CAS 2019/A/6301 Chelsea Football Club Limited v. FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Prof. Massimo **Coccia**, Attorney-at-law, Rome, Italy

Ad hoc Clerk: Mr Francisco A. **Larios**, Attorney-at-law, Miami, Florida, USA

between

Chelsea Football Club Limited, London, England
Represented by Messrs. Jonathan Ellis, of Northridge Law LLP, and Adam Lewis QC, London, England

-Appellant-

and

Fédération Internationale de Football Association (FIFA), Zurich, Switzerland
Represented by Mr. Miguel Liétard Fernández-Palacios (Director of Litigation), Mr. Jaime Cambreleng Contreras (Head of Litigation), Mr. Jacques Blondin (Head of TMS Global Transfers & Compliance), and Mr. Alexander Jacobs (Legal Counsel)

-Respondent-

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I. INTRODUCTION

1. This appeal is brought by Chelsea Football Club Limited ("CFC" or the "Appellant" or the "Club") against the *Fédération Internationale de Football Association* ("FIFA" or the "Respondent") to challenge the FIFA Appeal Committee's decision of 11 April 2019 (the "Appealed Decision"), which confirmed the FIFA Disciplinary Committee's decision of 9 January 2019 to sanction CFC with a ban from registering new players for two complete and consecutive transfer windows and a fine of CHF 600,000, for committing breaches of the following provisions of the FIFA Regulations on the Status and Transfer of Players ("RSTP"): Articles 19.1, 19.3, 19.4 in conjunction with Annexes 2 and 3 of the RSTP, 5.1, 9.1, 19bis, para.1, and 18bis, para. 1.

II. PARTIES

A. The Appellant

2. The Appellant, CFC, is a professional English football club based in London, England. The Club plays in the top tier English league, the Premier League ("PL"), and is affiliated to the English Football Association (the "FA").

B. The Respondent

3. The Respondent, FIFA, is the international governing body of football at worldwide level, headquartered in Zurich, Switzerland.

III. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in this Award only to the submissions and evidence he considers necessary to explain his reasoning. With regard to the names of the minor players involved in this case, the Sole Arbitrator refers to them in this Award only by the number FIFA assigned them in the course of the disciplinary proceedings.

5. On 9 January 2019, following investigations conducted by the Integrity & Compliance Department of the FIFA Transfer Matching System GmbH ("FIFA TMS") and the Secretariat of the FIFA Disciplinary Committee in relation to the international transfer and first registration of minors by CFC, the FIFA Disciplinary Committee issued a decision – with grounds subsequently notified on 22 February 2019 – in which it found that CFC committed the following breaches of the RSTP:

- Article 19.1 RSTP in 15 cases (players 1, 2, 4, 6, 11, 16, 20, 25, 27, 30, 35, 40, 43, 68 and 78);
- Article 19.3 RSTP in relation to Article 19.1 RSTP in 14 cases (players 36, 37, 51, 55, 57, 58, 61, 65, 70, 71, 72, 75, 77 and 84);
- Article 19.4 in conjunction with Annexe 2 of the RSTP and Article 1, para. 3, of Annexe 3 of the RSTP in 12 cases (players 1, 2, 4, 6, 11, 16, 20, 27, 35, 40, 58 and 78);
- Article 5.1 RSTP in 41 cases (players 1, 2, 4, 6, 7, 10, 11, 15, 16, 19, 20, 24, 27, 28, 31, 34, 35, 36, 38, 40, 42, 47, 49, 51, 52, 53, 54, 55, 56, 57, 59, 60, 62, 63, 64, 68, 71, 75, 78, 156 and 162); and
- Article 9.1 RSTP in 20 cases (players 1, 2, 4, 6, 7, 10, 11, 16, 19, 20, 28, 35, 38, 40, 52, 59, 60, 62, 63 and 78);
- Article 19bis, para. 1, RSTP in 50 cases (players 1, 2, 4, 6, 11, 15, 16, 20, 25, 27, 30, 32, 33, 34, 35, 36, 37, 39, 40, 41, 43, 44, 45, 50, 51, 53, 54, 55, 57, 58, 61, 65, 68, 70, 71, 72, 73, 75, 77, 78, 84, 105, 122, 134, 135, 136, 138, 139, 140 and 152);
- Article 18bis, para. 1, RSTP with regard to two agreements.

6. In the decision, the FIFA Disciplinary Committee made the following considerations *inter alia*:

(i) With respect to Articles 19.1 and 19.3 RSTP:

- These provisions set a general prohibition on the transfer or first registration of a minor.
- Articles 19.1 and 19.3 RSTP apply to *all* minors including U-10 minors as of 1 March 2015 and U-12 minors prior thereto, as held in CAS 2016/A/4805 *Club Atlético de Madrid SAD v. FIFA* (the "*Atlético Madrid* award"), CAS 2014/A/3793 *Fútbol Club Barcelona v. FIFA* (the "*Barcelona* award", and CAS 2014/A/3813 *Real Federación Española de Fútbol (RFEF) v. FIFA* (the "*RFEF* award"). Article 9.4, which states that no International Transfer Certificate ("ITC") is required for players under the age of 10 (previously 12), does not alter the general prohibition of Articles 19.1 and 19.3 RSTP.
- Articles 19.1 and 19.3 RSTP cannot be reduced to situations where there is a "formal" registration of the player, as registration is not a *conditio sine quo non*. Such a narrow interpretation would allow clubs to circumvent the purpose of the provisions. Where a player moves decisively and permanently to a club or spends the majority of his or her time during a given year at a club, and is playing organised football for that club, the player has transferred to that club, as a transfer is guided by the physical movement of a player and, more specifically, the relocation of his or her life and the key elements thereof. The fact that the player may still be "formally" registered with a previous club is irrelevant when the minor spends the majority of his time away from that club. This fully adheres to the *Atlético Madrid* decision which holds (at para. 166) that "*in order for a violation of art. 19 (1) or (3) FIFA RSTP to be committed, the panel does not deem it necessary that minor*

players are registered with the national association concerned, but that the players have participated in organised football without complying with any of the substantive exceptions set out in art. 19 (2) FIFA RSTP".

(ii) With respect to Article 19.4 RSTP:

This provision sets out the procedural guidelines which must be followed prior to the international transfer or first registration of a minor, even where, in principle, an exception to the general prohibition of Articles 19.1 and 19.3 RSTP applies.

(iii) With respect to Article 5.1 RSTP:

This provision is breached when a player not registered (or not duly registered) with a national association participates in "organised football" for a club. Matches played in the Foundation and Youth Development phases of the Premier League Games Programme (the "PLGP matches") fall within the definition of "organised football" because they were organized by the PL, which, in turn, operated under the auspices of the FA. It is irrelevant whether the PLGP matches are "competitive" in nature; organised football is comprised not only of official matches, but also friendly matches and tournaments (unless organized *ad hoc*, in-house, and privately between clubs).

(iv) With respect to Article 9.1 RSTP:

This provision requires that an ITC be obtained before a player is registered with a national association. A club breaches this provision where a player participates in "organised football" before the ITC is obtained, as held in the *Atlético Madrid* award (at para. 306): "*... both the registration and the ITC are prerequisites for a player to be eligible to participate in organised football. A failure to obtain an ITC must therefore be regarded as a violation separate from the failure to validly register a player. By the same token, a club's failure to obtain an ITC prior to the participation of the player concerned in organised football must be considered a violation of article 9(1) FIFA RSTP*".

(v) With respect to Article 19bis, para. 1, RSTP:

This provision requires that a club make a direct and independent report to its national association of all players attending its academy. This obligation to report is separate and independent from any other obligation under the RSTP, as held in the *Barcelona*, *Atlético Madrid* and *Real Madrid* awards.

(vi) With respect to Article 18bis, para. 1, RSTP:

This provision is breached when a club enters into a contract that effectively enables or entitles it to influence in employment and transfer-related matters another club's independence, policies and performance of its team. CFC breached this provision because it entered into an agreement with another club which prevented that club from (i) loaning a player to a third club without the CFC's prior written consent, and (ii) engaging in discussions or negotiations for the possible temporary or permanent transfer of a player without CFC's prior written consent. CFC also

breached this provision for entering into an agreement with another club under which that club was required to temporarily "release" a player to CFC, upon its request, for him to train and play in friendly matches with CFC.

7. The FIFA Disciplinary Committee determined that the appropriate sanction under the FIFA Disciplinary Code ("FDC") for CFC's breaches of Articles 19.1 and 19.3 RSTP, *i.e.* the most serious offenses committed, was a ban on the national and international registration of players for two complete and consecutive registration periods, as well as a fine of CHF 435,000. The FIFA Disciplinary Committee increased this fine in accordance with Article 41 FDC by CHF 165,000 for the concurrent breaches of Articles 5.1, 9.1, 19.4, 19bis, para. 1, and 18bis, para. 1, RSTP. In addition, the FIFA Disciplinary Committee concluded that a warning and reprimand should also be issued pursuant to Articles 13 and 14 FDC and that a deadline of 90 days should be put in place for CFC to "regularize the situation".

8. The operative part of the FIFA Disciplinary Committee decision so reads:

> "*1. The club Chelsea FC is declared liable for the violations of article 19 pars. 1 and 3 of the Regulations on the Status and Transfer of Players (RSTP), with respect to the international transfers and first registrations of minor players.*
>
> *2. The club Chelsea FC is declared liable for the violations of article 19 par. 4 juncto Annexes 2 and 3 of the RSTP and articles 5 par. 1, 9 par. 1 and 19bis par. 1 of the RSTP.*
>
> *3. The club Chelsea FC is also declared liable for the breach of article 18bis par. 1 of the RSTP after having concluded agreements which enable it to influence other clubs' policies and transfer-related matters.*
>
> *4. In accordance with article 12(a) and article 23 of the FDC, the club Chelsea FC is banned from registering new players, nationally and internationally, for two (2) entire and consecutive registration periods following notification of this decision. The transfer ban shall cover all male teams of the Club – first team and youth categories. The Club may only register new players, nationally and internationally, from the next transfer period following the complete serving of the transfer ban.*
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> *5. The club Chelsea FC is ordered to pay a fine of CHF 600,000. The fine is to be paid within 30 days of notification of the present decision. Payment can be made either in Swiss francs (CHF) to the account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J or in US dollars (USD) to the account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U, with reference to case no. 160620 aja.*
>
> *6. In application of article 10 a) and article 13 of the FIFA Disciplinary Code, the club Chelsea FC is warned on its future conduct. The club Chelsea FC is ordered to undertake all appropriate measures in order to guarantee that the FIFA regulations are strictly complied with. Should such incidents occur again in the future, the FIFA Disciplinary Committee may impose harsher sanctions on the club Chelsea FC.*
>
> *7. In application of article 10 b) and article 14 of the FIFA Disciplinary Code a reprimand is issued against the club Chelsea FC.*

8. The club Chelsea FC is granted a period of 90 days to regularize the situation with regard to the underage players that are presently with the Club and are subject to the present proceedings.

9. The costs of this proceeding amounting to CHF 50,000 are to be borne by the club Chelsea FC and shall be paid according to the modalities stipulated under point 5. above".

9. On 25 February 2019, CFC appealed the decision of the FIFA Disciplinary Committee.

10. On 11 April 2019, the FIFA Appeal Committee issued the Appealed Decision, the grounds of which were notified on 8 May 2019.

11. The Appealed Decision partially upheld the findings of the FIFA Disciplinary Committee, confirming the violations of Article 19.1 and 19.3 RSTP in 27 cases (instead of 29 cases, as it found no violation in relation to players 55 and 58), Article 19.4 RSTP in 11 cases (reduced by 1, as it found no violation in relation to player 58), Article 19bis, para. 1, RSTP in 50 cases, Article 9 RSTP in 20 cases, and Article 5 RSTP in 40 cases (reduced by 1, as it found no violation in relation to player 15).

12. The FIFA Appeal Committee kept the operative part of the FIFA Disciplinary Committee unchanged, except for the following slight modification to item 4:

> "*4. In accordance with article 12(a) and article 23 of the FDC, the club Chelsea FC is banned from registering new players, nationally and internationally, for two (2) entire and consecutive registration periods following notification of this decision. The transfer ban shall cover all male teams of the Club – first team and youth categories, with the exception of those minor players under the aged of 16 that do not fall under the scope of art. 19 of the RSTP. The Club may only register new players, nationally and internationally, from the next transfer period following the complete serving of the transfer ban*" (emphasis added on the modification).

13. On the interpretation of the relevant RSTP provisions, the FIFA Appeal Committee expressed its full agreement with the FIFA Disciplinary Committee and made the following elucidations *inter alia*:

(i) With respect to Article 19.1 and 19.3 RSTP:

- In interpreting these provisions, one must consider their "true meaning" which is possible "*only through the analysis of the purpose sought, of the interest protected as well as the intent of the legislator*". As the intent of Article 19 RSTP is the protection of minors, its application cannot be limited to situations where there is an *official* registration; in accordance with the *Atlético Madrid* decision, it must extend even to situations where the player is not officially registered with the national association concerned but participates in "organised football" without complying with any of the substantive exceptions of Article 19.2 RSTP.
- Articles 19.1 and 19.3 RSTP apply to *all* minors. This includes those players who joined CFC while under the age of 12 and prior to FIFA Circular no. 1468 dated 23

January 2015 (the "Circular 1468"; quoted *infra* at para. 53). This is because Article 9.1 RSTP is a distinct provision from Article 19, paras. 1 and 3, RSTP; it only establishes a formal procedural requirement for the registration of a player (an ITC) and, therefore, cannot and should not be interpreted in a way that would limit the scope of the substantive prohibition in Article 19 RSTP. Article 9.4, which provided at the time that U-12 minors did not need an ITC (now lowered to U-10), cannot lead to the conclusion that Article 19.1 and 19.3 RSTP do not apply to players of that age group. Article 19.1 and 19.3 RSTP also apply to players who joined CFC while under the age of 10 and after Circular 1468. For these players, CFC had the obligation to ensure its compliance with Article 19 RSTP, irrespective of whether or not the FA had put in place a procedure to verify its clubs' compliance therewith.

- Only the Sub-Committee appointed by the Players' Status Committee pursuant to Article 19.4 RSTP (the "Sub-Committee") or, for U-12 minor players pre-Circular 1468 or U-10 minor players post-Circular 1468, the relevant national association, are entitled to establish whether a player meets an Article 19.2 RSTP exception. This means that a club is not authorized, for obvious reasons, to decide on its own whether an exception has been met.
- Given that only the Sub-Committee or the relevant national association is competent to approve an Article 19.2 RSTP exception, the FIFA Appeal Committee is not the right forum to request such an approval. Therefore, the Appeal Committee cannot assess whether any of the players for which CFC is charged meets an exception.
- In light of the foregoing, the FIFA Disciplinary Committee correctly held that CFC violated Article 19.1 RSTP in relation to 15 players and Article 19.3 RSTP in relation to 12 players. With regard to player 78, CFC breached Article 19.1 because the player, despite being a British national, had been previously registered as an amateur with the Canadian Soccer Association before he participated in "organised football" for CFC and registered with the PL. As such, the move qualified as an international transfer requiring the prior approval of the Sub-Committee before his registration. On the other hand, the FIFA Disciplinary Committee erred in finding that CFC breached Article 19.3 RSTP in relation to players 55 and 58 because the Club proved that they were British national and never previously registered with another association.

(ii) With respect to Article 19.4 RSTP:

The FIFA Disciplinary Committee correctly held that CFC violated Article 19.4 in relation to 11 players, as these players moved to England, joined the discipline of CFC and played "organised football", while over the age of 12. CFC also breached this provision with respect to player 78, since his move qualified as an international transfer and thus required the approval of the Sub-Committee, which was not obtained. However, the FIFA Disciplinary Committee erred in finding CFC in breach of Article 19.4 RSTP in relation to player 58 because the Club proved that he was a British national and never previously registered with another association.

