 September 2019**

Panel: Prof. Ulrich Haas (Germany), Sole Arbitrator

*Football*

*Training compensation due by a club jointly liable to a player in breach*

*No interruption of a training period by a loan*

*No reduction of the training compensation due because of the loan of the player to a third club*

*High standard required to prove that a player finished his training period early*

- 1. A loan period does not break the chain of seasons of payable training compensation, with the consequence that the training club is in principle entitled to receive training compensation over the period prior to the loan as well as the period after the loan. The regulatory framework at stake in an international context is exclusively set out in the FIFA Regulations on the Status and Transfer of Players (RSTP). Domestic rules such as the relevant national football federation regulations only govern domestic transfers and do not impact on the application of the FIFA RSTP in an international context. Consequently, the training club is in principle entitled to receive training compensation for the player, with the exception of the period the player was registered on loan for another club.**
- 2. Although the club with which the player was first registered may have benefitted from the training provided by another club during a loan period, the loan does not break the chain of payable training compensation. It is therefore to be considered that the entire period from the player's first registration with the first club until the player's termination of the employment contract is to be considered as one training period. It would be against the spirit of the FIFA RSTP that training compensation would in general be payable every time a player is loaned. The main beneficiary of the training provided to the player over the entire training period is the player's new club, as a consequence of which the latter must pay training compensation to the player's training clubs. Consequently, the mere fact that the player's first club may have benefitted from the training provided to the player by another club does not justify any reduction in the training compensation to be paid by the player's new club to the first club.**
- 3. The burden of proof to establish that the player completed his training period before his 21<sup>st</sup> birthday lies with the player's new club. In this respect, the rule is that a training period terminates when a player turns 21, the exception is that this moment occurs before a player's 21<sup>st</sup> birthday. The wording of Article 1(1) Annex 4 FIFA RSTP makes it clear that such exception should not be accepted lightly, as it requires that it is evident that a player has terminated his training period before his 21<sup>st</sup> birthday**

for an exception to be made. The exception can therefore only apply in truly exceptional cases. Regular appearance in the A-team of a club does not necessarily constitute the only and decisive factor for the completion of a player's training. It will notably depend on the importance of the club. Thus, several other factors are to be taken into account such as (i) the player's value at a club, reflected in the salary a player is paid, (ii) the loan fee that is achieved for the player's services or the value of the player's transfer, (iii) the fact for the loaning club to commit itself to pay "*possible development fees*" to the club to whom the player is loaned, (iv) the player's public notoriety at national and international level, (v) his position at the club if established as a regular or even holding the captaincy, (vi) the level of games (the fact to play in A or B series), (vii) the player's regular inclusion in the national team, and so forth.

## I. PARTIES

1. FC Lugano SA (the "Appellant" or "Lugano") is a professional football club with its registered office in Lugano, Switzerland. Lugano is registered with the Swiss Football Association (the *Schweizerischer Fussballverband* – the "SFV"), which in turn is affiliated to the *Fédération Internationale de Football Association* ("FIFA").
2. FC Internazionale Milano S.p.A. (the "Respondent" or "Inter") is a professional football club with its registered office in Milano, Italy. Inter is registered with the Italian Football Federation (the *Federazione Italiana Giuoco Calcio* – the "FIGC"), which in turn is also affiliated to FIFA.

## II. FACTUAL BACKGROUND

3. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the parties, the hearing and the evidence examined in the course of the proceedings. This background information is given 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.

### A. Background facts

4. On 23 January 2012, the Italian clubs, Parma FC ("Parma") and Inter concluded an agreement for the transfer of Y., a football player of Ivorian nationality born on 20 January 1996 (the "Player"), from Parma to Inter for the amount of EUR 1,000,000, while the Player remained registered on loan with Parma for the rest of the season. Parma retained 50% of the Player's economic rights valued at an extra EUR 1,000,000.
5. Also on 23 January 2012, at the age of 16, the Player and Inter entered into an employment relationship for the official federal minimum salary of EUR 29,000 per year.

6. On 19 June 2014, Inter acquired the remaining 50% of the Player's economic rights from Parma for the amount of EUR 1,000,000.
7. In the 2013/2014 and 2014/2015 seasons, the Player regularly appeared in matches for Inter's *primavera* team (Inter's youth team).
8. In January 2015, the Player turned 19 and therefore became ineligible to play for Inter's *primavera* team.
9. On 14 July 2015, following multiple previous extensions (on 1 July 2012, 20 June 2013, 1 November 2014), Inter and the Player entered into their fifth employment contract (the "Employment Contract") for a period of three seasons, valid as from the date of signing until 30 June 2018. In accordance with the Employment Contract, the Player was entitled to a salary of EUR 115,750 for the 2015/2016 season and EUR 143,000 for the 2016/2017 and 2017/2018 seasons.
10. During the 2015/2016 season, the season of the Player's 20<sup>th</sup> birthday, the Player was loaned to the Italian club FC Crotone ("Crotone") for free, which club participated in the *Serie B* at the relevant moment in time (the Italian second division). During this season, the Player participated in 33 official matches (30 in the *Serie B* and 3 in the Italian Cup), of which 30 in the starting eleven, while allegedly missing 10 matches due to an injury. At the end of the season, Crotone was directly promoted to the *Serie A* for the first time in its history.
11. In the loan agreement that was concluded between Inter and Crotone, the latter was granted an option to definitely buy the Player's federative rights for EUR 1,000,000. Also, Inter was to pay "*possible development fees*" to Crotone for the amount of EUR 70,000 (EUR 50,000 after the 5<sup>th</sup> appearance, EUR 10,000 after the 10<sup>th</sup> appearance and EUR 10,000 after the 15<sup>th</sup> appearance).
12. At the start of the 2016/2017 season, after his loan spell with Crotone, the Player returned to Inter.
13. According to Inter, in July 2016, Olympique Gymnaste Club de Nice ("Nice") expressed its interest in the Player's services and the Player confirmed his interest in joining this club. At that moment, however, the Player had not been summoned to his youth national team and therefore, according to French rules, he could not receive the necessary authorization to be registered for a French club.
14. According to Inter, towards the end of August 2016, Inter and the Player received an enquiry about the availability of the Player for a transfer on loan basis to Nice (the Player had been summoned sufficient times for his youth national team in the meantime). According to Inter, the Player and Inter gave their verbal consent to such transfer.
15. According to the Player, on 31 August 2016, i.e. the last day of the summer transfer window, Inter informed the Player's agent about an offer received from Nice. On 31 August 2016, the Player was in a training camp with the Ivory Coast U21 national team. The Player declined

the offer. According to the Player, this was due to the fact that he did not have the opportunity to properly evaluate the offer because it was drafted in English, a language he allegedly does not speak.