(iii) With respect to Article 5.1 RSTP:

The term "organised football" must not be so narrowly interpreted. According to its definition, a match constitutes "organised football" if it is authorized or organized, even if not directly, under the auspices of a national association. Given the role of the FA vis-à-vis the PL, where it acts as a special shareholder and, among other things, approves and sanctions the PL rules and ensures that rules and regulations on football in England are observed by officials, clubs and players, PLGP matches must be considered organised under the auspices of the FA. The absence of competitiveness does not impede a match from qualifying as "organised football"; in fact, friendly matches and tournaments (unless organised privately) fall squarely within the scope of "organised football". Moreover, the fact that a match is not played in strict compliance with the Laws of the Game does not mean it is not "association football" and, in turn, not "organised football"; this is because the Laws of the Game allow national associations to modify them for certain types of matches (including youth categories) and to implement other modifications with the approval of IFAB. In light of the above, the FIFA Disciplinary Committee correctly held that CFC breached Article 5 RSTP in relation to 40 players. On the other hand, the FIFA Disciplinary Committee erred in finding that the CFC violated this provision in relation to player 15, since the Club proved he was registered with the FA before participating in "organised football".

(iv) With respect to Article 19bis, para 1, RSTP:

A club must report all players who are in the club's academy. Article 19bis, para. 1, RSTP also applies to players who joined the academy before the provision entered into force; at the moment of its enactment, the Club became obligated to report all minors that were in its academy at that time, even those that had joined it beforehand. By registering minors with the PL, CFC did not comply with its duty of reporting; the provision requires that CFC directly report the minors to the national association.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

14. On 29 May 2019, in accordance with Articles R47 and R48 of the 2019 edition of the Code of Sport-related Arbitration (the "CAS Code"), the Appellant filed a Statement of Appeal against the decision of the FIFA Appeal Committee issued on 11 April 2019 and notified on 8 May 2019 (the "Appealed Decision").

15. On 13 June 2019, the CAS Court Office advised that, as agreed by the Parties pursuant to Article R50 of the CAS Code, the appeal was submitted to a panel composed of a sole arbitrator and that, as also agreed by the Parties, the President of the CAS Appeals Arbitration Division appointed Professor Massimo Coccia (Rome, Italy) as the Sole Arbitrator pursuant to Article R54 of the CAS Code.

16. On 16 July 2019, the CAS appointed Mr. Francisco A. Larios (Miami, FL, USA) to serve as *ad hoc* clerk in the case.

17. On 2 August 2019, in accordance with Article R51 of the CAS Code, the Appellant filed its Appeal Brief.

18. On 26 September 2019, the Appellant submitted an application for disclosure of documents and information relating to FIFA's case against Manchester City FC ("MCFC").

19. On 27 September 2019, the Sole Arbitrator invited the Respondent to either produce the requested documents and information (in case, with reasonable redactions) or provide the grounds for its unwillingness to produce them.

20. On 10 October 2019, the Respondent produced certain data and information in connection with the Appellant's request.

21. On 16 October 2019, after the Sole Arbitrator's invitation to the Appellant to state whether the data and information provided by the Respondent were responsive to the Appellant's production request, the Appellant maintained that the data and information fell significantly short of the minimum requested and provided a list of the outstanding information requested.

22. On 22 October 2019, after the Sole Arbitrator granted the Respondent the opportunity to comment on whether it would be available to satisfy, even partially, all or some of the Appellant's requests, the Respondent produced more data and information in connection with the Appellant's request. At no point thereafter did the Appellant indicate that this last production by the Respondent did not to fulfil its request.

23. On 31 October 2019, in accordance with Article R55 of the CAS Code, the Respondent filed its Answer.

24. On 1 November 2019, the Sole Arbitrator granted, as the Parties had agreed, a second exchange of submissions strictly limited to the issues arising from FIFA's treatment of MCFC.

25. On 7 November 2019 the Appellant filed its supplementary submission and on 14 November 2019 the Respondent filed its response thereto.

26. On 20 November 2019, a hearing was held at the CAS headquarters in Lausanne, Switzerland.

27. In addition to the Sole Arbitrator, the *ad hoc* clerk, and Mr. Daniele Boccucci (CAS Counsel), the following people were in attendance at the hearing:

    - For the Appellant: Messrs. Jonathan Ellis, Adam Lewis QC, Ben Rees and Jean-Pierre Morand (external counsel for CFC), James Bonington (CFC General Counsel), and Richard Berry (CFC Legal Counsel).
    - For the Respondent: Messrs. Miguel Liétard Fernández-Palacios (FIFA Director of Litigation), Mr. Jaime Cambreleng Contreras (FIFA Head of Litigation), Mr. Jacques Blondin (FIFA Head of TMS Global Transfers & Compliance), and Mr. Alexander Jacobs (FIFA Legal Counsel).

28. Mr. Richard Garlick (PL Director of Football) testified at the hearing via videoconference.

29. At the outset of the hearing, the Parties made no preliminary remarks, and, at the end of the hearing, they confirmed their satisfaction with the manner in which the Sole Arbitrator conducted the hearing and raised no procedural objections thereto.

30. On 6 December 2019, the Sole Arbitrator issued the operative part of the Award.

V. SUBMISSIONS OF THE PARTIES

A. The Appellant: CFC

31. In its Appeal Brief, the Appellant requested the following relief:

"*260.1. the Decision of the FIFA Appeal Committee is set aside;*

260.2. CAS renders a decision:

260.2.1. dismissing each of FIFA's charges against Chelsea;

260.2.2. dismissing each of FIFA Appeal Committee's findings against Chelsea;

260.2.3. dismissing each of the sanctions imposed on Chelsea; and

260.2.4. declaring Chelsea not to have violated the rules or regulations of FIFA;

260.3. In the alternative to paragraph 260.2, to the extent that any charge is upheld, CAS substitutes a different sanction of no more than a reprimand or, alternatively, a reprimand and a fine of a maximum amount CHF 600,000;

260.4. In the alternative to paragraphs 260.2 and 260.3, to the extent that any charge is upheld, CAS substitutes a different sanction of no more than a ban for one registration period, which has already been served during the summer 2019 registration period;

260.5. In the alternative to paragraphs 260.2, 260.3 and 260.4, to the extent that any charge is upheld and a ban for two registration periods is upheld, CAS orders that the ban shall not extend beyond 1 February 2020 in what concerns the registration of amateur players transferred domestically.

260.6. FIFA shall be ordered to bear its own costs in relation to the present arbitration proceedings and to contribute to the legal fees incurred by Chelsea in an amount to be set by the Panel".

32. The Appellant's submissions, in essence, may be summarized as follows:

(i) FIFA mischaracterizes CFC's conduct as a "deliberate misfeasance" and a "modus operandi", impermissibly stretches the regulations of the RSTP to mean what it wants them to mean by skipping a literal interpretation and moving directly to a purposive interpretation in violation of Swiss law, and singles out and discriminates against CFC in violation of Swiss association law and personality rights under Article 28 of the Swiss Civil Code.

(ii) CFC did not breach Articles 19.1 and 19.3 RSTP in relation to 27 players because:

Primarily:

- These provisions do not apply to the eleven U-12 players registered pre-Circular 1468:

  Eleven players (nos. 30, 36, 43, 57, 61, 65, 68, 70, 72, 77, 84) were registered while under the age of 12 and prior to Circular 1468. Until issuance of Circular 1468, it was common understanding and practice across football, as well as CFC's own understanding, that the provisions of Article 19 RSTP did not extend to U-12 players and that neither the national associations nor FIFA had to verify a club's compliance therewith since ITCs were not required for transferring a player in that age group. This is supported by the *Real Madrid* award and CAS 2011/A/2494 *Girondins de Bordeaux v. FIFA* (the "*Girondins de Bordeaux* award". FIFA has in fact not provided any evidence pre-dating Circular 1468 to prove that there was a different common understanding or practice. CFC was thus entitled to register the aforementioned players without the approval of the relevant national association or FIFA.

- With regard to the five U-10 players registered post-Circular 1468, no verification procedure existed at the FA and, in any case, FIFA no longer has the power to impose sanctions for breaches of Article 19.1 and 19.3 RSTP:

  Five players (nos. 25, 37, 51, 71, 75) were registered while under the age of 10 after Circular 1468. At no point after the issuance of Circular 1468 did the FA establish a system to verify whether a club's transfer or first registration of a minor satisfied one of the exceptions of Article 19.2 or 19.3 RSTP. If such a procedure had existed at the time it registered the U-10 players, CFC would have followed it. Therefore, it cannot be found in breach of Article 19.1 or 19.3 RSTP. In any event, CFC acted in good faith in relation to the U-10 players it registered, since all of them, except one, satisfied one of the exceptions of Articles 19.2 and 19.3 RSTP and would have been approved as a first registration of a minor if the FA had instituted a verification procedure. FIFA's position that, even without such a procedure in place, CFC still could and should have sought approval from the FA to register the U-10 players under one of the exceptions defies logic. Moreover, assuming that Circular 1468 was binding and delegated to the national associations the responsibility to monitor compliance with Article 19 RSTP for U-10 players, FIFA would no longer hold the "jurisdiction" to sanction clubs for non-compliance therewith. Indeed, according to Article 76 FDC, the FIFA Disciplinary Committee is authorized to sanction only breaches of the FIFA regulations that do not fall "*under the jurisdiction of another body*".

- Nine players were registered in accordance with Article 19 RSTP:

  Six players (nos. 2, 4, 16, 20, 35, and 40) were registered with the approval of the Sub-Committee in compliance with Article 19 RSTP. Two players (nos. 1 and 11) were registered after turning 18. One player (no. 78) was registered as a first registration of a national, as he was British and CFC did not understand him to have previously been registered with the Canadian Soccer Association.

- Two players were never registered at all:

  Two players (nos. 6 and 27) did not register at any time with CFC.

- The concept of "*de facto*" or "deemed" registration does not exist:

  The Club accepts that all 27 minors trained and played matches with CFC prior to registration or without ever being registered; however, this does not amount to violation of Articles 19.1 or 19.3 RSTP. Those provisions only apply when there is an *actual* registration of a player. There is no such thing as "*de facto*" or "deemed" registration under the FIFA regulations, as confirmed in the *Real Madrid* award, and holding otherwise would go against (i) the literal, contextual, teleological and historical interpretation of Articles 19.1 and 19.3 RSTP, and (ii) FIFA's own position in the *Atlético Madrid* case, in which it submitted, and the CAS accepted as correct, that for a violation of Articles 19.1 and 19.3 RSTP by a club to be established, one of the requirements is that the player concerned is registered with the club. FIFA incorrectly applies the concept of purposive interpretation and attempts to fundamentally rewrite Article 19 RSTP in the way it considers it should have been written. Such an approach contravenes the principles of legality and predictability. In finding that CFC breached Articles 19.1 and 19.3 RSTP, FIFA mistakenly relies on (i) how much time a player spends with the club, and (ii) whether the player participated in "organised football", rather than on whether an actual registration occurred. However, with regard to the first point, CAS jurisprudence has established that an international transfer or first registration for the purpose of Article 19 RSTP cannot arise out of reliance on the fact that a player spends a significant amount of time training at a club (CAS 2011/A/2354 *E. v FIFA*). As to the second point, the 27 players did not participate in "organised football" within the meaning of the RSTP and, in any case, such participation would not give rise to a violation of Article 19 RSTP, because that provision and Article 5 RSTP, which are distinct and operate independently of each other, cannot be conflated.

Secondarily:

- No substantive breach was committed in 21 cases, as the players satisfied exceptions under Article 19.2 or 19.3 RSTP:

  Twenty-one players were eligible to register with the Club because they satisfied one of the applicable exceptions listed under Articles 19.2 or 19.3 RSTP. Therefore, at most, the breach committed in said cases is only a procedural one (failure to submit an application under Article 19.4 RSTP) rather than substantive one. There is no breach of Articles 19.1 and 19.3 RSTP where an exception as a matter of objective fact applies, even absent the requisite procedural step of Article 19.4 RSTP. This is because the latter provision establishes a procedural, non-substantive requirement on a national association and club to seek approval from the Sub-Committee, whereas the former provisions establish substantive prohibitions. FIFA's position that it is not the role of the FIFA Appeal Committee or now of the CAS to retroactively verify whether an exception applied to each specific case is misguided, as FIFA bears the burden of proving to the CAS that a breach of Articles 19.1 and 19.3 occurred. CAS is competent to assess, in the

context of determining whether a breach occurred and the extent of that breach, whether an exception of Articles 19.2 or 19.3 RSTP applies to any of the concerned players.

(iii) CFC did not breach Article 5 RSTP in relation to 40 players because they did not participate in "organised football" prior to their registration. In finding a breach of this provision, FIFA relies on the fact that the players participated in PLGP matches. Such matches, however, are not part of "organised football" as defined under the RSTP because they are not organised under the auspices of, or authorized by the FA; they are organized by the PL as a proxy for its clubs. The mere fact that the FA is a shareholder of the PL and that the PL's rules are approved by the FA does not mean that the PLGP is authorized by, or organized under the auspices of, the FA. Furthermore, PLGP matches are not "organised football" because they are not "association football". They have no competitive significance (*i.e.* there are no league tables or points awarded), are developmental friendly training football, informally arranged and structured, with a wide array of variable features, and do not have to be played in accordance with the IFAB Laws of the Game. In any event, CFC acted in accordance with a common understanding across the English game that PLGP matches did not constitute "organised football" and that trialists could be fielded in such matches as permitted by PL rules.

(iv) CFC did not breach Article 9.1 RSTP in relation to 20 players. For thirteen of these players (nos. 1, 2, 4, 7, 10, 11, 16, 19, 20, 35, 40, 59 and 62) CFC obtained an ITC prior to their registration. Six players (nos. 6, 28, 38, 52, 60 and 63) were never registered and thus did not require an ITC. For the remaining player (no. 78), CFC registered him as a first registration of a national, since he was British and CFC did not understand him to have previously been registered with the Canadian Soccer Association. In finding a breach of this provision, FIFA relies on the fact that all of these players failed to obtain an ITC prior to participating in "organised football". However, the players did not participate in "organised football". In any case, such participation would not result in a "*de facto*" or "deemed" registration of the player; therefore, it would not give rise to a violation of Article 9 RSTP.

(v) CFC did not breach Article 19bis RSTP in relation to 50 players because (i) eight of the players (nos. 15, 73, 122, 134, 135, 138, 139 and 140) were registered with CFC's academy prior to 1 October 2009 when the provision was enacted, and (ii) all of the players, except nos. 6 and 27 who were never registered, were reported in accordance with the provision through their registration with the PL, which was and remains accessible to the FA through the PL register.

(vi) CFC did not breach Article 18bis. The two concerned agreements did not grant the Appellant the right to exercise third party influence within the meaning of Article 18bis RSTP. The Appellant did not acquire the right to "give orders" in employment or transfer-related matters to another club so that the latter would lose its control over its own players, employment contracts and transfer policies. The agreements are brief, temporarily delayed, transfer agreements, designed to cater for only a very short period between their signing (which occurred just after the close of the sporting season) and

the opening of the relevant registration window shortly thereafter. Given the length and timing of the agreements there was no prospect of the player being loaned to a third club, there was no need to "release" the players to CFC the season was over, and they did not confer on CFC the ability to exercise any influence. The Appellant was fully transparent in its approach and filed the agreements with the PL, the FA, and FIFA TMS.

(vii) The sanction imposed is disproportionate to the alleged offense committed.