16. What is not in dispute is that, by 31 August 2016, Inter and Nice had negotiated the terms of a loan agreement that was finally never executed because, on the last date of the relevant transfer window, the Player refused leaving for Nice and indicated his preference to stay with Inter. Inter and Nice had agreed that Nice would receive the Player on loan for the 2016/2017 season against the payment of EUR 200,000 with an option to definitely acquire the services of the Player for a further amount of EUR 3,500,000 net at the end of the 2016/2017 season, while Inter would be entitled to annul such lifting by paying an amount of EUR 1,000,000 to Nice. Nice also committed itself to assuming the responsibility to pay the Player's salary in accordance with the Player's Employment Contract with Inter.
17. Although the Player was part of Inter's A team during the 2016/2017 season and was regularly called upon as a substitute, the Player was not fielded in any of the 46 official matches played by Inter during this season. Never throughout the 2016/2017 season did the Player revert to Inter in connection with an alleged shortage of playing time.
18. On 7 June 2017, at the end of the 2016/2017 season, the Player informed Inter as follows:  
*"During the season 2016/2017 that ended on 28 May 2017, I have not participated in any match with your Club.*  
*In addition to the detrimental nature that generates this situation, since for more than a year I have not participated in any competition, I cannot accept this situation anymore.*  
*Referring to the provisions of Article 15 of the FIFA Regulations for the Status and Transfer and Players, I am therefore sorry to have to give notice of the termination of my contract for sporting just cause since I participated in less than 10% of official matches played by the Club during this season given that I am an established professional.*  
*It is obvious that your Club has totally neglected me from a sporting point of view and that it is not interested in my services.*  
*As this rupture is deeply prejudicial to me, I reserve the right to claim compensation for the consequential damage.*  
*In this regard, and unless you agree to intervene with your Club, which can be envisaged on the minimum basis of a total contractual freedom, I also reserve the right to refer to the FIFA Dispute Resolution Chamber or any other competent decision-making body".*
19. On 22 June 2017, as will be described in more detail below, the Player lodged a claim against Inter before the Dispute Resolution Chamber of FIFA, invoking that he had "(sporting) just cause" to terminate the Employment Contract.
20. During the summer 2017 transfer window, the Player received interest from several clubs amongst which SC Bastia and Nantes, both playing in the French *Ligue 1*.

21. On 20 July 2017, the Player and Lugano concluded an employment contract for one season, valid as from the date of signing until 30 June 2019 for a basic annual salary of CHF 100,000 net.
22. On 31 July 2017, upon Inter's instructions, the FIGC denied the issuance of the Player's International Transfer Certificate (the "ITC").
23. On 17 August 2017, upon Lugano's application and after the Player had already missed four matches with Lugano, the Single Judge of the Players' Status Committee authorized the SFA to provisionally register the Player for Lugano.

**B. Proceedings before the Dispute Resolution Chamber of FIFA as to the contractual dispute between the Player, Inter and Lugano**

24. On 22 June 2017, the Player lodged a claim against Inter before the Dispute Resolution Chamber of FIFA (the "FIFA DRC"), requesting as follows:
  - To acknowledge that the Player had "sporting just cause" to terminate his Employment Contract with Inter;
  - To award the Player the amount of EUR 143,000 as moral damage;
  - To acknowledge that Inter does not have any right to receive compensation from the Player.
25. On 10 August 2017, Inter rejected the Player's claim in its entirety and lodged a counterclaim against the Player for the unjustified termination of the Employment Contract, requesting EUR 4,700,000 as compensation. Inter also requested Lugano, in its status as the Player's new club, to be held jointly and severally liable with the Player.
26. Lugano rejected Inter's claim in its entirety.
27. On 7 June 2018, the sub-committee of the FIFA DRC rendered its decision with the following operative part:
  1. *The claim of the [Player] is rejected.*
  2. *The counterclaim of [Inter] is partially accepted.*
  3. *The [Player] is ordered to pay to [Inter], **within 30 days** as from the date of notification of this decision, compensation for breach of contract in the amount of EUR 133,532.*
  4. *[Lugano] is jointly and severally liable for the payment of the aforementioned compensation.*
  5. *If the aforementioned amount in accordance with point 3. is not paid within the above-mentioned time limit, interest at the rate of 5% p.a. will fall due as of expiry of the aforementioned time limit and the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.*
  6. *Any further claim lodged by [Inter] is rejected.*

7. *[Inter] is directed to inform both the [Player] and [Lugano], immediately and directly, of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received”.*

**C. Proceedings before the sub-committee of the Dispute Resolution Chamber of FIFA as to the dispute related to training compensation between Lugano and Inter**

28. On 10 October 2017, i.e. before the FIFA DRC decided on the contractual dispute between the Player, Inter and Lugano, Inter lodged a parallel claim before the sub-committee of the FIFA DRC, requesting training compensation in an amount of EUR 242,136.99, plus interest, from Lugano on the basis of the Player’s transfer as a professional.
29. Lugano rejected Inter’s claim in its entirety.
30. On 7 June 2018, the sub-committee of the FIFA DRC rendered its decision (the “Appealed Decision”), with the following operative part:
1. *The claim of [Inter] is partially accepted.*
  2. *[Lugano] has to pay to [Inter], within 30 days as from the date of notification of this decision, the amount of EUR 235,000 plus 5% interest p.a. on said amount as from 18 September 2017 until the date of effective payment.*
  3. *In the event that the aforementioned sum plus interest is not paid within the stated time limit, the present matter shall be submitted, upon request, to FIFA’s Disciplinary Committee for consideration and a formal decision.*
  4. *Any further claim lodged by [Inter] is rejected.*
  5. *The final costs of the proceedings in the amount of CHF 20,000 are to be paid within 30 days as from the date of notification of the present decision, as follows:*
    - 5.1. *The amount of CHF 15,000 has to be paid by [Lugano] to FIFA to the following bank account [...]*
    - 5.2. *The amount of CHF 5,000 has to be paid by [Inter] to FIFA. Given that [Inter] has already paid the amount of CHF 5,000 as advance of costs at the start of the present proceedings, [Inter] is exempted from paying the aforementioned amount”.*
31. On 21 December 2018, the grounds of the Appealed Decision were communicated to the parties determining, *inter alia*, the following:
- *[...] [F]irst of all, the sub-committee recalled that, considering the player passport provided by the FIGC, the [Player], born on 25 January 1991<sup>1</sup>, was registered as a professional with the following clubs:*
    - *[Inter] on 23 January 2012;*
    - *Parma FC (on loan) as from 23 January 2012 until 30 June 2012;*
    - *[Inter] as from 1 July 2012 until 13 July 2015;*

---

<sup>1</sup> The Sole Arbitrator observes that it is not in dispute between the parties that the Player was born on 20 January 2016. The reference to 25 January 1991 is therefore considered a clerical mistake.