B. The Respondent: FIFA

33. In its motions for relief, the Respondent requests the CAS to issue an award:

"*(a) rejecting the reliefs sought by the Appellant;*
(b) confirming the Appealed Decision;
(c) ordering the Appellant to bear the full costs of these arbitration proceedings; and
(d) ordering the Appellant to make a contribution to FIFA's legal costs".

34. The Respondent's submissions, in essence, may be summarized as follows:

(i) CFC has blatantly infringed the different provisions of the RSTP enacted to protect minors and put its own sporting and financial interests above the adequate and healthy development of minors. CFC has taken advantage of the FA's "lax approach" and implemented a "*modus operandi*" with the aim of circumventing these provisions. The *modus operandi* consisted in recruiting minors internationally and fielding them in "organised football" or registering them with the PL while ignoring or failing to verify compliance with the strict exceptions of Article 19.2 RSTP, without properly registering them, without requesting ITCs and without reporting their attendance at the Club's academy to the FA. CFC's *modus operandi* further consisted of recruiting players and having them participate in "organised football" but waiting until the players turned 16 or 18 – depending on the case – to then formally apply to the Sub-Committee or transfer the player internationally as an adult. CFC has mischievously disguised its scheme under so-called "trials". FIFA has not violated CFC's personality rights as it has an overriding interest in the protection of minors.

(ii) CFC breached Articles 19.1 and 19.3 RSTP in relation to 27 players because:

- The actual registration of a player is not an element to take into account in assessing whether a violation of Article 19 RSTP has occurred. Article 19 RSTP applies to those cases where a player joins a club, by physically moving and relocating his life and the elements thereof to another country, and participating in "organised football".
- CAS jurisprudence does not exclude the existence of a "*de facto*" or "deemed" registration. On the contrary, the *Atlético Madrid* award confirmed that the registration of a player with the relevant national association is not a necessary step for a violation of Article 19 RSTP. This is also confirmed when considering the spirit and practical implications of the provisions.

- Article 19 RSTP must be rigorously applied to adequately and efficiently protect the interest of minors. CFC's interpretation of the rule, limiting the provision's application to only those cases where a mere administrative step has occurred (*i.e.* the *actual* registration of a player with the pertinent football association), is incompatible with the existing rules, would prevent Article 19 RSTP from protecting the interests of minors, and would open the door to abuses and circumvention of the rule. CFC's interpretation also fails from a practical standpoint as it would allow clubs to, without registering a player, recruit and keep players on its squad regardless of whether the player has met one of the exceptions of Article 19.2 RSTP. CAS 2011/A/2354 *E v. FIFA* is an obsolete case, inapplicable, and, in any case, did not confirm that a player may participate in "organised football" while awaiting registration.

- Players that CFC registered under the age of 12 before Circular 1468 are not exempt from Articles 19.1 and 19.3 RSTP. The fact that no ITC was required for U-12 players at the time does not imply that Article 19 RSTP does not apply to them. Article 19 RSTP establishes a general prohibition on international transfer and first registration of all minors, whereas Article 9 RSTP establishes a formal procedural requirement (the issuance of an ITC) for the registration of an international transfer of players above the age of 12. The application of Article 19 RSTP to players under the age of 12 pre-Circular 1468 is confirmed by the majoritarian CAS jurisprudence (all except the *Real Madrid* award, which erred in finding that there was a "general understanding" amongst the clubs and national associations that Article 19 RSTP did not apply to U-12 players) and the provision's historical context (*i.e.* that (a) under the original system introduced in 2001, FIFA required its member associations to guarantee compliance with the rule for *all* minors and (b) it was not until 2009 that FIFA created TMS, appointed the Sub-Committee, and became directly responsible to verify compliance with its rules of international transfers and first registration of minors over the age of 12, without ever suggesting that with this change came the exoneration of the national associations from guaranteeing compliance with players under the age of 12). CFC cannot, to escape its obligation to comply with Article 19 RSTP, use the FA's failure to institute a verification procedure. CFC was aware that Article 19 RSTP applied to U-12 players pre-Circular 1468 but preferred to adopt a different and unjustified interpretation of the provision.

- Players who were registered under the age of 10 following Circular 1468 are also not exempt from Articles 19.1 and 19.3 RSTP. FIFA never renounced its competence to sanction violations of those provisions when it delegated to the national associations the responsibility and competence to verify whether minor players transferred to and registered with it complied with any of the exceptions of Article 19.2 RSTP. Although the system was always clear, Circular 1468 highlighted, as had been previously done for the very few associations that had requested clarifications, that the national associations had the responsibility to verify and ensure that the requirements of Article 19.2 RSTP are met. CFC thus cannot claim that the FA did not understand its responsibilities. In any case, CFC

still could have requested the FA to carry out such control or verification, even if the FA had not implemented a formal mechanism to do so.

- Compliance with an exception of Article 19.2 RSTP is not automatic; the competent body, which is either the Sub-Committee or, for U-12 players prior to Circular 1468 and for U-10 players following Circular 1468, the FA, must review an application for the transfer or first registration of a minor. The procedure safeguards the substantive principles of Article 19 RSTP; without the procedure there is no principle and thus no exception can apply.
- The Appellant's secondary argument that 21 out of the 27 players met an exception of Article 19.2 or 19.3 RSTP must be rejected. Neither the Disciplinary and Appeal Committees nor the Sole Arbitrator are the competent authorities to determine whether one of the exceptions under Articles 19.2 RSTP applies to any of the 27 players. The present CAS proceedings are not administrative in nature; it is purely disciplinary and thus may only focus on the breaches of the RSTP committed by CFC and cannot decide whether a retroactive approval of an international transfer or first registration of a minor is warranted. For a retroactive approval, the CFC would have had to meet the following two requirements, which it failed to do: (i) there must have been an approval by the Sub-Committee or the FA, and (ii) the player who joined the Club must be deemed to have, at the time of joining, met the exception for which the approval was subsequently granted.

(iii) CFC breached Article 19.4 RSTP, in conjunction with Annexe 2 RSTP and Articles 1.3 of Annexe 3 RSTP, in relation to 11 players.

(iv) CFC breached Article 5 RSTP in relation to 40 players because they participated in "organised football" prior to their registration with the FA. *Ad hoc*, in-house matches organised privately between two PL clubs not subject to any rules or regulations and without the involvement of any third party that operates under the auspices of, or within a certain link to, the FA do not qualify as "organised football". By contrast, PLGP matches do qualify as "organised football" under the RSTP because (i) they are organized by and under the auspices of the PL, which, in turn, operates under the auspices of the FA, and (iii) they are played in accordance with the Laws of the Game and therefore do qualify as "association football" (CFC provides no evidence to establish otherwise and, in any case, pursuant to the Laws of the Game, there are specific rules enabling national associations to modify the traditional Laws of the Games for certain matches, including youth categories). The fact that trialists are allegedly permitted to play PLGP matches under domestic regulations remains unproven and, in any case, does not change the qualification of such match to a "trial match". Finally, whether a match is "competitive" in nature is irrelevant in assessing whether a match qualifies under "organised football"

(v) CFC breached Article 9.1 RSTP in relation to 20 players because it failed to request or obtain an ITC from the former association prior to the player participating in "organised football".

(vi) CFC breached Article 19bis, para. 1, RSTP in relation to 50 minors who attended CFC's academy because CFC failed to report them directly to the FA. The fact that 8 of the players were already part of the academy prior to the provision coming into force on 1 October 2009 does not excuse CFC from its obligation to report them to the FA. In addition, registering 48 players with the PL does not satisfy the CFC's separate obligation to report them directly to the FA.

(vii) CFC breached Article 18bis RSTP. The fact that the two agreements required the other clubs to get prior written consent from CFC before loaning or transferring the player demonstrates that CFC had the ability to influence in employment and transfer-related matters the other clubs' independence, policies and performance of its teams. The absence of the prospect to loan is irrelevant and, in any case, was not substantiated. Moreover, the timing and the length of agreements cannot be used to diminish the relevance and importance of the clauses. Indeed, if the agreement was for a "*very short period*", if "*there was no prospect of the players being loaned*", if "*the regulations do not provide for the possibility of amateur players to being loaned*", if "*there was no need to 'release' the players*", and if the agreement "*served the interest of the players*", then there would have been no need to include the clauses under question in the agreements in the first place. This goes to show that the clauses were meant to fully control the players and limit the other clubs' independence in employment and transfer-related matters related to them.

(viii) The sanction imposed by FIFA is clearly proportionate to the serious offenses committed by CFC.

VI. JURISDICTION

35. Article R47 of the CAS Code provides as follows:

> "*An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body*".

36. Articles 55.3, 57.1 and 58 of the FIFA Statutes respectively provide:

- "*Decisions pronounced by the Appeal Committee shall be irrevocable and binding on all the parties concerned. This provision is subject to appeals lodged with the Court of Arbitration for Sport (CAS)*";

- "*FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, member associations, confederations, leagues, clubs, players, officials, intermediaries and licensed match agents*"; and

- "*Appeals against final decisions passed by FIFA's legal bodies... shall be lodged with CAS within 21 days of notification of the decision in question*".

37. The Parties do not dispute the jurisdiction of the CAS and, moreover, confirmed it by signing the Order of Procedure.

38. As previously mentioned in summarizing the Parties' submissions – see *supra* at paras. 32(ii) and 34(ii) – both Parties raised objections that could seem to be related to jurisdiction but that, at a closer scrutiny, cannot be characterized as jurisdictional objections:

(i) The Appellant contends, in relation to the U-10 players registered post-Circular 1468, that, if Circular 1468 delegated, in a binding way, FIFA's duty to verify and ensure compliance with Article 19 RSTP to the national associations, then, to the extent the Appellant did not comply with that provision, only the FA would have the "jurisdiction" to sanction the FA. However, this is not an objection to the jurisdiction of the CAS to decide this dispute; rather, it is an argument dealing with the sanctioning authority of FIFA in relation to U-10 players registered after Circular 1468.

(ii) FIFA argues that the Sole Arbitrator is not "competent" to determine whether one of the exceptions under Articles 19.2 RSTP applies to any of the players, as the present appeal does not stem from a decision of the Sub-Committee. Upon questioning at the hearing by the Sole Arbitrator, FIFA clarified that this was not an objection to the jurisdiction of the CAS but rather to its "scope of review". FIFA's position is that, while the Sole Arbitrator has jurisdiction to hear the matter under dispute, he cannot grant any retroactive approval of international transfers or first registration of a minors; his scope of review is limited to assessing whether the Appellant committed the breaches of the RSTP found by the Appealed Decision only.

39. As these are not jurisdictional objections, the Sole Arbitrator will deal with them *infra* at paras. 106 and 109, respectively.

40. In light of the foregoing, the Sole Arbitrator holds that the CAS has jurisdiction to hear the present dispute.

VII. ADMISSIBILITY

41. Article R49 of the CAS Code provides as follows:

> "*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document*".

42. Article 58 FIFA Statutes (see *supra* at para. 36) provides a time limit of 21 days after notification to lodge an appeal against a decision adopted by one of FIFA's legal bodies, such as the Appeals Committee.

43. The Appealed Decision was notified to the Appellant on 8 May 2019. The Appellant timely lodged an appeal at CAS on 29 May 2019, *i.e.* within the twenty-one days allotted under the aforementioned provision. It follows that the appeal is admissible.

VIII. APPLICABLE LAW

44. Article R58 of the 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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision*".

45. Article 57.2 of the FIFA Statutes so provides:

> "*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*".

46. Accordingly, the present dispute must be decided in accordance with the applicable FIFA rules and regulations, such as in particular the RSTP, the FDC and the pertinent FIFA circulars, as well as, additionally, Swiss law.

IX. RELEVANT PROVISIONS OF THE RSTP

47. The provisions of the RSTP relevant to the dispute between the Parties are Article 5.1, Article 9, Article 18bis.1, Article 19 (the most prominent provision in this matter), and Article 19bis.1, each of which is quoted in their relevant parts herein below. Circular 1468, which announced on 23 January 2015 new rules (concerning in particular Articles 9.4 and 19.4 RSTP) that were to come into force on 1 March 2015, is also quoted herein below for its relevance to the Parties' dispute.

48. Article 5 RSTP ("*Registration*"):

> "*1. A player must be registered at an association to play for a club as either professional or an amateur in accordance with the provisions of article 2. Only registered players are eligible to participate in organised football. By the act of registering, a player agrees to abide by the statutes and regulations of FIFA, the confederations and the associations.*
>
> [...]".

49. Article 9 RSTP ("*International Transfer Certificate*"); it must be noted that, prior to the version of the RSTP entered into force on 1 March 2015, this provision did not require an ITC for players under the age of twelve:

> "*1. Players registered at one association may only be registered at a new association once the latter has received an International Transfer Certificate (hereinafter: ITC) from the former association. The ITC shall be issued free of charge without any conditions or time limit. Any provisions to the contrary shall be null and void. The association issuing the ITC shall lodge a copy with FIFA. The administrative procedures for issuing the ITC are contained in Annexe 3, article 8, and Annexe 3a of these regulations.*
>
> [...]
>
> *4. An ITC is not required for a player under the age of ten years*".

50. Article 18bis RSTP ("*Third-party influence on clubs*"):

> "*1. No club shall enter into a contract which enables the counter club/counter clubs, and vice versa, or any third party to acquire the ability to influence in employment and transfer-related matters its independence, its policies or the performance of its teams.*
>
> *2. The FIFA Disciplinary Committee may impose disciplinary measures on clubs that do not observe the obligations set out in this article*".

51. Article 19 RSTP ("*Protection of minors*"):

> "*1. International transfers of players are only permitted if the player is over the age of 18.*
>
> *2. The following three exceptions to this rule apply:*
>
> *a) The player's parents move to the country in which the new club is located for reasons not linked to football.*
>
> *b) The transfer takes place within the territory of the European Union (EU) or European Economic Area (EEA) and the player is aged between 16 and 18. In this case, the new club must fulfil the following minimum obligations:*
>
> *i. It shall provide the player with an adequate football education and/or training in line with the highest national standards.*
>
> *ii. It shall guarantee the player an academic and/or school and/or vocational education and/or training, in addition to his football education and/or training, which will allow the player to pursue a career other than football should he cease playing professional football.*
>
> *iii. It shall make all necessary arrangements to ensure that the player is looked after in the best possible way (optimum living standards with*

a host family or in club accommodation, appointment of a mentor at the club, etc.).

iv. It shall, on registration of such a player, provide the relevant association with proof that it is complying with the aforementioned obligations.

c) The player lives no further than 50km from a national border and the club with which the player wishes to be registered in the neighbouring association is also within 50km of that border. The maximum distance between the player's domicile and the club's headquarters shall be 100km. In such cases, the player must continue to live at home and the two associations concerned must give their explicit consent.

3. The conditions of this article shall also apply to any player who has never previously been registered with a club, is not a national of the country in which he wishes to be registered for the first time and has not lived continuously for at least the last five years in said country.

4. Every international transfer according to paragraph 2 and every first registration according to paragraph 3, as well as every first registration of a foreign minor player who has lived continuously for at least the last five years in the country in which he wishes to be registered, is subject to the approval of the subcommittee appointed by the Players' Status Committee for that purpose. The application for approval shall be submitted by the association that wishes to register the player. The former association shall be given the opportunity to submit its position. The sub-committee's approval shall be obtained prior to any request from an association for an International Transfer Certificate and/ or a first registration. Any violations of this provision will be sanctioned by the Disciplinary Committee in accordance with the FIFA Disciplinary Code. In addition to the association that failed to apply to the sub-committee, sanctions may also be imposed on the former association for issuing an International Transfer Certificate without the approval of the subcommittee, as well as on the clubs that reached an agreement for the transfer of a minor.

5. The procedures for applying to the sub-committee for a first registration and an international transfer of a minor are contained in Annexe 2 of these regulations".