- *Crotone (on loan) as from 14 July 2015 until 30 June 2016;*
- *[Inter] as from 1 July 2016 until 30 June 2017.*
- *[...] [T]he sub-committee highlighted that four issues need to be analysed in the present matter:*
  - 1) *Does art. 2 par. 2 lit. i) of Annexe 4 of the Regulations apply?*
  - 2) *Does a club that, during the training and education of the player, loans the player to another club, lose its entitlement to training compensation?*
  - 3) *Was the [Player's] training already completed at the time the [Player] joined Crotone on loan? And*
  - 4) *What would be the correct amount of training compensation?*
- *When addressing the first issue, the sub-committee referred to art. 2 par. 2 lit. i) of Annexe 4 of the Regulations, according to which training compensation is not due if the former club terminates the player's contract without just cause. With reference to the jurisprudence of the DRC, the sub-committee recalled that such rule equally applies when the player terminates the contract with just cause.*
- *However, taking into consideration the conclusion reached by the DRC in the labour dispute involving the [Player], [Inter] and [Lugano] (case ref. 17-01022), i.e. that the [Player] did not have a (sporting) just cause to terminate his employment contract with [Inter], the sub-committee concluded that art. 2 par. 2 lit. i) of Annexe 4 of the Regulations does not apply in the matter at stake.*
- *In continuation, the sub-committee turned its attention to the second issue mentioned above [...]. [...] In this context, and turning its attention to the argument raised by [Lugano], the sub-committee understood that [Lugano] was of the opinion that [Inter] is not entitled to any training compensation for the period between the 2012/2013 and 2015/2016 seasons, since [Inter] loaned the [Player] to another club and, therefore, [Inter] was not the [Player's] former club in the sense of art. 3 par. 1 sent. 3 of Annexe 4 of the Regulations, i.e. the loan of the [Player] to Crotone constituted a subsequent transfer and consequently deprived [Inter] from its potential entitlement to training compensation for the period of time prior to such loan.*
- *With due consideration to the above, the sub-committee stressed that one of the aims of the last sentence of art. 10 par. 1 of the Regulations is to ensure that training clubs which register a player on a loan basis also benefit from the solidarity mechanism and training compensation, provided that the relevant prerequisites in the pertinent provisions of the Regulations are fulfilled. This approach is also in line with the DRC's well-established jurisprudence that all clubs which have in actual fact contributed to the training and education of a player as from the age of 12 until the age of 21 (unless it is evident that the player has already terminated his training period before the age of 21) are, in principle, entitled to training compensation for the timeframe that the player was effectively trained by them.*
- *In this respect, the sub-committee deemed it at this point essential to emphasise that, as to the liability to pay training compensation, the analogy established in art. 10 par. 1 of the Regulations could not be extended to the case in which a player is loaned to a club and, thus, is not being definitely transferred to the latter club. In other words, the transfer of a player from the club of origin to the club that accepts the player on loan, as well as the return of the player from the club that accepted him on loan to the club of origin, do not constitute a "subsequent transfer" in the sense of art. 3 par. 1 sent. 3 of Annexe 4 of the Regulations. The sub-committee was eager to point out that it could not have been the intention of the legislator of the relevant regulatory provision (i.e. art. 10 par. 1 of the Regulations) to trigger the consequences of art. 3 par. 1 of Annexe 4 of the Regulations on the occasion of a transfer on a loan basis*

*and, thus, potentially deprive the loan of its essential flexibility and, in connection with the training and education of players, its purpose of providing young players with the opportunity to gain practical experience in official matches for another club in order to develop in a positive way.*

- *What is more, and while recalling that art. 3 par. 1 sent. 3 of Annexe 4 of the Regulations stipulates that “In the case of subsequent transfers of the professional, training compensation will only be owed to his former club for the time he was effectively trained by that club”, the sub-committee pointed out that, within the framework of loans and for the purposes of the rules governing training compensation, the period of time that the player was registered with Crotone on loan and the period of time that the player was registered with [Inter], should be considered as one entire timeframe.*
- *Hence, the sub-committee came to the firm conclusion that for the purposes of the provisions of the Regulations governing training compensation, the loan of a young player from his club of origin to other clubs does not interrupt the ongoing training period of the player, and the obligation to pay training compensation arises only in case a player is transferred on a definitive basis, with the effect that, at that moment, the club which transferred the player on a loan basis to another club is entitled to training compensation for the entire period of time during which it effectively trained the player, however, excluding the period of time of the loan.*
- *Bearing in mind the foregoing, the sub-committee deemed that [Lugano’s] interpretation of art. 3 par. 1 sent. 3 of Annexe 4 of the Regulations is incorrect and reiterated that the loan of the player to Crotone cannot be considered to constitute a subsequent transfer which would trigger the consequences stipulated in the said provision.*
- *Consequently, taking into account the above-mentioned considerations, the sub-committee concurred that it had to reject [Lugano’s] argumentation in relation to art. 3 par. 1 sent. 3 of Annexe 4 of the Regulations.*
- *For the sake of completeness, the sub-committee pointed out that it was not in a position to enter into the application of the FIGC regulations to the loan transfer of the [Player] from [Inter] to Crotone and whether or not the latter should have paid training compensation to the former.*
- *In continuation, the sub-committee went on to examine whether or not the [Player’s] training period had already been completed before the start of the season 2015/2016, when the [Player] joined Crotone on loan.*
- *In this respect, the sub-committee referred to art. 1 par. 1 second sentence of Annexe 4 of the Regulations, according to which “training compensation shall be payable, as a general rule, up to the age of 23 for training incurred up to the age of 21, unless it is evident that a player has already terminated his training period before the age of 21”.*
- *In this context, the sub-committee emphasized that cases involving a possible early completion of a player’s training period have to be assessed on a case-by-case basis, whereby all the specific circumstances and all the evidence produced has to be taken into consideration. Hence, several factors and indications have to be considered in order to assess and establish whether a particular player’s training has indeed been completed before the season of his 21<sup>st</sup> birthday. For the sake of completeness, the sub-committee pointed out that, so far, both the DRC as well as the CAS have adopted a strict approach in establishing that a player’s training had indeed been completed before the season of a player’s 21<sup>st</sup> birthday, so as to not jeopardize the right of training clubs to, in principle, receive training compensation.*



- *In this respect, the sub-committee recalled that [Lugano] argued that the [Player] completed his training before the start of the season 2015/2016 when he was transferred on loan to Crotona, pointing out that the [Player] played a certain number of matches for Crotona and attracted the interest of a foreign club.*
- *Equally, the sub-committee recalled that [Inter] explained that the [Player] was transferred on loan to Crotona in order gain experience in the Serie B, and that it paid a bonus of EUR 70,000 to Crotona as an incentive to field the [Player]. Furthermore, [Inter] explained that the [Player] had the role of a substitute player upon his return to the club and was never fielded. In addition, [Inter] argued that the [Player] still has not terminated his training while being registered with [Lugano], considering that the [Player] is mainly used as a substitute and played a full match only twice in the Swiss league during the 2017/2018 season.*
- *First and foremost, the sub-committee wished to emphasize that, in accordance with DRC and CAS jurisprudence, the number of matches played is not per itself necessarily decisive. As a matter of fact, a player could be required to play on a regular basis although his formation is not yet finished, according to the standards of other stronger teams.*
- *Turning its attention to the documentation submitted by the parties in support of their arguments, the sub-committee pointed out that, until his loan transfer to Crotona, the [Player] had only played for [Inter's] youth team. Furthermore, according to the loan agreement concluded between [Inter] and Crotona, the loan transfer of the [Player] to the latter was free of charge.*
- *What is more, the sub-committee highlighted that it was in fact [Inter] that committed to pay the total amount of EUR 70,000 in case the [Player] reached a certain number of appearances in Crotona's first team. In addition, the sub-committee observed that Crotona was playing in the Italian Serie B during the 2015/2016 season, whereas [Inter] acted at Serie A level.*
- *Considering the aforementioned elements, the sub-committee felt comfortable to conclude that the [Player's] loan transfer from [Inter] to Crotona, free of charge and from a Serie A club to a Serie B club, clearly had the aim for the [Player] to gain more experience and playing time at a lower level than the level where [Inter's] first team was playing, in order for him to continue his training and development as a football player to eventually reach the required level to play for [Inter's] first team.*
- *In this respect, the sub-committee observed that, after his return from Crotona to [Inter], the [Player] did not make any appearances in [Inter's] first team.*
- *In view of the above, the sub-committee concurred that, in the specific matter at hand, it could not be established that the [Player] had indeed already completed his training before the start of the season 2015/2016, when the [Player] joined Crotona on loan. Hence, the sub-committee deemed that the training period of the [Player] had not been completed before the season of his 21<sup>st</sup> birthday.*
- *Having established the foregoing, and contrary to [Lugano's] opinion, the sub-committee concluded that [Inter] fulfilled all the requirements in the Regulations and that, therefore, training compensation was due.*
- *Turning its attention to the calculation of training compensation, [...] the sub-committee recalled that according to the information contained in TMS, [Lugano] belonged to the category II (indicative amount of EUR 60,000 per year within UEFA) at the moment that the [Player] was registered with it. Furthermore, the sub-committee observed that the [Player] was registered with [Inter] as from 1 July 2012 until 13 July 2015 as well as that the [Player] was loaned to Crotona as from 14 July 2015 until*

*30 June 2016 and thereafter, the [Player] was again registered with [Inter] for the period between 1 July 2016 to 30 June 2017.*

- *However, the sub-committee took into consideration that the [Player] terminated his employment contract with [Inter] on 7 June 2017 and, therefore, concluded that the month of June 2017 cannot be taken into account for the calculation of training compensation.*
- *Consequently, and in light of the above-mentioned considerations, the sub-committee decided to partially accept [Inter's] claim and held that [Lugano] is liable to pay training compensation to [Inter] in the amount of EUR 235,000.*
- *Moreover, taking into consideration that [Inter's] claim as well as art. 3 par. 2 of Annexe 4 of the Regulations, the sub-committee decided that [Lugano] has to pay interest at 5% p.a. over the amount payable as training compensation as of 18 September 2017 until the date of effective payment”.*

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

32. On 10 January 2019, Lugano filed a Statement of Appeal with the Court of Arbitration for Sport (the “CAS”) against the Respondent with respect to the Appealed Decision, in accordance with Articles R47 and R48 of the 2019 edition of the CAS Code of Sports-related Arbitration (the “CAS Code”). In this submission, Lugano requested to submit the present arbitration to a sole arbitrator and proposed the appointment of the Sole Arbitrator that was appointed as Sole Arbitrator in *CAS 2018/A/6017* between the same parties.
33. On 17 January 2019, Inter objected to Lugano’s request and requested the present case to be submitted to a Panel of three arbitrators.
34. On 18 January 2019, upon being invited to indicate whether it intended to pay its share of the advance of costs, Inter indicated that at that stage of the proceedings it was not in a position to state whether it would pay its share of the advance of costs.
35. Also on 18 January 2019, the CAS Court Office informed the parties that the President of the CAS Appeals Arbitration Division, taking into account all the circumstances of the case, would take a decision on the number of arbitrators in due course.
36. On 24 January 2019, the CAS Court Office informed the parties that the President of the CAS Appeals Arbitration Division, taking into account all the circumstances of this procedure, had decided to submit the present arbitration to a sole arbitrator, pursuant to Article R50 CAS Code.
37. On 28 January 2019, Inter indicated to have no objection against the appointment of Mr Ulrich Haas as sole arbitrator.
38. On 30 January 2019, Lugano filed its Appeal Brief in accordance with Article R51 CAS Code.
39. On 31 January 2019, upon being invited to express its view in this respect, FIFA renounced its right to request its possible intervention in the present arbitration.

40. On 19 February 2019, in accordance with Article R54 CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the parties that the arbitral tribunal appointed to decide the present matter was constituted as follows:
  - Mr Ulrich Haas, Professor of Law, Zurich, Switzerland, as Sole Arbitrator
41. Also on 19 February 2019, the CAS Court Office informed the parties that Mr Dennis Koolgaard, Attorney-at-Law in Arnhem, the Netherlands, had been appointed as *Ad hoc* Clerk.
42. On 13 March 2019, Inter filed its Answer in accordance with Article R55 CAS Code.
43. On 19 and 21 March 2019 respectively, upon being invited to express their views in this respect, Inter indicated that no hearing would be needed, whereas Lugano indicated to prefer a hearing being held.
44. On 21 March 2019, the CAS Court Office informed the parties that the Sole Arbitrator had decided to hold a hearing and that the present arbitration and the proceedings referenced *CAS 2018/A/6017* would be heard consecutively on the same date.
45. On 26 March 2019, Lugano requested Inter and CAS to evaluate the possibility to convene the hearing in Milan, Italy.
46. On 17 April 2019, following Inter's consent, the CAS Court Office confirmed on behalf of the Sole Arbitrator that the hearing would be held in Milan, Italy.
47. On 27 and 30 April 2019 respectively, Inter and Lugano returned duly signed copies of the Order of Procedure to the CAS Court Office.
48. On 4 June 2019, a hearing was held in Milan, Italy. The hearing in the present proceedings took place consecutively with the proceedings reference *CAS 2018/A/6017*. At the outset of the hearing, both parties confirmed not to have any objection as to the constitution and composition of the arbitral tribunal.
49. In addition to the Sole Arbitrator, Mr Antonio de Quesada, Head of Arbitration to the CAS, and Mr Dennis Koolgaard, *Ad hoc* Clerk, the following persons attended the hearing:
  - a) For the Appellant:
    - 1) Mr Luca Baldo, General Secretary;
    - 2) Mr Luca Tettamanti, Counsel;
    - 3) Mr Alberto Roige Godia, Co-Counsel;
    - 4) Mr Luca Canuto, Interpreter.
  - b) For the Respondent:
    - 1) Mr Gianpaolo Monteneri, Counsel;
    - 2) Mr Angelo Capellini, Counsel.

50. No witnesses or experts were heard. Both parties had full opportunity to present their case, submit their arguments and answer the questions posed by the Sole Arbitrator.
51. Before the hearing was concluded, both parties expressly stated that they did not have any objection with the procedure adopted by the Sole Arbitrator and that their right to be heard had been respected.
52. The Sole Arbitrator confirms that he carefully heard and took into account in his decision all of the submissions, evidence, and arguments presented by the parties, even if they have not been specifically summarised or referred to in the present arbitral award.

#### **IV. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF**

##### **A. The Appellant**

53. The submissions of Lugano, in essence, may be summarised as follows:
  - Pursuant to Article 2(2) Annex 4 FIFA RSTP, no training compensation is payable if the former club terminated the player's contract without "just cause". It was acknowledged in the Appealed Decision that the termination by a player for "(sporting) just cause" is equal to a termination without "just cause" by the former club.
  - The final outcome of the proceedings in *CAS 2018/A/6017* can have a direct effect on the outcome of the present arbitration. In case Lugano's appeal in *CAS 2018/A/6017* would be upheld, the present dispute will also undisputedly be resolved in favour of Lugano, as is also suggested in the Appealed Decision.
  - The amount of training compensation is in any event to be highly reduced for a number of reasons.

##### **a) *Loan breaking the chain***

- The sub-committee of the FIFA DRC erred in addressing the concept of "*loan breaching the chain*" of seasons of payable training compensation. FIFA misinterpreted the correct applicability of the FIFA RSTP and completely disregarded the impact of the national FIGC regulations in the relationship Inter-Crotone and, indirectly, Inter-Lugano.
- With reference to CAS jurisprudence, it is maintained that FIFA misinterpreted Article 10 FIFA RSTP in connection with Article 3(1) Annex 4 FIFA RSTP. If the national association at stake fails to put a domestic training compensation system in place, the fact that the loaning club (Inter) did not obtain training compensation from the borrower club (Crotone) (and *vice versa* at the end of the loan) cannot be detrimental to the first club where the player is registered abroad years later (Lugano).
- There are internal rules on training compensation within FIGC, which were completely and expressly ignored in the Appealed Decision. According to these rules, training compensation is to be paid every time a player is registered for another club, regardless of whether such transfer is definite or temporary. Therefore, Crotone should have paid

training compensation to Inter for the entire period immediately preceding the time the Player spent at Inter before joining the same Crotona on loan and, *vice versa*, Inter should have paid training compensation to Crotona for the entire period of the loan, unless both clubs would have reached an agreement not to pay each other.