52. Article 19bis RSTP ("*Registration and reporting of minors at academies*"):

"*1. Clubs that operate an academy with legal, financial or de facto links to the club are obliged to report all minors who attend the academy to the association upon whose territory the academy operates.*

[…]".

53. Circular 1468 of 23 January 2015 ("*Amendments to the Regulations on the Status and Transfer of Players* […]") so reads in the relevant part:

"*Article 9 par. 4:*

In order to strengthen the protection of minors and due to the increased number of international transfers of players younger than 12, the FIFA Executive Committee has approved a reduction in the age limit for which an international transfer certificate (ITC) is required to the age of 10.

In this regard, we would like to recall that, while referring to the reasoning behind the contents of art. 9 par. 4 of the Regulations, on the occasion of its meeting of October 2009, the sub-committee appointed by the Players' Status Committee had clarified that no application for approval according to art. 19 par. 4 of the Regulations was required prior to any request from an association for an ITC and/or first registration of players under the age of 12.

On account of that decision, bearing in mind the considerations made by the FIFA Executive Committee with respect to the factors at stake (i.e. increased number of international transfers of players younger than 12 and the need to reinforce the protection of minors) in respect of art. 9 par. 4, the member associations will be obliged to submit applications for approval of any international transfer of minor player or first registration of a foreign minor player to the sub-committee appointed by the Players' Status Committee for any player as of the age of 10 (cf. art. 19 par. 4 of the Regulations).

Furthermore, we deem it important to point out and clarify that if a member association intends to register under the age of 10 (currently 12), despite the fact that no ITC and no application to the sub-committee appointed by the Players' Status Committee will be required, it is all the more responsibility of this association to verify and ensure that the requirements for the protection of minors established in art. 19 par. 2 of the regulations are met".

X. MERITS

54. The task of the Sole Arbitrator is to decide whether, in the period between 2009 and 2018, the Appellant has violated (i) Article 19.1 RSTP and Article 19.3 RSTP in 27 cases, (ii) Article 19.4 in conjunction with Annexe 2 RSTP and Article 1 para. 3 of Annexe 3 RSTP in 11 cases, (iii) Article 19bis, para. 1, in 50 cases, (iv) Article 9 RSTP in 20 cases, (v) Article 5 RSTP in 40 cases, and (vi) Article 18bis, para. 1, RSTP with regard to two agreements. If the violations stand, even partially, the Sole Arbitrator would then have to determine whether the sanction imposed by the FIFA Appeal Committee remains appropriate or requires a modification. The Sole Arbitrator will analyse each of the alleged breaches separately in the sub-sections to follow. Before that, as a preliminary matter, the Sole Arbitrator must determine the pertinent burden and standard of proof.

A. Burden and standard of proof

i. Burden of proof

55. The burden of proving that a breach of the RSTP occurred falls with the accusing body, that is FIFA. This is established in Article 99.1 FDC (the edition approved on 27 October 2017 and entered into force on 1 January 2018, applied to this case by the FIFA disciplinary

bodies) which reads: "*The burden of proof regarding disciplinary infringements rests on FIFA*". This has been confirmed by CAS jurisprudence (*e.g.* CAS 2011/A/2426 and CAS 2011/A/2425). Of course, once FIFA has satisfied its burden of proving a breach, the Club bears the burden of proving the facts related to any exception or defence raised to rebut the allegations of FIFA.

56. In the particular case of the violations of Articles 19.1 and 19.3 RSTP, the Sole Arbitrator is of the view that for FIFA to meet its burden of proof it must only show that the Club carried out an international transfer or first registration of a player under the age of 18 in violation of the general prohibition set forth in those two provisions. Once FIFA has satisfied that burden, the burden then falls on the Club to show that it did not breach said provisions because one of the exceptions embedded in Article 19.2 RSTP or Article 19.3 RSTP applied to the players.

b. Standard of proof

57. As a starting point, the Sole Arbitrator considers what is the standard of proof for establishing a breach of the RSTP. Pursuant to Article 35 of the 2019 edition of the FDC (adopted on 3 June 2019 and entered into force on 15 July 2019), "*the standard of proof to be applied in the FIFA disciplinary proceedings is the comfortable satisfaction of the competent judicial body*". However, the Sole Arbitrator notes that, at the time of the proceedings before the FIFA Disciplinary Committee and the FIFA Appeal Committee, such provision did not exist and, in fact, neither the FDC nor the RSTP determined the applicable standard of proof for FIFA disciplinary proceedings. It was simply stated in Article 97.3 FDC that the FIFA bodies "*decide on the basis of their personal conviction*". However, this provision had been held by the CAS as having less to do with the notion of standard of proof (*i.e.* the degree of personal conviction necessary) than with the requirement that the judging body be personally convinced of a certain fact (see *e.g.* CAS 2016/A/4805; see also CAS 2017/A/5003 in relation to Article 51 of the FIFA Code of Ethics (2012 edition)).

58. It is well-established under CAS jurisprudence that, when the regulations of a sports organisation do not provide the applicable standard of proof, the CAS must determine it. When dealing with FIFA disciplinary cases and the "personal conviction" requirement, CAS panels have regularly applied the standard of "*comfortable satisfaction of the judging body, bearing in mind the seriousness of the allegation*", falling in between "beyond reasonable doubt" and "balance of probabilities" on the standard of proof spectrum, considering it as essentially coinciding with "personal conviction" (see *e.g.* CAS 2011/A/2426 at para. 88, CAS 2011/A/2625 at para. 36, CAS 2016/A/4501 at para. 122, CAS 2017/A/5086 at para. 72).

59. Therefore, the Sole Arbitrator finds that the appropriate standard of proof to apply to the present case is that of "comfortable satisfaction". Accordingly, FIFA must prove to the comfortable satisfaction of the Sole Arbitrator, bearing in mind the seriousness of the allegations, that the Appellant breached any of the RSTP rules.

60. With regard to circumstances that must be proven by the Club, the Sole Arbitrator notes that the Parties have much disputed on the standard necessary to establish the applicability of one

of the exceptions to the prohibitions of Articles 19 paras1 to 3, RSTP. Of course, the need to assess in the present proceedings whether one of those exceptions could be applied to any of the interested minor players (thus verifying the evidence related to the individual situations of those players) arises only if (i) the Club's primary arguments are rejected (see *supra* at para. 32.ii), and (ii) FIFA's argument that the CAS may not retroactively verify whether any of the concerned minors were entitled to an exception is also rejected (see *supra* at para. 38.ii). This said, the Sole Arbitrator notes that the Appellant contends that the applicable standard of proof to establish the applicability of an exception is a "balance of probabilities", whereas FIFA argues that it is "beyond a reasonable doubt".

61. The Sole Arbitrator finds no reason that the standard of proof be different for establishing the applicability of an exception set forth by the RSTP. The principle of equality of the parties in international arbitration requires the application of the same standard of proof to both sides, barring any rule to the contrary (as occurs, for instance, in anti-doping matters where the lighter standard of balance of probabilities applies *only to the accused party*). In this regard, the Sole Arbitrator finds unpersuasive the unexplained assertion in CAS 2017/A/5244 that the exceptions of paras. 2 and 3 of Article 19 RSTP may be granted only if their conditions are established "beyond reasonable doubt". Also, the Sole Arbitrator rejects that CAS 2015/A/4312 established the standard of proof for proving an exception as "beyond a reasonable doubt". FIFA misconstrues that award, which merely held that in order to prove that a player's family moved to a country for "reasons not linked to football" – *i.e.* in order to prove an Article 19.2(a) exception – football cannot be an element for the move, even if there were other elements unrelated to football. That award, thus, only interpreted what elements were necessary to fulfil the exception of Article 19.2(a) as opposed to establishing a standard of proof.

62. In conclusion, the Sole Arbitrator determines that the standard of comfortable satisfaction must be equally applied to any circumstance that must be proven by either party.

B. On the violations of Article 19, paras. 1 and 3, RSTP

63. The alleged violations of paras. 1 and 3 of Article 19 RSTP must be discussed first because, in assessing the sanctions, the FIFA disciplinary bodies regarded them as "*the most serious infringements committed by CFC*" and considered "*a ban on national and international registration of players for two (2) complete and consecutive registration periods* [and] *a fine of CHF 435,000 to be adequate on account of the violations of article 19 paras. 1 and 3 of the RSTP*" (Disciplinary Committee's decision at paras. 135, 145 and 147, confirmed by the Appealed Decision).

64. Indeed, in the Appealed Decision, the FIFA Appeal Committee found that the Appellant had violated Article 19.1 RSTP – prohibiting international transfers of players younger than 18 – in relation to 15 players (nos. 1, 2, 4, 6, 11, 16, 20, 25, 27, 30, 35, 40, 43, 68 and 78) and Article 19.3 RSTP – prohibiting the first registration of foreign players younger than 18 – in relation to 12 players (nos. 36, 37, 51, 57, 61, 65, 70, 71, 72, 75, 77 and 84).

65. The Sole Arbitrator preliminarily observes that out of the 27 total players for which the FIFA Appeal Committee found a breach of Article 19.1 or Article 19.3 RSTP for having been

registered with CFC and/or the PL without any prior approval by the Sub-Committee or by the FA, or for never being registered:

- 11 players (nos. 30, 36, 43, 57, 61, 65, 68, 70, 72, 77, 84) were under the age of 12 at the time – before Circular 1468 – of their registration with both the CFC Academy and the PL (except for player 65, a girl of 7 who was only registered with the CFC Academy);
- 5 players (nos. 25, 37, 51, 71, 75) were under the age of 10 at the time – after Circular 1468 – of their registration with both the CFC Academy and the PL;
- 2 players (nos. 6 and 27) were never registered at all with the CFC Academy, the PL or the FA, but trained and played on trial with CFC for some time;
- 6 players (nos. 2, 4, 16, 20, 35 and 40) were registered with the FA after having obtained the Sub-Committee's approval, but trained and played on trial with CFC for some time before such approval and registration;
- 2 players (nos. 1 and 11) were registered with the FA after reaching the age of 18, but trained and played on trial with CFC for some time before such registration;
- 1 player (no. 78, a British national) was registered at the age of 13 with both the CFC Academy and the PL, under the Club's (erroneous) belief that he had never been registered abroad.

66. The Appellant argues, as its primary position, that it did not breach paras. 1 or 3 of Article 19 RSTP in relation to any of the aforementioned 27 players. The Appellant submits that no such breaches occurred and it may not be sanctioned by FIFA because:

- 11 players were registered before the age of 12 prior to the entry into force of Circular 1468 and, therefore, the provisions of Article 19 did not apply to these players;
- 5 players were registered before the age of 10 after the entry into force of Circular 1468 without seeking approval from the FA, as the FA never instituted a procedure to verify English clubs' compliance with Article 19, paras. 1 to 3, RSTP and, moreover, FIFA delegated its sanctioning powers to the FA;
- 2 players were never registered and, therefore, did not trigger Article 19, paras. 1 and 3, RSTP;
- 9 players were registered in compliance with Article 19 RSTP, having received the green light from the Sub-Committee;
- The alleged participation of the 27 players in "organised football" prior to or without the players' respective registrations does not trigger a breach of Article 19, paras. 1 or 3, RSTP.

67. As a secondary position, the Appellant submits that 21 out of the 27 players were in any case eligible to register with the Club because they satisfied one of the exceptions under paras. 2 and 3 of Articles 19RSTP (all except players 1, 6, 16, 20, 25 and 27). The Appellant considers that, therefore, in relation to these 21 players it did not commit any substantive violation but only, at most, a procedural violation on the basis of Article 19.4 RSTP.

68. FIFA, on the other hand, argues that the FIFA Appeal Committee correctly determined that the Appellant breached either paras. 1 or 3 of Article 19 RSTP in 27 cases. In its view, for those 11 players under the age of 12 pre-Circular 1468 and 5 players under the age of 10 post-Circular 1468, the Appellant was required to obtain approval from the FA prior to their registration. As for those 11 players that were never registered or that were allegedly registered in compliance with Article 19 RSTP, FIFA submits that the Appellant violated said provision because the players' participation in "organised football" constituted a "*de facto*" registration triggering said provision (even for those 9 players whose registration was subsequently authorized by the Sub-Committee). As to the Appellant's secondary position, FIFA contends that the CAS cannot grant a retroactive approval *in lieu* of the Sub-Committee or the FA and, for that reason, argues that the CAS should refrain from determining whether any of the players could have met one of the exceptions to the prohibitions of paras. 1 and 3 of Article 19 RSTP.

69. In order to decide whether CFC breached Article 19, paras. 1 and 3, RSTP in relation to those 27 players, the Sole Arbitrator must determine:

a. what is the correct interpretive approach to Article 19 RSTP;

b. whether a proper interpretation of Article 19 RSTP yields a basic distinction between substantive and procedural rules;

c. whether registration with a national football association is necessary to find a violation of Article 19, paras. 1 or 3, RSTP;

d. whether "*de facto*" registration is sustained under the FIFA regulations and is sufficient to find a violation of Article 19, paras. 1 or 3, RSTP;

e. whether Article 19 RSTP applies to U-12 players registered prior to Circular 1468 and whether FIFA had the jurisdiction to sanction the Appellant in respect of U-10 players registered post-Circular 1468;

f. whether, in the case the Appellant's primary arguments are rejected, the Sole Arbitrator is entitled to assess in the present proceeding the individual situations of the concerned minor players;

g. in the case the Sole Arbitrator is entitled to make such assessment, whether any specific evidence is necessary to establish the existence of an exception;

h. whether one of the exceptions provided by paras. 2 or 3 of Article 19 RSTP applies to any of the minor players.

a. Proper interpretation of Article 19 RSTP

70. With reference to the interpretation of Article 19 RSTP (see the whole text of this provision *supra* at para. 51), it is clear to the Sole Arbitrator and undisputed by the Parties that:

(i) Article 19.1 RSTP prohibits clubs from internationally transferring players younger than 18 (so-called "minor players" or "minors").

(ii) Article 19.2 RSTP provides three exceptions to the general prohibition of Article 19.1 RSTP, which the FIFA legislator carved out for situations in which it believes the healthy development and interests of minors would be adequately protected: in short, if (i) the minor moves with his or her family to the new club's country for reasons not linked to football, (ii) the minor is older than 16 and moves within the EU/EEA territory, provided certain living and educational conditions are respected by the club, or (iii) both the minor and club are located within a 100km trans-border radius.

(iii) Article 19.3 RSTP extends the general prohibition of Article 19.1 RSTP to the first registration of minors, except where the player (i) is a national of the country in which he or she seeks a first registration, or (ii) has lived continuously for at least the last five years in said country (the "Five-year Rule"). It also makes available the exceptions of Article 19.2 RSTP to the prohibition on the first registration of minors of Article 19.3 RSTP.

(iv) Article 19.4 RSTP provides the procedure to be followed to obtain the approval of the Sub-Committee in cases of an international transfer or first registration of a minor under Article 19, paras. 1 to 3, RSTP.

(v) The procedure of Article 19.4 RSTP, in relation to either a transfer or a first registration, currently does not apply to players under the age of 10 years and, prior to Circular 1468 (*i.e.* before 1 March 2015), did not apply to players under the age of 12 years.

71. Where the Parties disagree is on whether and to what extent the above provisions interact and on whether they support the concept of "*de facto*" registration.

72. In order to resolve that disagreement, the Sole Arbitrator must preliminarily turn to the Parties' disagreement over the interpretive criteria to be employed to correctly interpret the FIFA regulations. In defending the interpretive approach of its disciplinary bodies, FIFA has argued that the correct interpretation of its regulations must reflect their true meaning through the analysis of the purpose sought and of the interests protected as well as of the intent of the legislator. The Appellant has criticized FIFA's interpretive approach for resorting to a purely purposive interpretation, and so attempting to rewrite the rules *ex post facto*, and has advocated an interpretive approach starting with the literal meaning of the words and assisted by the context, historical background and purpose of a provision. Additionally, the Club has invoked the application of the *contra stipulatorem* principle in case of unclear wording and has warned that, absent a clear legal basis, there can be no prohibition or sanction.