- In the present case, Inter and Crotona even agreed upon a training compensation to be paid to each other. The loan agreement between Inter and Crotona includes “*development fees*” to be paid by Inter to Crotona up to the amount of EUR 70,000.
- With this in mind it is inexplicable why Lugano would have to pay the Player’s training compensation to Inter without considering the overall context of this matter. It is evident that this would amount to a double profit for Inter. Consequently, CAS shall rule that Inter is only entitled to training compensation for the season 2016/2017.

**b) *The beneficiary of the training provided by Crotona***

- Consistent jurisprudence points out that the duty to pay training compensation must be imposed on the club which actually benefits from the training provided by another club. In this case, Inter is without any doubt the club that received the benefits of the training provided by Crotona. It was even the club that paid to have such beneficial effect.
- After the successful loan with Crotona, the Player attracted the attention of Nice, which offered a considerable amount for the loan of the Player, i.e. EUR 200,000 and a possible purchase option against the payment of EUR 3,500,000. The fact that Inter decided not to get a considerable financial compensation and/or not to field the Player during the 2016/2017 season, is a matter that concerns only Inter. This cannot be reverted against Lugano.
- Again, this causes Inter not being entitled to any training compensation for the period before and during the loan to Crotona.

**c) *Completion of the Player’s training before he was loaned to Crotona***

- If the above arguments would be rejected, the period of the Player’s training anyway ended before his return to Inter for the 2016/2017 season.
- The Player signed his first professional employment contract with Inter on 23 January 2012 at the age of 16. He played as a professional for six seasons before joining Lugano. Indicative for the Player’s big talent is that, even before being loaned to Crotona, he had a salary of EUR 143,000, while the minimum salary for a player of his age is EUR 29,899. Renewing an employment contract for four times is surely a sign that the Player was far from being considered as a standard young footballer of Inter. The Player played 33 official matches for Crotona. It is obvious that the level of the second tier of the 3<sup>rd</sup> top ranking UEFA league has to be considered a competition of enough quality for professional football players as other first tier leagues which are ranked lower in the UEFA ranking. The Player received recognition for his performances from some relevant media. The interest and high amounts offered by Nice and the general interest of the international market in his qualities are also relevant in this respect.

- Consequently, CAS shall set aside the Appealed Decision and rule that Inter is not entitled to any training compensation for the season 2016/2017 when the Player returned from the loan at Crotone for having previously completed his training. In conjunction with the arguments developed in the previous chapters, Inter is not entitled to any training compensation, neither before the season 2015/2016, nor for the season 2016/2017.

**d) Compensation of losses linked to payment of the FIFA procedural costs**

- CAS jurisprudence determines that the procedural costs related to the decision under appeal can be reviewed by CAS.
- In case the prayers for relief of Lugano will be successful, the payment of CHF 15,000 Lugano will have to make in favour of FIFA to cover the costs of the FIFA procedure will have no basis anymore and, therefore, will amount to a loss for Lugano caused by an ungrounded claim by Inter. For this reason, Inter shall be obliged to compensate Lugano that same amount of CHF 15,000 to cover the FIFA procedural costs.

54. On this basis, Lugano submits the following requests for relief:

- i. The appeal filed by FC Lugano SA is upheld;*
- ii. The Challenged Decision is set aside and annulled, therefore FC Lugano SA shall not have to pay any amount to FC Internazionale Milano SpA.*  
*On a subsidiary basis*
- iii. Only in the case CAS considers that FC Lugano SA has to pay any amount to FC Internazionale Milano SpA, such amount of training compensation is highly reduced according to all the arguments set forth by FC Lugano SA.*  
*In any case*
- iv. FC Internazionale Milano SpA shall pay FC Lugano SA an amount of CHF 15,000 to cover the costs of the FIFA proceedings.*
- v. FC Internazionale Milano SpA shall bear all the procedural costs of this arbitration procedure.*
- vi. FC Internazionale Milano SpA shall compensate FC Lugano SA for all the legal fees and other costs incurred in connection with this arbitration in an amount to be determined at the discretion of the Panel”.*

**B. The Respondent**

55. The submissions of Inter, in essence, may be summarised as follows:

- Lugano attempts to argue that since the Player had terminated the Employment Contract with Inter due to the latter’s alleged breach, no training compensation shall be payable. Such statements are clearly misleading and represent the situation at hand in a completely perverse way. The Player did not have a “sporting just cause” to terminate the Employment Contract.
- Even assuming that the Player had “sporting just cause” for the termination of the Employment Contract, *quod non*, this does not release Lugano from the payment of

training compensation to Inter. Neither the wording, nor the spirit of the FIFA RSTP, nor the jurisprudence both at FIFA and CAS levels provide for any interrelation between the termination of a contract for “sporting just cause” and the alleged loss of entitlement to the training compensation, as erroneously sustained by Lugano.

- In the absence of “sporting just cause” on the side of the Player, it is an evident conclusion that the Player unilaterally terminated the Employment Contract without “just cause” and during the protected period, evidently induced by Lugano.
- Inter never terminated nor violated the Employment Contract. The Player at no time invoked the termination of the employment relationship with Inter with “just cause”, but exclusively for “sporting just cause”. By deliberately confusing the concepts of “sporting just cause” and “just cause”, Lugano tries to avoid the payment of training compensation due to Inter. Article 2(2) of Annex 4 FIFA RSTP is not applicable to the present matter.
- In view of the above, Inter is entitled to receive the training compensation payable by Lugano in connection with the registration of the Player, as determined in the Appealed Decision.

**a) *Loan breaking the chain***

- The jurisprudence cited by Lugano in respect of a loan breaking the chain stands alone in its reasoning, as similar legal issues were constantly decided in a different way. In accordance with the consistent jurisprudence of both FIFA and CAS, the fact that the Player was on loan with Crotona has not interrupted the entitlement of Inter to claim and receive training compensation also for the period prior to the loan.
- The domestic FIGC rules referred to by Lugano solely relate to amateur players becoming professionals or amateur players being transferred. None of these cases is applicable to the situation at hand.
- Insofar as Lugano submits that Crotona should have paid training compensation to Inter for the entire period the Player spent at Inter, this statement is wrong and not corroborated by any legal provision, neither by the Italian regulations, nor by FIFA regulations. Inter was not entitled to, nor has it received any payment from Crotona, neither as training compensation, nor as a loan fee. The Player was loaned to Crotona for free, and in order to grant an incentive to Crotona for effectively using the services of the Player, Inter additionally committed to pay to Crotona EUR 70,000 as a bonus for fielding the Player.
- Accordingly, the argumentation of Lugano is to be rejected in its entirety and it should be recognised that the training compensation shall be payable to Inter for the full period of the Player’s registration with it.

**b) *The beneficiary of the training provided by Crotona***

- Lugano’s statements in this respect not only demonstrate a complete disrespect towards Inter’s efforts in training and educating the Player, but appears even offensive,

considering that Lugano induced the Player to breach his Employment Contract and is currently the club that benefits from the services of the Player without having however compensated Inter for the damage suffered following the unilateral breach of contract by the Player and the training the Player received while being registered for Inter. After the Player left Inter by terminating the Employment Contract without “just cause”, according to the FIFA RSTP it is Lugano, as the Player’s new club, that is responsible for compensating the training and development offered to the Player by Inter.

**c) *Completion of the Player’s training before he was loaned to Crotona***

- With reference to the submissions in *CAS 2018/A/6017*, it is submitted that the Player had not yet turned into an “established professional” in the sense of Article 15 FIFA RSTP, even when joining Lugano.
- The Player turned 21 on 20 January 2017. In accordance with Article 1 Annex 4 FIFA RSTP, he had not even reached an age where his training and education could have been considered as definitely completed before the start of the 2015/2016 season. A player who has completed his training period is supposed to have footballing skill at least equal to or even superior to those of his teammates who are regularly fielded. Obviously, in the given case, the Player was and still is in the period of his training. The Player was sent on loan with Crotona in the *Serie B* for him to gain experience in a lower league where his opportunities to be fielded were higher compared to a first division team. It is obvious that the conditions and quality of the squads in the *Serie B* differ drastically from the *Serie A*. It is worth recalling that Inter even paid Crotona EUR 70,000 as a bonus for fielding the Player. The fact that the Player had not concluded his training is demonstrated by the fact that once the Player re-joined Inter’s team, the Player was not yet ready for being fielded in official matches. The Player cannot even be considered as having terminated his training to date, while he is registered with Lugano, as out of the 32 matches played, he only started 7 times in the starting eleven, entered the pitch as a substitute in 18 matches and did not play at all in 7 matches. Accordingly, even for a middle size club like Lugano, playing in a minor championship like the Swiss one, the Player does not appear to be included in the group of established players that play regularly and in the starting eleven. The Player rather remains with the group of players that are inserted at the end of the match to collect some experience useful for the future development.

**d) *Compensation of losses linked to payment of the FIFA procedural costs***

- The costs of the proceedings before FIFA were imposed by the latter based on the outcome of the first instance procedure, in which Lugano was obviously not successful. The payment of training compensation was based on the statutory obligation contained in the FIFA RSTP to compensate the previous club for which the Player was registered and the payment of procedural costs was based on the FIFA Procedural Rules. Under this point of view, Inter has clearly no standing to be sued in terms of any procedural “loss” allegedly incurred to Lugano. Should Lugano have intended to contest the amount of procedural costs imposed on it, Lugano had to call FIFA as a respondent, what it has failed to do.



56. On this basis, Inter submits the following requests for relief:

- “1. To reject the appeal;
2. To uphold the Challenged Decision;
3. To condemn the Appellant to the payment in favour of the Respondent of the legal expenses incurred;
4. To establish that the costs of the arbitration procedure shall be borne by the Appellant”;

## V. JURISDICTION

57. The jurisdiction of CAS, which is not disputed, derives from Article 58(1) FIFA Statutes (2018 Edition), 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 CAS Code. The jurisdiction of CAS is further confirmed by the Order of Procedure duly signed by both parties.

58. It follows that CAS has jurisdiction to decide on the present dispute.

## VI. ADMISSIBILITY

59. The appeal was filed within the deadline of 21 days set by Article 58(1) FIFA Statutes. The appeal complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.

60. It follows that the appeal is admissible.

## VII. APPLICABLE LAW

61. Both parties agree that the present proceedings are to be decided based on the FIFA Regulations on the Status and Transfer of Players (the “FIFA RSTP”) and Swiss law on a subsidiary basis.

62. Article R58 CAS Code provides as follows:

*“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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.*

63. Article 57(2) FIFA Statutes provides 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”.*

64. Accordingly, the Sole Arbitrator finds that the various regulations of FIFA are to be applied primarily, in particular the FIFA RSTP, and, subsidiarily, Swiss law should the need arise to fill a possible gap in the various regulations of FIFA.

## VIII. MERITS

### A. The Main Issues

65. The main issues to be resolved by the Sole Arbitrator are as follows:
- a) What are the consequences of the outcome of the proceedings in *CAS 2018/A/6017* for the matter at hand?
  - b) Should the amount of training compensation awarded to Inter in the Appealed Decision be reduced?
    - ba) loan breaking the chain
    - bb) The beneficiary of the training provided by Crotona
    - bc) Early termination of training period
- a) *What are the consequences of the outcome of the proceedings in CAS 2018/A/6017 for the matter at hand?***
66. It has been established in *CAS 2018/A/6017* that the Player had no “sporting just cause” and no “just cause” to terminate his Employment Contract with Inter. Insofar reference is made to the decision of the Sole Arbitrator in *CAS 2018/A/6017*.
67. This conclusion is of material relevance for the proceedings in the matter at hand, for in case it would have been established that the Player had “sporting just cause” or “just cause” no training compensation would be payable according to Article 2(2) of Annex 4 FIFA RSTP.
68. Since it has been established that this is not the case, training compensation is in principle payable.
- b) *Should the amount of training compensation awarded to Inter in the Appealed Decision be reduced?***
69. The sub-committee of the FIFA DRC decided in the Appealed Decision that Lugano was to pay training compensation to Inter in an amount of EUR 133,532. With the present appeal arbitration proceedings, Lugano seeks a reduction of this amount premised on three separate limbs of arguments that will be addressed one by one below.

ba) *Loan breaking the chain*

70. Lugano submits that Inter is only entitled to receive training compensation for the Player since 1 July 2016, instead of since 1 July 2012. Lugano avers that this should be the case because the loan of the Player with Crotone interrupted the Player's training period with Inter and that training compensation can only be awarded over the Player's last stint with Inter, i.e. over the 2016/2017 season. Lugano refers to CAS jurisprudence (*CAS 2012/A/2908*) that allegedly supports its reasoning. Lugano maintains that the same rules apply to definitive transfers and loans, as a consequence of which Inter is to be considered the Player's "former club" within the meaning of Article 3(1) Annex 4 FIFA RSTP, but only for the period after the Player's loan with Crotone.

71. Inter maintains that the CAS jurisprudence referred to by Lugano is outdated and has been overturned by more recent CAS jurisprudence (*CAS 2013/A/3119*), determining that a loan does not break the training period. Accordingly, Inter submits that it is entitled to receive training compensation over the entire period from the Player's first tenure with Inter as from 1 July 2012 until he terminated his Employment Contract on 7 June 2017.

72. Article 10(1) FIFA RSTP provides as follows:

*"A professional may be loaned to another club on the basis of a written agreement between him and the clubs concerned. Any such loan is subject to the same rules as apply to the transfer of players, including the provisions on training compensation and the solidarity mechanism".*

73. Article 3(1) Annex 4 FIFA RSTP provides as follows:

*"[...] In the case of subsequent transfers of the professional, training compensation will only be owed to his former club for the time he was effectively trained by that club".*

74. The Sole Arbitrator studied the jurisprudence cited by the parties and finds that the more recent jurisprudence suggesting that a loan does **not** break the training period is to be preferred.