73. The Sole Arbitrator notes that it is well-established under CAS jurisprudence, making reference to the case law of the Swiss Federal Tribunal ("SFT") that, "*[a]ccording to the SFT, the starting point for interpreting is indeed its wording (literal interpretation). There is no reason to depart from the plain text, unless there are objective reasons to think that it*

does not reflect the core meaning of the provision under review. This may result from the drafting history of the provision, from its purpose, or from the systematic interpretation of the law. Where the text is not entirely clear and there are several possible interpretations, the true scope of the provision will need to be narrowed by taking into account all the pertinent factors, such as its relationship with other legal provisions and its context (systematic interpretation), the goal pursued, especially the protected interest (teleological interpretation), as well as the intent of the legislator as it is reflected, among others, from the drafting history of the piece of legislation in question (historical interpretation) (SFT 132 III 226 at 3.3.5 and references; SFT 131 II 361 at 4.2). When called upon to interpret a law, the SFT adopts a pragmatic approach and follows a plurality of methods, without assigning any priority to the various means of interpretation (SFT 133 III 257 at 2.4; SFT 132 III 226 at 3.3.5)" (see CAS 2013/A/3365 & 3366 at para. 139, emphasis added).

74. As stated in a similar vein by another CAS panel: "*According to the jurisprudence of the Swiss Federal Tribunal* [...], *the interpretation of the statutes and rules of FIFA, a large sport association with seat in Switzerland, starts from the literal meaning of the rule, which falls to be interpreted, but must show its true meaning, which is shown by an examination of the relation with other rules and the context, of the purpose sought and the interest protected, as well as of the intent of the legislator. In this vein, CAS Panels (CAS 2008/A/1673; CAS 2009/A/1810; CAS 2009/A/1811) have held that the adjudicating body has to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax, but has further to identify the intentions (objectively construed) of the association which drafted the rule, and such body may also take account of any relevant historical background which illuminates its derivation, as well as the entire regulatory context in which the particular rule is located*" (CAS 2017/A/5173 at para. 74).

75. Therefore, in keeping with those precedents, the Sole Arbitrator finds that the starting point to interpret FIFA rules must be their literal meaning, complemented by the other available interpretive means to the extent needed to find their true meaning. With this in mind, the Sole Arbitrator makes the following considerations.

b. Distinction between substantive and procedural rules of Article 19 RSTP

76. Looking at the wording of Article 19 RSTP, the Sole Arbitrator notes a clear and critical distinction between the legal nature of paras. 1, 2 and 3, on the one hand, and para. 4, on the other hand.

77. The first three paragraphs of Article 19 RSTP appear to be *substantive* in nature, laying down a general ban on the international transfer and first registration of minors except where one of the demarcated exceptions applies to the concerned minor.

78. By contrast, Article 19.4 RSTP appears to be *procedural* in nature, requiring the national association – at the behest of the interested club – to request and obtain approval from the Sub-Committee prior to any request for an ITC or any first registration of a foreign minor player. In other words, Article 19.4 is the "*procedural vehicle*" (as defined in the *Barcelona* award at para. 9.8) or the "*tool to ensure compliance with the substantive requirements*" (as characterized in the *Atlético Madrid* award at para. 178), necessary to make the first

registration of a foreign minor with, or international transfer of a minor to, a national association happen.

79. Such distinction between Article 19, paras. 1 to 3, RSTP and Article 19.4 RSTP, *i.e.* that the former provisions are substantive and the latter provision is procedural, plainly emerges from their language. On the one hand, paras. 1 to 3 of Article 19 RSTP dictate the rights and duties of clubs and minor players with regard to eligibility of the latter for registration with the former; on the other hand, para. 4 of Article 19 RSTP (supplemented by Annexe 2 RSTP) sets forth the process by which those rights and duties can be verified and enforced by FIFA.

80. The Sole Arbitrator notes that this distinction was made clear by the CAS in the *Atlético Madrid* award, where the panel held as follows: "*a violation of the substantive requirements of the general prohibition of the international transfer and first registration of minors is seriously reprehensible, given its importance, in contrast with the procedure to be followed in order for a minor player to be transferred or registered, as this is only a tool to ensure compliance with the substantive requirements. This is not to say that a violation of the procedure should not be sanctioned, but such violation is certainly less severe. The Panel finds that in respect of such players in principle no substantive violations were committed by the Club because the Sub-Committee retrospectively approved the registration of the above-mentioned minors. As examined further below, the conclusion that no substantive violation of article 19(1) and (3) FIFA RSTP was committed does not entail that no violation of article 19(4) FIFA RSTP can be committed*" (para. 178 of CAS 2016/A/4805, emphasis added).

81. Also in the *Real Madrid* award, the sole arbitrator implicitly (but clearly) distinguished between substantive and procedural aspects, by specifying at the outset of his reasoning that he sought to determine "*what was the procedure for international transfer of minors and first registration of non-nationals under the age of 12*" (para. 54 of CAS 2016/A/4785, emphasis added). He then concluded that he was not convinced that, prior to Circular 1468, clubs had the obligation to request and obtain the approval of their respective national associations for an international transfer or first registration of U-12 minors under Article 19.2 RSTP (*ibidem* at para. 55 *et seq.*). From the sole arbitrator's framing of the issue, his conclusion, and the language used in reaching that conclusion (*e.g.* "*prove to its national association*", "*without requesting authorization from*", "*did not need the approval of*", "*verification regime*", "*verify and/or decide on the existence of an exception*", and "*procedurally wrong*"), it is clear that he was truly focused on the procedural aspects of Article 19 RSTP (*i.e.* Article 19.4 RSTP) even if he referenced Article 19.1 and 19.3 RSTP. The sole arbitrator made it clear in the *Real Madrid* award that "*[b]y accepting that under the regime existing before the FIFA Circular no. 1468 a club was not requested to obtain from its national member association or from FIFA a decision confirming the existence of an exception under Article 19.2 RSTP, one shall not discern that a club was free to deal with children 'as it wanted'. In reality, as stated in the FIFA's letter of 17 April 2014, a club had to carry a great responsibility 'of ensuring that the well-being of the minors in question is not under threat ... in line with the spirit and principles of the relevant regulations on the protection of minors'*" (*ibidem* at para. 61, emphasis added). This is clearly a distinction between the procedural and substantive aspects, compatible with the *Atlético Madrid* and *Barcelona* awards, and, as will be seen below, with the Sole Arbitrator's view.

82. The Sole Arbitrator is of the opinion that the distinct nature of the rules set forth by paras. 1 to 3 (substantive) and para. 4 (procedural) of Article 19 RSTP has certain legal and practical implications, particularly for the international transfer or first registration of U-12 or U-10 players (before or after Circular 1468, respectively). As will be seen *infra*, those implications lead to conclusions that do not fully coincide with either party's position.

83. First, contrary to the Club's position, the absence of a procedure at FIFA or national association level to verify clubs' compliance with paras. 1 to 3 of Article 19 RSTP in the international transfer or first registration of U-12 players (pre-Circular 1468) or U-10 players (post-Circular 1468) does not mean that the obligations set out by paras. 1 to 3 of Article 19 RSTP do not apply or that clubs are excused from meeting them. The plain language of those substantive obligations makes no reference to procedural aspects. The Sole Arbitrator is thus of the view that, in the absence of any procedure at FIFA or national association level, clubs wishing to register a U-10 player (U-12 prior to Circular 1468) have anyway a duty to self-assess whether they are compliant with the substantive requirements of paras. 1 to 3 of Article 19 RSTP, and may be sanctioned by FIFA if they are not. In the Sole Arbitrator's view, this duty of self-assessment is what was alluded to (i) by the *Atlético Madrid* award when it made reference to "*the Club's duty to comply with the substantive requirements of article 19(1)-(3) FIFA RSTP*" (CAS 2016/A/4805 at para. 74), and (ii) by the *Barcelona* award when it stated that "*FCB is under the direct and primary obligation to avoid transferring under-aged players, unless it can demonstrate that one of the statutory exceptions embedded in Art. 19.2 RSTP have been met*" (CAS 2014/A/3793 at para. 9.4). Accordingly, even if a club was found not to have committed any procedural violation because its national association never implemented a verification procedure, that club could still be found in violation of the substantive obligations of Article 19, paras. 1 to 3, RSTP.

84. Second, contrary to FIFA's position, the fact that a club does not go through a procedure for registering a U-10 player (U-12 before Circular 1468) with the relevant national association – in particular when, as occurred in the case at hand, (i) it was not clear that clubs had to go through such a procedure for registering U-12 players prior to Circular 1468 or U-10 players thereafter, and (ii) the pertinent national association had no procedure whatsoever in place for verifying compliance with paras. 1 to 3 of Article 19 RSTP – does not automatically give rise to a substantive breach of the general prohibition on the international transfer and first registration of minors, *i.e.* paras. 1 and 3 of Article 19 RSTP. It may be the case that a club is compliant with the substantive requirements of said provisions irrespective of the approval from the competent body. The Sole Arbitrator agrees with FIFA that the procedure of Article 19.4 RSTP has a fundamental function to safeguard the substantive principles of Article 19 RSTP but does not agree with the assertion made by FIFA at the hearing that "*without the procedure there is no principle*".

c. Registration with the national association is not necessary to find a violation of Article 19, paras. 1 and 3, RSTP

85. The Sole Arbitrator is of the view that for a club to be held in violation of the substantive obligations set out by paras. 1 to 3 of Article 19 RSTP, it is not indispensable for the concerned minor player to be registered with the club's *national association*. To trigger said substantive provisions, it is sufficient that a minor player – coming from another national

association in the case of Article 19.1 RSTP or having no previous registration in the case of Article 19.3 RSTP – is registered with the club's academy, league, or regional association. These forms of registration, even though they do not bind a player within the FIFA or national association's system, objectively denote a reciprocal and sufficiently stable commitment of both the minor and the club and, thus, may not be ignored in the interpretation and application of paras. 1 and 3 of Article 19 RSTP. Indeed, such construal (i) is fully compatible with the language of paras. 1 and 3 of Article 19 RSTP, and (ii) is corroborated by the purpose sought and interest protected by these provisions. Even though they are certainly less formalized modes of registration than the official registration with a national association, they still are put in writing and are not merely a "*de facto*" registration – a notion that the Sole Arbitrator is not upholding, as will be seen *infra* at para. 91 *et seq.* – with the consequence that clubs so registering minor players must comply with the substantive requirements of paras. 1 to 3 of Article 19 RSTP, although not necessarily with the procedural requirements of Article 19.4.

86. Indeed, Article 19.4 RSTP only sets forth the procedure for internationally transferring or registering for the first time a minor player – older than 10 (or 12 before Circular 1468) – with a *national association*. This is evident from the fact that it is the national association which has the obligation to request from the Sub-Committee the approval for an international transfer or first registration. Behind this provision is the principle that it is the registration with the national association (and not the club's academy, league or regional association) that generates certain worldwide rights for the club in relation to the registered player. It is only once a player is duly registered with the relevant national association that the club can effectively control the player vis-à-vis all other clubs and become entitled to the legal protection ensured under the RSTP or the corresponding national association's rules (particularly in relation to contractual stability, training compensation, solidarity contribution and the like). Insofar as players are not registered with the national association, the club retains no control over them and enjoys no protection under FIFA's or the national association's regulations.

87. Given that Article 19.4 only sets the *procedure* for registration with and through the *national association*, it cannot limit the general prohibition on the international transfer and first registration of minors embedded in paras. 1 to 3 of Article 19 RSTP in a way that would make that substantive prohibition not applicable to players registered only with a club's academy, league or regional association and not with the pertinent national association. Accordingly, even in the absence of a registration procedure with a national association for players under the age of 10, clubs must engage in self-assessment of the eligibility of a given U-10 player for registration (and the same applied to U-12 players pre-Circular 1468).

88. This view is in line with the following segment of the Atlético Madrid award: "*The Panel also finds that the Club's argument that it cannot be sanctioned because the players were never registered with the RFEF must be dismissed. As explained below, the applicable regulatory framework in Spain prevented the Club from complying with the procedure set out in the FIFA RSTP. More specifically, the Spanish regulations prevented the Club from registering minor players directly with the RFEF. However, this does not take away the Club's duty to ensure that no minor players are registered with it in violation of the substantive requirements of article 19 FIFA RSTP. In order for a violation of article 19(1)*

or (3) FIFA RSTP to be committed, the Panel does not deem it necessary that minor players are registered with the national association concerned, but that the players have participated in organised football without complying with any of the substantive exceptions set out in article 19(2) FIFA RSTP" (see para. 166 of CAS 2016/A/4805, emphasis added).

89. Furthermore, the Sole Arbitrator is of the view that the *Real Madrid* award, properly read, does not contradict the previous *Barcelona* and *Atlético Madrid* awards. In the *Real Madrid* award, the sole arbitrator stated at the outset of his reasoning – as already pointed out *supra* at para. 81 – that his task, in light of the parties' dispute, was to "*determine what was the procedure for international transfer of minors and first registration of non-nationals under the age of 12*", noting that "*FIFA has made it clear that it is reproaching Real Madrid for not having provided the RFEF with the information/documentation necessary for that national association to assess whether an Article 19.2 RSTP exception applied*" (paras. 54-55 of CAS 2016/A/4785, emphasis added); in other words, the essence of that case was entirely procedural, *i.e.* whether FIFA could reprove Real Madrid for a procedural omission. In fact, the sole arbitrator stated immediately thereafter that he had "*serious doubts, however, whether before March 2015 (*i.e. *at the time of Real Madrid's registration of Players 2, 3, 4 and 24) a club wishing to register a U-12 player had to provide its national association with all the necessary information/documentation for it to verify compliance with Article 19.2 RSTP and the existence of an exception, respectively*" (*ibidem*, emphasis added), and concluded his analysis by stating that the "*evidence before the Sole Arbitrator has demonstrated that the reality was that national member associations and FIFA did not – or at least not always – deal with that obligation of care by submitting strictly all cases of U-12 players to a procedure of determination of an exception*" (CAS 2016/A/4785 at para. 59, emphasis added). Therefore, the *Real Madrid* award merely stated that, as there was no procedure in place for U-12 players at international or national level, Real Madrid could not be reproached of any violation and never said that U-12 players were excluded from the scope of application of Article 19 RSTP. On the contrary, that award clearly stated that from the fact that there was no procedural requirement in place before Circular 1468 "*one shall not discern that a club was free to deal with children 'as it wanted'*" (CAS 2016/A/4785 at para. 61).

90. Therefore, the Sole Arbitrator is of the view that the Appellant had the duty to comply with the substantive principles of Article 19 RSTP even for those players that were never registered with the FA but only as CFC academy players and/or with the PL (*i.e.* players 25, 30, 36, 37, 43, 51, 57, 61, 65, 68, 70, 71, 72, 75, 77, 78, and 84). As a consequence, the Sole Arbitrator cannot uphold the Appellant's primary position in regard to those players.

d. "De facto" registration not sustained under the FIFA regulations and is not sufficient to find a violation of Article 19, paras. 1 or 3 RSTP

91. FIFA argues that a player's participation in "organised football" prior to or without any registration can be considered as a "*de facto*" registration and is enough to trigger Articles 19.1 and 19.3 RSTP.

92. Preliminarily, the Sole Arbitrator points out that, as will be seen *infra* at paras. 129-151, only two of the minor players for whom the Club was found by the Appealed Decision to have

violated Article 19, paras. 1 or 3, RSTP actually participated in "organised football" prior to or without ever having been registered (players nos. 2 and 6). The remaining 25 players did not do so, and, therefore, the question of whether or not a "*de facto*" registration triggers paras. 1 and 3 of Article 19 RSTP is not at issue in relation to them.