75. As referred to by Inter, the CAS panel in *CAS 2013/A/3119* considered as follows:

*"The Panel wishes to add that this view is consistent with CAS jurisprudence, such as CAS 2011/A/2559, whereby it was determined that:*

*"(...) the obligation to pay training compensation arises only in case a player is definitely transferred from one club to another, with the effect that the club which transferred the player on a loan basis to another club is entitled to training compensation for the period of time during which it effectively trained the player, but excluding the period of time of the loans to the other club".*

*The Panel also finds that this conclusion is consistent with the actual rationale of the training compensation system, which is to encourage the recruitment and training of young players. To hold that the loan of a player would interrupt the training period, could, in the opinion of the Panel, deter training clubs from loaning players. It occurs frequently in the world of football that young players are not proficient enough to play for the first team of their club. In order to prepare these players for the first team, or to give these players a chance to train and play in order to try and reach the required level to play for the first team, a solution regularly used is to loan the player*

*concerned to another team in order for the player to gain experience with another club and to prepare him or give him the chance to reach the requisite professional level for playing in the first team of the training club. However, if the making of such loan would entail the consequence that the training club would thereby waive its entitlement to training compensation, the training club might decide not to loan the player to another club merely in order to secure its entitlement to training compensation. In such situation, the player would be deprived from the very training considered to be the most suitable for him. The Panel would regard such a situation as undesirable, and endorses the view of the FIFA DRC insofar it argued that any other interpretation of the FIFA Regulations would potentially deprive young players of the opportunity to gain practical experience in official matches for another club in order to develop his footballing skills in a positive way". (CAS 2013/A/3119, para. 112-113 of the full award referred to by Inter)*

76. The stance adopted in *CAS 2013/A/3119* was subsequently consistently confirmed in CAS jurisprudence (cf. *CAS 2015/A/4335*; *CAS 2016/A/4541*; *CAS 2016/A/4543*; *CAS 2017/A/5090*, all published on the CAS website). In *CAS 2014/A/3620*, the CAS panel went as far as to say that *"the approach taken by the Panel in the "Panionios Case" [CAS 2012/A/2908] was misconceived. Indeed, in a subsequent litigation (CAS 2013/A/3119), a CAS Panel explicitly overruled the "Panionios Case", by confirming the analysis that we have presented supra. As a result, this Panel has taken the view that there is no precedential value in the "Panionios Case" (CAS 2014/A/3620, para. 70 of the abstract published on the CAS website). In 2014/A/3710, the CAS panel stated the following:*

*"This Panel fully endorses the view of the CAS panel in CAS 2013/A/3119, which clearly establishes the right interpretation of these two articles of the FIFA Regulations and sets aside the uncertainty caused by the decision in CAS 2012/A/2908. This Panel also understands from the overall context of the decision in CAS 2012/A/2908 that, in the specific circumstances of that case, the panel was not convinced that the alleged loan agreement was indeed a genuine loan agreement. This may have lead the panel to apply the FIFA Regulations on that occasion as if the agreement was indeed a definitive transfer agreement disguised under a loan agreement" (CAS 2014/A/3710, para. 92 of the abstract published on the CAS website).*

77. The Sole Arbitrator agrees with this reasoning and does not consider it necessary to add any considerations to the convincing reasoning of the awards cited above; a loan period does not break the chain, with the consequence that the training club (here Inter) is in principle entitled to receive training compensation over the period prior to the loan as well as the period after the loan.
78. As to Lugano's argument that the FIGC regulations on domestic training compensation should also be taken into account as, based on these domestic rules, Inter was entitled to receive some sort of domestic training compensation when the Player was registered on loan for Crotona and because awarding training compensation to Inter in the present proceedings would lead to a "double profit", the Sole Arbitrator finds that this argument is to be dismissed.
79. The Sole Arbitrator finds that the regulatory framework at stake here is exclusively set out in the FIFA RSTP. Domestic rules such as the FIGC regulations only govern domestic transfers and do not impact on the application of the FIFA RSTP in an international context.

80. In any event, the Sole Arbitrator finds that Lugano failed to establish that Inter was entitled to be paid training compensation over the period between 1 July 2012 and 13 July 2015 by Crotona and, if so, in what amount, or that Crotona was entitled to be paid training compensation over the period between 14 July 2015 and 30 June 2016 by Inter and, if so, in what amount. Although the loan agreement concluded between Inter and Crotona refers to “*development fees*” in an amount of EUR 70,000 to be paid to Crotona in case the Player would feature in a certain number of matches, the Sole Arbitrator finds that such payment cannot be equated to training compensation.
81. The important aspect is that Inter (during two separate periods) and Crotona have trained the Player to a level that attracted the interest of Lugano. Lugano therefore benefitted from the training provided and saved the investments made by Inter and Crotona. Despite the efforts and investments made in the Player, Inter and Crotona have not been compensated for this. This is the quintessential reason that the training compensation system set out in the FIFA RSTP requires Lugano to pay training compensation to Inter and Crotona over the entire period, for the amount of training compensation is premised on the costs that would have been incurred by Lugano if it had trained the Player itself.
82. Consequently, the Sole Arbitrator finds that a loan does not break the chain and that Inter is therefore in principle entitled to receive training compensation for the Player as from 1 July 2012 until 7 June 2017, with the exception of the period the Player was registered on loan for Crotona (from 14 July 2015 until 30 June 2016).
- bb) The beneficiary of the training provided by Crotona*
83. Lugano submits that the beneficiary of the training provided by Crotona was not Lugano but Inter. Lugano further contends that consistent jurisprudence points out that the duty to pay training compensation must be imposed on the club which actually benefits from the training provided by another club. Since Inter benefitted from the training provided, training compensation should be paid by Inter but not by Lugano.
84. Inter argues that Lugano induced the Player to breach his Employment Contract with Inter, while never having compensated Inter for the training provided to the Player while registered for Inter. According to the FIFA RSTP, Lugano, as the new club of the Player, is responsible for compensating the training and development offered to the Player by Inter.
85. The Sole Arbitrator finds that although Inter may have benefitted from the training provided by Crotona, this was an internal arrangement between these two Italian clubs designed so that the Player would return to Inter after the loan period. As already concluded above, a loan does not break the chain. It is therefore to be considered that the entire period from the Player’s first registration with Inter until the Player’s termination of the Employment Contract is to be considered as one training period.
86. Insofar as Inter maintains that Lugano induced the Player to breach his Employment Contract with Inter, the Sole Arbitrator finds that such argument must be dismissed, because no such conclusion was reached in the Appealed Decision and Inter did not file an

independent appeal against the Appealed Decision. Any such allegations therefore fall outside the scope of the present arbitration.

87. Upholding Lugano's argument would mean that training compensation would in general be payable every time a player is loaned. For the reasons set out above, such situation would be undesirable as it is against the spirit of the FIFA RSTP.
88. The main beneficiary of the training provided to the Player over the entire training period (23 January 2012 until 7 June 2017) is Lugano, as a consequence of which Lugano must pay training compensation to the Player's training clubs.
89. Consequently, the Sole Arbitrator finds that the mere fact that Inter may have benefitted from the training provided to the Player by Crotone does not justify any reduction in the training compensation to be paid by Lugano to Inter.