93. In any event, the Sole Arbitrator does not concur with FIFA's position. In the Sole Arbitrator's view, a player's trial at a club or participation in some form of football without any form of registration – not even with a club's academy, league or regional association – does not equate to an international transfer or registration of a player under paras. 1 and 3 of Article 19 RSTP, even if it could be considered "organised football" under Article 5.1 RSTP.

94. There is, in fact, no language whatsoever in Article 19 RSTP (or in any other provision of the FIFA regulations for that matter) to sustain that the prohibition of paras. 1 and 3 of Article 19 RSTP applies to participation in "organised football" by unregistered players, to be construed as a "*de facto*" registration. Paras. 1 to 3 of Article 19 RSTP only make mention of an "international transfer" and a "registration". As already held (supra at paras. 85 *et seq.*), the Sole Arbitrator accepts that the substantive notions of "international transfer" and "registration" set out by those provisions do not necessarily require a formal registration with a national association, even a less formalized registration with a club's academy, league or regional association being sufficient. However, the language of Article 19 RSTP cannot be stretched to the point of encompassing a notion of "*de facto*" registration that is inherently vague and unpredictable. As already stated (*supra* at para. 85), the Sole Arbitrator is of the view that the test to find an international transfer or first registration of a minor player, for the purposes of paras. 1 to 3 of Article 19 RSTP, must be the existence of some written form of registration that can objectively denote a reciprocal and sufficiently stable commitment on the part of both the minor player and the club.

95. Nor is this concept of "*de facto*" registration supported by CAS jurisprudence. On the contrary, the CAS has explicitly rejected the concept in the *Real Madrid* award at para. 72 and it did not deal with the concept at all in the *Atlético Madrid* or *Barcelona* awards, given that, in those cases, the players concerned had been registered with the clubs' academies and the competent regional associations, the *Federación de Fútbol de Madrid* (FMM) and the *Federació Catalana de Fútbol* (FCF).

96. The Sole Arbitrator notes in this regard that the FIFA Appeal Committee relied on the last part of the above cited quote from para. 166 of the *Atlético Madrid* award – "*the Panel does not deem it necessary that minor players are registered with the national association concerned, but that the players have participated in organised football*" (see *supra* at para. 88, emphasis added) – to support that an "actual" registration is not necessary. However, that quote must be read in its full context. The quote was a response to the club's argument that it could not be sanctioned because the players were never registered with the RFEF but only with the competent regional association (the FMM), due to the applicable regulatory framework in Spain. The panel held that the absence of a direct registration with the national association "*does not take away the Club's duty to ensure that no minor players are registered with it in violation of the substantive requirements of article 19 FIFA RSTP*" (CAS 2016/A/4805 at para. 74). Therefore, the *Atlético Madrid* award – properly read in light of the facts of that case – did not go as far as to hold, as FIFA suggests, that participation in

some football matches while on trial with a club, without any registration whatsoever, is sufficient to trigger paras. 1 or 3 of Article 19 RSTP. On the contrary, the *Atlético Madrid* award must be read – keeping in mind that the concerned players were all registered with that club's academy and the FMM – in the sense that minor players must have gone through some form of registration with the club which can objectively denote a reciprocal and sufficiently stable commitment on the part of both the club and the player (as occurs for example in the case of registration with a club's academy, league or regional association). In other words, such reference in the *Atlético Madrid* award to "*organised football*" must not be read as coinciding with the notion of organised football provided by Article 5.1 RSTP.

97. Accordingly, the Sole Arbitrator rejects the Appealed Decision's holding that the prohibition on the international transfer and first registration of a minor embedded in Article 19 RSTP extends to situations when a player is training or trialling with a club and is not yet registered by it. In the Sole Arbitrator's opinion, to trigger paras. 1 and 3 of Article 19 RSTP some form of actual registration of the minor player with the club (even if not yet with the national association) is necessary.

98. FIFA further contends, as held in the Appealed Decision, that limiting the application of Article 19 RSTP to those cases where a mere administrative step (*i.e.* the formal registration of a player) has occurred would be incompatible with and contravene the "spirit" of Article 19 RSTP which is to "*prevent minors from leaving their country, their family and their home for purely sporting reasons*" and to "*protect and guarantee the adequate and healthy development of minors, which must always prevail over purely sporting interest*". In FIFA's view, such an interpretation would grant the clubs a "*carte blanche*" and allow them to recruit and keep minors on their squads without ever having to register them, meeting any of the exceptions of Article 19.2 RSTP or seeking/obtaining approval for the move from the competent body. In this regard, FIFA expresses its concern for the alleged *modus operandi* of the Appellant, under which minors underwent "trials" lasting a "significant amount of time" and participated in "organised football" without being registered.

99. However, the Sole Arbitrator finds that the general underlying purpose sought and the interests protected by Article 19 RSTP do not afford FIFA the license to interpret the provision solely from a purposive standpoint, while disregarding the literal meaning of the language used, in order to extend its reach to apply to other situations. As explained *supra* (at paras. 73 to 75), under Swiss law the proper interpretation of a statutory provision calls for an analysis of its literal meaning, of course assisted by other interpretive criteria if needed; the literal interpretation cannot simply be discarded and replaced by a merely purposive interpretation, as FIFA attempts to do.

100. Barring a clear indication that Article 19 paras. 1 to 3 RSTP were meant to apply to situations of players lacking of any form of registration, any unwanted consequences from the application of the rules as drafted do not afford FIFA the license to alter those rules through interpretation. If FIFA wishes to extend the scope of Article 19, paras. 1 to 3, RSTP to include such situations, to place certain limits on the period of a trial, or to outright forbid trials by foreign minor players at clubs, it should explicitly state so in the FIFA regulations.

101. As the provisions are currently written, however, it is clear that where a club takes on a player on a limited basis only (*i.e.* as a trial player still registered with the previous club or not registered with any association), it is not required to meet one of the exceptions under paras. 2 or 3 of Article 19 RSTP, even if the player participated in some form of football outside of the national association (as did some of the minor players under scrutiny in the case at hand). Such participation would not give rise to a breach of paras. 1 or 3 of Article 19 RSTP, but only, if any, to a breach of Article 5.1 RSTP, as will be discussed *infra* at paras. 129-151. This conclusion is in line with an *obiter dictum* expressed in CAS 2011/A/2354, where the panel, while rejecting the appeal of a minor player because it was not proven that his transfer was due to non-football reasons, declared that this denial merely postponed his possibility to obtained an ITC and that in the meanwhile he could keep training and playing non-official football with the new club: "*Although he is not allowed to play football in professional matches until he reaches 18th year, he is allowed to play football and train with his team*" (para. 27).

e. On the registration of U-12 and U-10 players

102. The Appellant argues that it cannot be found in breach of paras. 1 or 3 of Article 19 RSTP for U-12 players internationally transferred or registered before FIFA issued Circular 1468, because it was the common understanding and practice of FIFA, as reflected in the *Real Madrid* and *FC Girondins de Bordeaux* awards, as well as of the FA and the clubs, that clubs were not required to verify compliance with Article 19 RSTP for minors of that age group. The Appellant also contends that Article 19 RSTP does not apply to U-12 minors pre-Circular 1468 or U-10 minors post-Circular 1468 because the FA never instituted a system to verify whether international transfer or first registration of minors by English clubs met one of the exceptions of Article 19, paras. 2 or 3, RSTP; the Appellant is adamant that had such a procedure existed, it would have duly complied with it.

103. The Sole Arbitrator accepts, as a matter of fact, that the FA never instituted a verification procedure. Indeed, there is no evidence on the record to support that such a procedure has ever existed at that national association. The Sole Arbitrator also confirms, as is undisputed by the Parties, that FIFA did not have a verification procedure for U-12 players before Circular 1468 and U-10 players after Circular 1468, as the Sub-Committee only reviewed applications related to players between the ages of 12 and 18 before Circular 1468 and players between the ages of 10 and 18 after Circular 1468.

104. However, as said, the fact that neither FIFA nor the FA had a procedural mechanism to verify compliance with Article 19, paras. 1 to 3, RSTP for U-12 players before Circular 1468 and U-10 players after Circular 1468 does not relieve the Appellant of any substantive violations which it may have committed with regard to the U-12 or U-10 players it registered. It only means that the Appellant could not have committed a procedural violation, as it would be illogical (and incompatible with the principle of legality) to hold a club liable for not complying with a non-existent procedure. The Appellant remains liable for any violations of paras. 1 to 3 of Article RSTP because, as explained *supra* at para. 76 *et seq.*, those provisions are *substantive* in nature and independent of any procedural requirements. As said, the Appellant had (and has) an obligation, irrespective of any procedural issues, to comply with those substantive provisions and, in the absence of a procedure established by the FA, had a

duty to self-assess whether it was compliant with the substantive requirements and subject to liability if it failed to do so.

105. The Appellant's obligation to comply with the substantive requirements of Article 19 RSTP is also unaffected by Article 9 RSTP, which does not require an ITC for U-12 players before the amendment to the RSTP of 1 March 2015 and for U-10 players since said amendment. On this point, the Sole Arbitrator fully adheres to the finding in the *Barcelona* award, which held as follows:

> "*The scope of Art.19 RSTP is different from that of Art. 9 RSTP. Whereas Art. 19 RSTP imposes a general prohibition of the transfer for all minors under the age of 18, Art. 9.4 RSTP (Edition 2010), refers to the (absence of) an obligation to issue an ITC for players below the age of 12. Absent this provision (Art. 9.4 RSTP), an ITC would have to be issued even for transfers of players below the age of 12. The issuance (or lack) of an ITC does not however, eliminate the obligation to observe the in principle transfer ban for under-aged players. It only addresses the question of the 'procedural vehicle' necessary to make a transfer happen. The substantive conditions for legal transfer of under-aged players (players below 18 irrespective whether they are above or below 12) are explained in Art. 19 RSTP, and not in Art. 9 RSTP. Thus, players under 12 can be transferred only if the club requesting registration has proven that it complies with the requirements embedded in Art. 19.2 RSTP. An interpreter, like this Panel, must privilege the interpretation that allows the various provision in a statute to coexist, and cannot and should not interpret one provision so as to eliminate the scope of another one (*ut re[s ma]gis valeat quam pereat*). This maxim, which guides all interpreters precisely because an interpreter is an agent entrusted with the interpretation of a statute, and not a principal entrusted with law-making and enactment of statutes, leads us to the following construction: no ITC was required when the transfers occurred for players below the age of 12; their transfer nevertheless, can only be lawful if it complies with the requirements embedded in Art. 19.2 RSTP. In this way, both provisions (Art. 9.4 and Art. 19.2 RSTP) can enjoy their scope*" (para. 9.8 of CAS 2014/A/3793).

106. Then, with regard to U-10 players, the Appellant argues that, assuming Circular 1468 is binding on the national associations (something which, according to the Appellant, the FA contests), FIFA, in delegating to the national associations the duty to verify a club's compliance with Article 19, paras. 1 to 3, RSTP for players of that age group, stripped itself of the jurisdiction to impose sanctions on clubs for non-compliance with those provisions.

107. The Sole Arbitrator rejects this Appellant's submission. In the Sole Arbitrator's view, FIFA never relinquished its disciplinary power to sanction breaches of Article 19, paras. 1 and 3, RSTP; it only left to the national associations the procedural task to verify and ensure compliance therewith for players below a certain age. Indeed, Circular 1468 reads in the relevant part that "*if a member association intends to register players under the age of 10 (currently 12), despite the fact that no ITC and no application to the sub-committee appointed by the Players' Status Committee will be required, it is all the more the responsibility of this association to verify and ensure that the requirements for the protection of minors established in Art 19.2 of the Regulations are met*" (emphasis added). The Sole Arbitrator takes no position on whether Circular 1468 actually obliges the national

associations to institute a verification procedure for U-10 players, as this is out of his remit, but has no doubt that Circular 1468 makes no mention of FIFA renouncing its disciplinary powers in relation to Article 19 RSTP for players of that age group.

108. In light of the above, the Sole Arbitrator holds that the general prohibition on the international transfer and first registration of minors, embedded in paras. 1 and 3 of Article 19 RSTP, does apply to U-12 minors registered pre-Circular 1468 and U-10 minors registered post-Circular 1468, and that FIFA never waived its disciplinary remit in that respect. As such, the international transfer or first registration of U-12 or U-10 players with the Appellant requires that they satisfy one of the exceptions set forth by paras. 2 and 3 of Article 19 RSTP.

f. Sole Arbitrator's right to review whether an exception set forth by paras. 2 and 3 of Article 19 RSTP applies

109. FIFA argues that the CAS is not the proper forum for, and thus is not entitled to, review whether one of the exceptions of Article 19, paras. 2 and 3, RSTP applies to any of the players registered with the Appellant. In its view, the only body competent to verify whether one of those exceptions applied was the Sub-Committee and, for players under the age of 10 (or 12 prior to Circular 1468), the relevant national association (*i.e.* the FA). FIFA believes that at this stage, since the Appellant did not go before those bodies, the CAS cannot retroactively verify whether an exception applied.

110. The Sole Arbitrator rejects FIFA's position for the reasons to follow.

111. As a starting point, the Sole Arbitrator recalls, as stated *supra* at para. 76 *et seq.*, that there is a clear distinction between the substantive provisions of Article 19 RSTP (paras. 1 to 3) and the procedural Article 19.4 RSTP. Thus, if a player were to be registered with a national association prior to obtaining the approval of the competent body, it would only be in violation of Article 19.4 or its counterpart in the procedure established at national level.

112. A failure by a club to observe the proper procedure would not, however, automatically give rise to a substantive violation of Article 19, paras. 1 and 3, RSTP, or mean that one of the substantive exceptions of Article 19.2 RSTP or the Five-year Rule under Article 19.3 RSTP did not apply to the player concerned. FIFA would have to prove separately that the club breached the general prohibition on the international transfer and first registration of minors. By the same token, concluding that a club did not commit a substantive violation of para. 1 or 3 of Article 19 RSTP would not automatically mean that the club did not commit a procedural violation of Article 19.4 RSTP, as rightly held in the *Atlético Madrid* award at paras. 178-179.

113. As correctly acknowledged by FIFA, the present proceeding is of "*purely disciplinary nature*" and may only "*focus on the breaches of the RSTP*" allegedly committed by the Appellant. As a disciplinary case arising from FIFA's decision to hold the Appellant in breach of paras. 1 and 3 of Article 19 RSTP, the Sole Arbitrator must assess whether the Appellant has breached those substantive provisions in relation to 27 players. In order to do so, it must also determine whether any of those players met one of the possible exceptions.

This is because the general ban on the international transfer and first registration of minors does not apply if an exception to that ban applies.

114. Such an assessment does not constitute a "retroactive approval" or attempt at a "second and belated opportunity" to obtain approval under Article 19.4 RSTP, as suggested by FIFA. The Sole Arbitrator is in full agreement with FIFA that granting a "retroactive approval" is beyond his scope of review since it may only be issued by the Sub-Committee or by an appellate body (*e.g.* the FIFA Appeal Committee or the CAS) upon appeal therefrom. However, in evaluating *de novo* whether any substantive breach was committed by the Appellant, the Sole Arbitrator is not granting a retroactive approval. This FIFA's submission is misplaced because it is based on (i) the flawed premise that non-compliance with the procedural rules of Article 19.4 RSTP necessarily implies a violation of the substantive provisions as well, and (ii) a conflated approach to procedural and substantive aspects of Article 19 RSTP.