*bc) Early termination of training period*

90. Lugano maintains that the amount of training compensation to be paid should be reduced because the Player terminated his training period already before his 21<sup>st</sup> birthday.
91. Inter submits that this is not the case and that it is entitled to training compensation up until completion of the season of the Player's 21<sup>st</sup> birthday.
92. Article 1(1) of Annex 4 to the FIFA RSTP provides as follows:

*"A player's training and education takes place between the ages of 12 and 23. Training compensation shall be payable, as a general rule, up to the age of 23 for training incurred up to the age of 21, **unless it is evident that a player has already terminated his training period before the age of 21**. In the latter case, training compensation shall be payable until the end of the season in which the player reaches the age of 23, but the calculation of the amount payable shall be based on the years between the age of 12 and the age when it is established that the player actually completed his training". (emphasis added by the Sole Arbitrator)*

93. The burden of proof to establish that the Player completed his training period before his 21<sup>st</sup> birthday lies with Lugano. In this respect, the rule is that a training period terminates when a player turns 21, the exception is that this moment occurs before a player's 21<sup>st</sup> birthday. The Sole Arbitrator finds that the wording of Article 1(1) Annex 4 FIFA RSTP makes it clear that such exception should not be accepted lightly, as it requires that it is **evident** that a player has terminated his training period before his 21<sup>st</sup> birthday for an exception to be made.
94. Regular appearance in the A-team of a club has occasionally been considered sufficient reason to conclude that a player finished his training period (CAS 2003/A/527; CAS 2006/A/1029). However, the majority of the CAS jurisprudence suggests that regular appearance in the A-team of a club *"does not necessarily constitute the only and decisive factor for the completion of a player's training"* (CAS 2017/A/5090, para. 83), but that several other factors are to be taken into account:

*“[...] As a matter of fact, a player of a moderate football team could be required to play on a regular basis although his training is not finished, judged by the standards of a better ranked team. Similar differences can exist between one national championship and another, as regards the importance of the regularity of a player’s match appearances.*

*There are in this context further factors that are generally taken into consideration such as the player’s value at a club, reflected in the salary a player is paid, in the loan fee that is achieved for his services or in the value of the player’s transfer, the player’s public notoriety at national and international level, his position at the club if established as a regular or even holding the captaincy, the level of games, his regular inclusion in the national team and so forth (CAS 2006/A/1029, p. 20 et seq.; CAS 2008/A/1705, §9.4)” (CAS 2017/A/5090, para. 83-84).*

95. The Sole Arbitrator subscribes to the latter analysis of the legal framework. He observes that the Player turned 21 on 20 January 2017, which is roughly halfway during the 2016/2017 season, i.e. half a season after the Player’s return to Inter following his tenure with Crotona.
96. Lugano does not submit that the Player finished his training period at the end of the 2015/2016 season when he was regularly fielded by Crotona, but that he had already completed his training period before the start of this season when the Player was about 19 and a half years old.
97. The Sole Arbitrator notes that the Player was a regular starter for Crotona in the Serie B during the 2015/2016 season. The Italian *Serie B* is certainly a serious competition where high-quality football is played, it is however not comparable to the Italian *Serie A* in which Inter participates. The Sole Arbitrator finds that this mitigates the relevance of the Player’s regular appearances for Crotona. Indeed, the assessment of whether a player finished his training period early should in principle be equal for all players worldwide. Accordingly, being a regular player for a *Serie A* club in Italy is something different from being a regular player in the Italian *Serie B*.
98. The Sole Arbitrator also observes that Crotona did not lift the option in the loan agreement with Inter to acquire the Player’s services on a permanent basis. This may be regarded as an indication that Crotona apparently did not consider the Player ready to regularly play in the Italian *Serie A* (to which Crotona was promoted at the end of the 2015/2016 season).
99. The Sole Arbitrator also notes that Inter committed itself to pay “possible development fees” to Crotona in the amount of EUR 70,000 for regularly fielding the Player (EUR 50,000 after the 5<sup>th</sup> appearance, EUR 10,000 after the 10<sup>th</sup> appearance and EUR 10,000 after the 15<sup>th</sup> appearance). The Sole Arbitrator finds that this fortifies the presumption that the Player’s training period had not yet been completed prior to his tenure with Crotona.
100. The Player was not the captain of Crotona and he was not called up for the national representative team of Ivory Coast. Furthermore, upon his return to Inter at the start of the 2016/2017 season, the Player was not fielded in a single match for an entire season, which is an indication that the Player may not have finished his training period yet.

101. The Sole Arbitrator also finds that the Player's tenure with Lugano underpins the conclusion that the Player had not concluded his training period before the age of 21, because even at the age of 21/22 when his training period had already concluded, he was not a regular starter for Lugano (7 appearances in the starting eleven and 18 as a substitute in a total of 32 matches in the 2017/2018 season).
102. The Sole Arbitrator finds that not much weight is to be given to the height of the Player's salary, because, although Inter last increased his salary with the extension of his Employment Contract on 14 July 2015 when the Player undisputedly had not yet concluded his training period, his salary did not increase anymore afterwards. In any event, the Sole Arbitrator finds that the Player's salary was not so high as to indicate that he finished his training period.
103. The fact that the Player was a professional football player since 23 January 2012, i.e. three and a half season before joining Crotone on 14 July 2015, is certainly an indication of the Player's talent, but this is not exceptional compared to other football players around the aged 19.
104. Considering all these elements, the Sole Arbitrator in particular notes that the key argument supporting Lugano's contention that the Player finished his training period is that he played for Crotone on a regular basis for a full season in 2015/2016. The Sole Arbitrator however finds that this is not sufficient to conclude that the Player evidently concluded his training period prior to his 21<sup>st</sup> birthday.
105. The standard required for a player to prove that he has finished his training period early is admittedly quite high. The Sole Arbitrator finds that such high threshold follows from the spirit of the rule. It should not be accepted lightly that a player finished his training period early. The exception can only apply in truly exceptional cases and the Sole Arbitrator finds that this threshold was not met in the case at hand.
106. Consequently, the Sole Arbitrator finds that the Player did not terminate his training period early and that this is therefore no reason to reduce the training compensation to be paid by Lugano to Inter.

*bd) Conclusion*

107. In view of the conclusions reached above, the Sole Arbitrator does not see any reason to reduce the training compensation awarded to Inter by the sub-committee of the FIFA DRC. The Sole Arbitrator also finds that although the Player did not play any official matches for Inter during the 2016/2017 season, he still received training and Inter is therefore entitled to training compensation over the full season of the Player's 21<sup>st</sup> birthday.
108. Accordingly, Inter is entitled to training compensation over the period from 1 July 2012 until 13 July 2015 and from 1 July 2016 until 7 June 2017, i.e. a total period of approximately three years and 11 months.



109. It is not contested that Lugano is a category II club in the sense of Article 4(1) Annex 4 FIFA RSTP at the moment the Player was registered with it, which means that the training costs of Lugano are presumed to be EUR 60,000 per year.
110. Accordingly, the Sole Arbitrator notes that the training compensation payable amounts to EUR 235,000 ( $3 + (11/12) \times \text{EUR } 60,000$ ), which is indeed the amount the sub-committee of the FIFA DRC ordered Lugano to pay to Inter.
111. Consequently, the Sole Arbitrator finds that the amount of training compensation awarded to Inter in the Appealed Decision is to be confirmed.

## **B. Summary**

112. Based on the foregoing, the Sole Arbitrator rules that:
  - Since the Player terminated his Employment Contract with Inter without “just cause”, training compensation is in principle payable by Lugano to Inter.
  - Lugano shall pay training compensation to Inter in an amount of EUR 235,000.
113. In light of the above findings, it is not necessary for the Sole Arbitrator to assess Lugano’s request to be compensated for the procedural costs incurred in respect of the proceedings before the sub-committee of the FIFA DRC. Such claim is dependent on upholding Lugano’s claim on the merits. Since Lugano’s claim on the merits is dismissed, its request for procedural costs must be dismissed as well.
114. All other and further motions or prayers for relief are dismissed.

## ON THESE GROUNDS

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

1. The appeal filed on 10 January 2019 by FC Lugano SA against the decision issued on 7 June 2018 by the sub-committee of the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is dismissed.
2. The decision issued on 7 June 2018 by the sub-committee of the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is confirmed.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.