115. The Sole Arbitrator is of the opinion that it is fully within his scope of review to assess – in the context of analysing if the Appellant committed any substantive breach of Article 19 paras. 1 or 3 RSTP and, thus, if and to what extent the sanctions imposed by FIFA can stand – whether any of the exceptions of paras. 2 and 3 RSTP applied to any of the players. If in making this assessment the Sole Arbitrator were to hold that there is enough evidence to show that an exception could be applied to a player, then he would find that no substantive violation was committed in relation to that player. In other words, a violation of the substantive prohibition of international transfer or first registration of a minor set forth by paras. 1 to 3 of Article 19 can only exist, and hence be sanctioned, if that minor is not entitled to any of the exceptions embedded in those same rules.

g. No specific evidence is necessary to establish an exception

116. FIFA argues that, in any event, to establish an exception for a minor player, the Club should put forward in this arbitration exactly the same documents required by Annexe 2 RSTP for an application to the Sub-Committee under Article 19.4 RSTP. In other words, according to FIFA, Annexe 2 RSTP sets out the minimum mandatory evidence required to prove an exception under paras. 2 or 3 of Article 19 RSTP. The Sole Arbitrator is unpersuaded by this argument.

117. The Sole Arbitrator first observes that for an application under Article 19.4 RSTP for an approval of an international transfer or first registration of a minor, an association must submit certain documents from the list provided in Article 5.2 of Annexe 2 RSTP. The ones relevant to the present cases would be, for example, the proof of identity and nationality of the player and his or her parents, birth certificate, employment contract of the parents, work permit of the parents, proof of residence of the player and his or her parents, documentation of academic education, documentation of football education, and documentation of accommodation/care. According to Article 5.3 of Annexe 2 RSTP: "*An application will only be processed if all obligatory documents have been submitted*". This clearly reveals that the submission of those documents is a procedural precondition for the admissibility of an application under Article 19.4 RSTP, and not an absolute evidentiary requirement to prove the substantive entitlement to an exception.

118. While certainly required in the context of an application under Article 19.4 and Annexe 2 RSTP, submitting the aforementioned documents in the present case to the Sole Arbitrator is not mandatory, since he is not tasked with reviewing an application for approval thereof, but with assessing whether, in the context of deciding whether the Club committed any substantive breach under paras. 1 to 3 of Articles 19 RSTP, one or more of the exceptions provided therein can apply to the players. The Sole Arbitrator is free, to the extent allowed by the applicable standard of proof (see *supra* at paras. 57-62), to make such an assessment with whatever documents are in the CAS file before him and is not constrained by the procedural precondition of Article 5.3 of Annexe 2 RSTP; accordingly, missing documents from the list set out in Annexe 2 RSTP cannot automatically lead to the conclusion that none of the exceptions apply. The Sole Arbitrator must examine the actual evidence provided by the Club in order to determine, to his comfortable satisfaction, whether each of the 27 players concerned meets one of the substantive exceptions and thus, ultimately, whether the Appellant violated the substantive prohibitions of paras. 1 or 3 of Article 19 RSTP in relation to each of them.

h. Assessment of the individual situations of the concerned players

119. Having established the above legal concepts, the Sole Arbitrator shall make an assessment of the individual cases by examining the evidence provided by the Club for each of the 27 players in respect of whom the Appealed Decision found a violation of either para. 1 or para. 3 of Article 19 RSTP.

120. The Sole Arbitrator begins with the 16 players that were registered as U-12 players prior to Circular 1468 or as U-10 players post-Circular 1468. As held *supra* at para. 102 *et seq.*, the Appellant had a duty to comply with the substantive obligations of Article 19 RSTP in relation to these players. Therefore, and in light of the fact that FIFA has met its burden of proving that all of them were minors at the time of their registration with the Appellant, if the Appellant cannot prove to the standard of comfortable satisfaction that the players met an exception under paras. 2 or 3 of Article 19 RSTP, then it must be held in violation of para. 1 or 3 of Article 19 RSTP.

121. Preliminarily, as to all 16 players, the Sole Arbitrator notes that none of them were registered with the FA; they were either registered as a CFC academy player with the PL, or, in the case of player 65, only with the CFC Center of Excellence. Notwithstanding, as held supra at para. 85 *et seq.*, Article 19, paras. 1 to 3, RSTP encompasses the international transfer and first registration of minors with a club's academy or a league or a regional association, and is not limited to cases where the minor is registered with the national association. Additionally, none of them participated in "organised football" prior to their registration (but, in any case, as determined *supra* at para. 91 *et seq.*, such participation would not have given rise to a violation of Article 19, paras. 1 or 3 RSTP). Finally, the Sole Arbitrator recalls that he can make his determination based on the evidence before him, even if some of the documents listed in Article 5.2 of Annexe 2 RSTP have not been provided by the Appellant (see *supra* at para. 116).

122. In analysing each of the players' situations the Sole Arbitrator comes to the following conclusions:

(i) Player 25 (born on [redacted]): This player, of French nationality, was registered as a CFC academy player with the PL at the age of 9 on [redacted], following Circular 1468. He was previously registered with the French Football Association. The Appellant explained that in the case that its primary position that Article 19 RSTP does not apply to U-10 minors fails (which it has), it admitted a breach of Article 19.1 RSTP. As the Appellant has not submitted any claim or evidence that this player qualified for an exception under Article 19.2, the Sole Arbitrator holds that the Appellant breached Article 19.1 RSTP in relation to player 25.

(ii) Player 30 (born on [redacted]: This player, of [redacted] nationality, was registered as a CFC academy player with the PL at the age of 9 on [redacted] prior to Circular 1468. He was previously registered with the [redacted] Football Association. The Appellant claims that the player's parents moved from [redacted] to the U.K. for non-football reasons and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. [redacted] The Sole Arbitrator finds that the submitted evidence is not enough to support this account to his comfortable satisfaction. In fact, the Appellant has submitted an affidavit of the mother, which is unsubstantiated by any persuasive evidence that the move to the U.K. also involved the father and was unrelated to football. Therefore, the Sole Arbitrator is not comfortably satisfied that this player can qualify for an Article 19.2 RSTP exception and, as a result, holds that the Appellant violated Article 19.1 RSTP in reference to player 30.

(iii) Player 36 (born on [redacted]): This player, of German nationality, was registered as a CFC academy player with the PL on [redacted] at the age of 10 prior to Circular 1468. He was not previously registered with any association. The Appellant submits that the player meets the Five-year Rule under Article 19.3 RSTP. In view of the ample evidence submitted, the Sole Arbitrator is comfortably satisfied that this player had indeed been living continuously in the U.K. for at least the last five years prior to his registration, and actually since the age of 1. In particular, the Appellant has provided letters from local nurseries and schools showing the player's continuous enrolment as a pupil between October 2007 and July 2015. In response, FIFA only made a generic and unsubstantiated rebuttal: "*The Appellant failed to prove, beyond any reasonable doubt and before the competent body, that when the player joined the club, he would have met the exception under Article 19(3) RSTP*". In light of the above, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP and, as a result, that the Appellant did not violate that provision with regard to player 36.

(iv) Player 37 (born on [redacted]): This player, of Lithuanian nationality, was registered as a CFC academy player with the PL at the age of 8 on [redacted]

[redacted] following Circular 1468. He was not previously registered with any association. The Appellant submits that this player meets the Five-year Rule under Article 19.3 RSTP. The Sole Arbitrator finds that there is sufficient evidence to prove to his comfortable satisfaction that player 37 had been living continuously in the U.K. for five years prior to his registration and, actually, since his birth. In particular, the Appellant has provided letters from local schools showing the player's continuous enrolment as a pupil between 2010 and 2018. In response, FIFA only made a generic and unsubstantiated rebuttal (the same quoted above in relation to player 36). In light of the above, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP and, as a result, that the Appellant did not violate that provision in reference to player 37.

(v) Player 43 (born on [redacted]): This player, of German nationality, was registered as a CFC academy player with the PL at the age of 8 on [redacted], prior to Circular 1468. He was previously registered at the German Football Association. The Appellant claims that the player's parents moved to the U.K. for non-football reasons and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. However, the Sole Arbitrator observes that the only evidence submitted by the Appellant in support of its claim is the player's "*Premier League Football Academy Student Registration Application*" (a "PL Registration Application Form") signed on [redacted], in which it is written that he was living and attending school in the U.K at the time. The Sole Arbitrator finds that the fact the player was allegedly living in London and enrolled in school there one month prior to joining the Appellant does not prove to his comfortable satisfaction that his family moved to England for reasons not related to football. Therefore, the Sole Arbitrator holds that the player did not qualify for an Article 19.2(a) RSTP exception, and, as a result, that the Appellant violated Article 19.1 RSTP in reference to player 43.

(vi) Player 51 (born on [redacted]): This player, of Algerian nationality, registered as a CFC academy player with the PL at the age of 8 on [redacted], following Circular 1468. He was not previously registered with any association. The Appellant submits that the player meets the Five-year Rule under Article 19.3 RSTP. The Sole Arbitrator finds that there is sufficient evidence to prove to his comfortable satisfaction that the player had been living continuously in the U.K. for five years prior to his registration. In particular, the Appellant has provided letters from local schools showing the player's continuous enrolment as a pupil between January 2012 and January 2019. In response, FIFA only made a generic and unsubstantiated rebuttal (the same quoted above in relation to player 36). In light of the above, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP and, as a result, that the Appellant did not violate that provision in reference to player 51.

(vii) Player 57 (born on [redacted]): This player, of French nationality, was registered as a CFC academy player with the PL at the age of 8 on [redacted], prior to Circular 1468. He was not previously registered with any association. The Appellant submits that the player meets the Five-year Rule under Article 19.3

RSTP. The Sole Arbitrator finds that the Appellant has submitted sufficient evidence to prove to his comfortable satisfaction that the player had indeed been living continuously in the U.K. for the five years prior to his registration, and actually since birth. In particular, the Appellant has provided letters from local nurseries and schools showing the player's continuous enrolment as a pupil between 2006 and 2016. Moreover, he is the brother of player 77, for whom the evidence related to the family is also comfortably satisfying and corroborates player 57's position. In response, FIFA only made a generic and unsubstantiated rebuttal (the same one quoted above in relation to player 36). In light of the above, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP (and probably could also qualify for an Article 19.2(a) RSTP exception) and, as a result, that the Appellant did not violate that provision in reference to player 57.

(viii) Player 61 (born on [redacted]): This player, of U.S. nationality, registered as a CFC academy player with the PL at the age of 11 on [redacted] prior to Circular 1468. He was not previously registered with any association. The Appellant claims that the player's parents moved to the U.K. for non-football reasons and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. In support of its claim, the Appellant submitted: (a) emails between the player's mother and [redacted] dated [redacted], confirming acceptance of a job offer with the company in London; (b) the formal job offer letter from [redacted] to the player's mother dated [redacted]; (c) the letter confirming that the job was to commence in [redacted] London on [redacted]; and (d) a tenancy agreement entered into by the player's parents for a property in Ealing, London. The agreement confirms the start date of the tenancy as 27 June 2014. FIFA argues that the Appellant failed to prove that *both* parents moved to England. However, the lease agreement was entered into by both parents. In light of the above evidence, the Sole Arbitrator is comfortably satisfied that this player did qualify for an Article 19.2(a) RSTP exception and, as a result, that the Appellant did not violate Article 19.3 RSTP in reference to player 61.

(ix) Player 65 (born on [redacted]): This player, of [redacted] nationality, is the sister of player 30. She registered with the Appellant in the CFC Center of Excellence at age of 7 in [redacted], prior to Circular 1468. The player was not previously registered at any association. The Appellant claims that the player's parents moved to the UK for non-football reasons, and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. The Appellant relies on the same unsubstantiated affidavit from the mother submitted in the case of player 30 and provides little and inconclusive additional evidence (in particular, the exhibited [redacted]'s letter does not specify since when she attended school there). Therefore, the Sole Arbitrator is not comfortably satisfied that this player could qualify for an Article 19.2(a) RSTP exception, and, as a result, holds that the Appellant violated Article 19.3 RSTP with regard to player 65.

(x) Player 68 (born on [redacted]: This player, of Canadian nationality, was registered as a CFC academy player with the PL at the age of 9 on [redacted]

[redacted] prior to Circular 1468. He was previously registered with the Canadian Soccer Association. The Appellant claims that the player's parents moved to the U.K. for non-football reasons and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. However, the Sole Arbitrator observes that the only evidence provided in support of that claim is the player's PL Registration Application Form (filled out by the Club and the player's father) signed on [redacted] in which it is written that he was living in the U.K and enrolled in a school there at the time, and a screenshot from the website of a Canadian company ([redacted] with offices in Canada, the U.S. and London) declaring that the player's father was the president and "*responsible for ... the Company's expansion into the EMEA market*". In the Sole Arbitrator's view, the fact that this player's father was the company president and was responsible for the Europe, Middle East and Africa markets does not prove that the father was residing in the U.K. The Sole Arbitrator also notes that there is no information on the mother. The Sole Arbitrator thus concludes that there is insufficient evidence on this player's transfer to prove to his comfortable satisfaction that it was unrelated to football. In light of the above, the Sole Arbitrator holds that the player did not qualify for an Article 19.2(a) RSTP exception, and, as a result, that the Appellant did violate Article 19.1 RSTP in reference to player 68.

(xi) Player 70 (born on [redacted]): This player, of French nationality, was registered as an academy player of CFC with the PL at the age of 8 on [redacted] prior to Circular 1468. He was not previously registered with any other association. The Appellant submits that the player meets the Five-year Rule under Article 19.3 RSTP. In support of its claim, the Appellant submitted (i) a passport from May 2007 which cited a UK address as the player's residence, and (ii) his parents' title to a house (worth GBP [redacted] at that address. Additionally, the player's father is a well-known professional footballer who played for the [redacted] first team from [redacted] to [redacted] In light of this evidence, the Sole Arbitrator is comfortably satisfied that player 70 lived continuously in the U.K. for five years prior to his registration (and that he moved to England with his parents for reasons not linked to his own football career). Therefore, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP (and could qualify as well for the exception of Article 19.2(a)) and, as a result, that the Appellant did not violate that provision in reference to player 70.

(xii) Player 71 (born on [redacted]): This player, of U.S. nationality, was registered as a CFC academy player with the PL at the age of 8 on [redacted] following Circular 1468. He was not previously registered with any association. The Appellant submits that the player meets the Five-year Rule under Article 19.3 RSTP. The Sole Arbitrator finds that there is sufficient evidence to prove to his comfortable satisfaction that the player had been living continuously in the U.K. for five years prior to his registration. In particular, the Appellant submitted: (i) the first page of an employment contact between [redacted] and the player's father dated [redacted] (which converted at the end of the fixed term to a standard employee contract with a 12-month notice period), and (ii) title deeds to a property in Surrey owned by the parents (whose address matches the address

listed in the player's PL Registration Application Form as his residence). In light of this evidence, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP and, as a result, that the Appellant did not violate that provision in reference to player 71.

(xiii) Player 72 (born on [redacted]): This player, of Jamaican nationality, was registered as a CFC academy player with the PL at the age of 8 on [redacted], prior to Circular 1468. The player was not previously registered with any association. The Appellant claims that the player's parents moved to the U.K. for non-football reasons (at an indeterminable time but no later than 4 August 2006) and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. In support of its claim, the Appellant submits (i) the player's parents' title deeds to a property in London purchased on 4 August 2006, *i.e.* almost four years before the player's registration, whose address matches the one reported on the player's PL Registration Application Form signed on [redacted] and (ii) a copy of the player's *'[indefinite] leave to remain'* residence permit dated 9 September 2009 (which, as claimed by the Appellant and unrebutted by FIFA, under English law requires a demonstration that he resided in the U.K for a qualifying period of time, usually 5 years). Based on this evidence, the Sole Arbitrator is comfortably satisfied that the player's parents moved to the U.K. for non-football reasons. In particular, the Sole Arbitrator finds that that the player obtaining this type of U.K. residency (requiring a significant qualifying period of time) at the age of 7 and his registration with the club at the age of 8, after the family had purchased a home nearly 4 years before (when the player was only 5 years old), more than proves that the parents' move was for non-football reasons. In light of the above, the Sole Arbitrator holds that the player did qualify for an Article 19.2(a) RSTP exception, and, as a result, that the Appellant did not violate Article 19.3 RSTP in reference to player 72.

(xiv) Player 75 (born on [redacted]): This player, of Ivorian nationality, was registered as a CFC academy player with PL at the age of 8 on [redacted], following Circular 1468. He was not previously registered with any association. The Appellant submits that the player meets the Five-year Rule under Article 19.3 RSTP. The Sole Arbitrator finds that there is sufficient evidence to prove to his comfortable satisfaction that the player had been living continuously in the U.K. for five years prior to his registration. In particular, the Appellant submitted: (i) the player's passport which confirms that he was born in London, England on [redacted] (ii) a letter from the player's medical practitioner dated 14 March 2019 confirming that he had been registered as a patient since 26 May 2009, and (iii) letters and reports from local nurseries and schools confirming his continuous enrolment as a pupil from September 2012 until at least 2019. In response, FIFA only made a generic and unsubstantiated rebuttal (the same quoted above for player 36). In light of this evidence, the Sole Arbitrator holds that the player did qualify under the Five-year Rule of Article 19.3 RSTP and, as a result, that the Appellant did not violate that provision in relation to player 75.

(xv) Player 77 (born on [redacted]): This player, of French nationality, is the brother of player 57 and was registered as a CFC academy player with the PL at the

age of 8 on [redacted] prior to Circular 1468. He was not previously registered with any association. The Appellant submits that the player meets the Five-year Rule under Article 19.3 RSTP. In support of the claim, the Appellant has submitted (a) the player's PL Registration Application Form signed by the player and his father on [redacted] in which it is written that he was living and attending school in the U.K at that time, (b) the parents' title deeds to a house purchased in 2004 (i.e. 6 years before his registration with the Appellant), whose address matches that on the player's PL Registration Application Form, and (c) a letter from the mother's employer – [redacted] confirming that his mother had been employed at the company since [redacted] (with a short break between [redacted] and [redacted] "*to move further into London*"). In addition to this evidence, the Sole Arbitrator notes that (d) the evidence related to the player's brother (*i.e.* player 57) corroborates the Appellant's position on this player 77, as it is proven that his mother and brother lived continuously in the U.K. since 2004, *i.e.* 6 years before player 77's registration with the Appellant, and FIFA only made a generic and unsubstantiated rebuttal (the same one quoted above in relation to player 36). In light of the above, the Sole Arbitrator is comfortably satisfied that player 77 was entitled to the exception provided by the Five-year Rule of Article 19.3 RSTP (and probably could also qualify for the exception provided by Article 19.2(a) RSTP); as a result, the Appellant did not violate Article 19.3 RSTP in reference to player 77.

(xvi) Player 84 (born on [redacted]): This player, of Belgian nationality, was registered as a CFC academy player with the PL at the age of 8 on [redacted], prior to Circular 1468. The Appellant claims that the player's parents moved to the U.K. for non-football reasons and, thus, that the player is entitled to an exception under Article 19.2(a) RSTP. The Sole Arbitrator observes, however, that the only supporting evidence is the player's PL Registration Application Form signed on [redacted] in which it is written that he was then living and attending school in the U.K. The Sole Arbitrator is of the view that a mere application form, filled out by the Club and the player's father, cannot prove that the player was actually living in London and enrolled in school there prior to joining the Appellant and, thus, does not prove that his family moved to England for reasons not related to football. In light of the above, the Sole Arbitrator holds that this player did not qualify for an Article 19.2(a) RSTP exception, and, as a result, that the Appellant did violate Article 19.3 RSTP in reference to player 84.

123. As for the remaining 11 players, the Sole Arbitrator will assess them in groups since many share the same relevant factual history. Preliminarily, however, the Sole Arbitrator notes that only two of them (players 2 and 6) participated in "organised football" prior to or without being registered with the FA. However, as determined *supra* at para. 91 *et seq.*, such participation does not give rise to a violation of Article 19, paras.1 or 3, RSTP. Indeed, the fact that some players trialled and played football for some time with the Club before or without any registration is irrelevant because the concept of "*de facto*" registration cannot be upheld under the current RSTP rules, not the least because it is an inherently unworkable and unpredictable notion.

124. The first group consists of six players (nos. 2, 4, 16, 20, 35, and 40) who were all (i) between the ages of 12 and 18 when they registered with the FA, (ii) previously registered with another national football association, and (iii) granted the approval of the Sub-Committee and issued an ITC prior to the Club's registration with the FA. For this group, the Sole Arbitrator holds that the Appellant did not breach Articles 19.1 RSTP because the players were properly registered with the FA following the approval of the Sub-Committee, thereby showing that in principle no substantive violation was committed.

125. The second group consist of two players (nos. 1 and 11) who were (i) previously registered with another national football association and (ii) registered with the FA at the age of 18. For this group, the Sole Arbitrator holds that the Appellant did not breach Article 19.1 RSTP because the players were registered as adults and, thus, did not require approval of the Sub-Committee.

126. The third group consist of two players (no. 6 and 27) who were previously registered with another national football association and never registered with the Appellant. The Sole Arbitrator holds that the Appellant did not breach Article 19.1 RSTP with respect to these players because they were never registered with the Appellant and, as such, were not subject to Article 19 RSTP.

127. Finally, there is player 78 (born on [redacted]). This player was registered on [redacted] as an academy player with the PL at the age of 13, at which time he was allegedly living in Oxfordshire. He is a British national but was registered with the Canadian Soccer Association as an amateur before his registration with the Appellant. Therefore, this was not a "first registration" of a national under 19.3 RSTP, but rather an international transfer under Article 19.1 RSTP. As such, the approval of the Sub-Committee was necessary. No such approval was sought and the player does not qualify for an Article 19.2 exception because the Appellant has not proven to the comfortable satisfaction of the Sole Arbitrator that his family moved to England for non-football reasons. The Appellant merely provides the player's "*Premier League Notification of Trialist's Particulars*" form, filled out by the Club and the player's mother, which states that he was supposedly living in Oxfordshire at the time when he trialed and subsequently registered. The Appellant therefore violated Article 19.1 RSTP in relation to player 78.

128. In conclusion, the Sole Arbitrator confirms 5 out of the 15 violations of Article 19.1 RSTP found by the FIFA Appeal Committee (*i.e.* in relation to players 25, 30, 43, 68 and 78) and 2 out of the 12 violations of Article 19.3 RSTP found by the Appealed Decision (*i.e.* in relation to players 65 and 84). Therefore, the Sole Arbitrator holds that the Appellant breached paras. 1 or 3 of Article 19 RSTP in relation to 7 players and overturns the remaining 20 violations found by the Appealed Decision.

C. On the violations of Article 5.1 RSTP

129. Article 5.1 RSTP requires that a player be registered at a national association before participating in "organised football" (see the fully quoted provision *supra* at para. 48).

130. The FIFA Appeal Committee held that the Appellant breached this provision in 40 cases (players 1, 2, 4, 6, 7, 10, 11, 16, 19, 20, 24, 27, 28, 31, 34, 35, 36, 38, 40, 42, 47, 49, 51, 52, 53, 54, 55, 56, 57, 59, 60, 62, 63, 64, 68, 71, 75, 78, 156 and 162).

131. The Parties dispute whether the aforementioned players' participation in matches of the Foundation and Youth Development phases of the PLGP (*i.e.* the Premier League Games Programme) constitutes "organised football" so as to trigger a breach of Article 5.1 RSTP.

132. As a starting point, the Sole Arbitrator observes that all 40 players participated in PLGP matches. The Sole Arbitrator also notes that 21 of the players participated in matches described as "club to club" or "training game organised by CFC in house" (nos. 4, 7, 10, 11 19, 20, 27, 31, 35, 38, 40, 42, 49, 54, 55, 56, 59, 62, 64, 71, and 75), that is, matches privately organized by two clubs. Finally, certain players participated in series of other matches and competitions such as U-18 Premier League matches (players 2 and 6), the International Marveld tournament 2016 (player 24), the *Euro Miniementornooi Bierbeek* (players 49 and 63), the *Torneo delle Sirene* (players 52 and 63), the Madrid Football Cup (players 52 and 64), the *Coppa Angelo Queranghi* (player 52) and the Istria Youth Cup (player 54).

133. "*Organised football*" is an expression that is explicitly defined in the RSTP as follows: "*association football organised under the auspices of FIFA, the confederation and the associations, or authorised by them*" (Definition no. 6 RSTP).

134. In turn, Definition no. 16 of the FIFA Statutes so defines "*Association football*": "*the game controlled by FIFA and organised by FIFA, the confederations and/or the member associations in accordance with the Laws of the Game*".

135. First of all, the Sole Arbitrator observes that it is undisputed that the Appellant did not breach Article 5.1 RSTP for the players' participation in private "club to club" matches or training games organised by CFC in-house. Those matches are not "organised football" because FIFA itself concedes that those kinds of in-house training or *ad hoc* friendly matches, privately organized by the clubs, fall outside the scope of Article 5.1 RSTP.

136. The disputed issue is whether the PLGP matches fall under said definition of "organised football". Of course, the Appellant argues that they do not. In support, the Appellant submitted a written statement from Mr. Richard Garlick, the PL Director of Football, and called him to testify at the hearing. In short, Mr. Garlick testified *inter alia* the following:

    (i) As part of his role with the PL, he has been responsible for the organization and structure of the PLGP.

    (ii) In 2012, the PL introduced the Elite Player Performance Plan (EPPP) as part of a long-term strategy to encourage the development of young football players. The EPPP consists of four key functions, the PLGP, Education, Coaching and Elite Performance – which are aimed at providing a framework and basis for clubs to train and develop players, as opposed to creating a formal, competitive programme of football.

(iii) The EPPP is structured across three age-group phases: The first two phases are the Foundation Phase (for U-9 to U-11 players) and the Youth Development Phase (for U-12 to U-16 players) which are developmental in nature. Matches and competitions in these two phases are "training football". They do not have to be played in accordance with the IFAB Laws of the Game, are predominantly organised on a local level, have no competitive significance, do not have league tables or points at stake, and involve an array of atypical formats and features, involving different matters such as (i) the size of the pitch and/or ball, (ii) the number of players on each team which can even be unbalanced, (iii) the duration of games, (iv) substitution rules, (v) the amount and duration of playing periods, (vi) the use of "powerplay" rules where goals scored during randomly played intervals of music count as double, etc. The Foundation and Youth Development Phases hold several competitions with diverse match formats, including: (i) the Floodlit Cup (played under floodlights), 5-a-side futsal festivals, powerplay tournaments (played with "powerplay" rules), in and out of balance tournaments (played with different size pitches with unbalanced squads), and "Premier Five" tournaments (played in a 5-a-side format with rebound boards and roof nets). Such matches and competitions have the aim of allowing coaches to develop and assess players' skills in different contexts, rather than to create formal competitive football. The third phase of the EPP is the Professional Development Phase (for U-17 to U-23 players), which is formal, competitive football, set up in league and tournament formats, played at regional, national and international level and in accordance with the IFAB Laws of the Game, and intended to bridge the gap between youth football and the demands of senior competitions.

(iv) The PL sets up flexible fixtures for the Foundation and Youth Development Phase matches, establishing the suggested time and place for each match. However, the clubs are free to cancel matches without penalty and have no obligation to reschedule them. The clubs are also free, due to the adaptable framework of these phases, to set up the format and features of each match, with the host club having the ultimate say in the case of disagreement. In between scheduled matches, the clubs are also free to privately organize friendly matches between themselves (the private "club to club" matches referenced above).

(v) The FA does not authorize or sanction the matches played in the Foundation or Youth Development Phases of the PLGP, which include several types of tournaments or festivals. For each of these tournaments or festivals the PL sets certain rules and formats which are applicable in those contexts, always in a flexible context.

(vi) The FA only authorizes the Professional Development Phase of the PLGP, which comprises of the Premier League 2, the Professional Development League, the Premier League Cup, U18 Premier League, the U18 Professional Development League and the U-18 Premier League Cup.

(vii) The PL gives funding to Category 1 teams of the EPPP, including the Appellant. The FA is not contributing at the moment but traditionally used to do it.

137. The Sole Arbitrator is comfortably satisfied, based on Mr. Garlick's testimony, that PLGP matches do not constitute "organised football" under Article 5.1 RSTP.

138. In accordance with the definition laid out by FIFA rules (*supra* at 133), for a match to constitute "organised football" it must be (i) organised under the auspices of or authorized by a national association, a confederation or FIFA (in this regard, the Sole Arbitrator notes that Article 5.1 RSTP does not require a match to be both authorized by *and* organized under the auspices of the relevant body for it to constitute "organised football"; one or the other is sufficient), and (ii) considered "association football".

139. As for the first element, the Sole Arbitrator finds that PLGP matches are neither directly authorized by the FA nor organised under its auspices.

140. First, there is no evidence whatsoever on record to support that the FA directly or indirectly *authorizes* the Foundation and Youth Development Phases of the PLGP, *i.e.* the only PLGP matches relevant to this dispute. The Appellant has emphasised (as confirmed by Mr. Garlick's testimony) that the FA only authorizes the matches and competitions of the Professional Development Phase of the PLGP, nor has the Respondent submitted any rebuttal evidence.

141. Second, PLGP matches are not, in the Sole Arbitrator's view, organised "under the auspices" of the FA, but rather by the PL alone as a proxy for its clubs. On this point, FIFA does not dispute that it is the PL that organizes said matches; nevertheless, FIFA argues that the fact that the PLGP matches are organized by that league effectively means that they are, in turn, organized under the auspices of the FA.

142. In order to understand whether the term "under the auspices" extends as far as suggested by FIFA, the Sole Arbitrator must first determine the meaning of said term. As neither Article 5.1 RSTP nor, more generally, the FIFA regulations define "under the auspices", the Sole Arbitrator must turn to its common meaning in the English language (CAS 2007/A/1377, at para. 19 *et seq.*). The Oxford English dictionary defines it as "*with the help, support, or protection of someone or something*". Along almost identical lines, the Merriam-Webster dictionary defines it as "*with the help and support of (someone or something)*". Accordingly, for PLGP matches to be considered as "organised football" under Article 5.1 RSTP they need to be organised with the help, support or protection of the FA.

143. The Sole Arbitrator finds that PLGP matches are not organized in that manner; in fact, from the evidence submitted to the record, it appears that PLGP matches are organized without any involvement or specific help or support from the FA. The Sole Arbitrator recognizes that (i) the PL operates within the institutional framework of the FA, (ii) the FA is a special shareholder of the PL, (iii) the FA approves and sanctions the PL's rules in accordance with Article 20 of the FIFA Statutes ("*The statutes and regulations of these groups shall be approved by the member association*"), and (iv) the PL is subordinate to and recognized by the FA in accordance with the FIFA Statutes, which hold that a national association is "*responsible for organizing and supervising football in all of its forms in its country*" (Article 11.1) and that "*leagues [...] affiliated to a member association shall be subordinate to and recognized by that member association*" (Article 20). However, the Sole Arbitrator does not

consider that such relationship between the PL and FA is, in and of itself, sufficient to deem that anything organized or done by the PL is in turn organized or done "under the auspices" of the FA. The Sole Arbitrator is of the view that the FA must have some role with respect to a match or competition by providing help, support or protection to the PL for that match or competition to fall under the FA's auspices, of which no evidence has been submitted in the present case. In this respect, the Sole Arbitrator recalls that it is FIFA, under its own disciplinary rules (Article 99.1 FDC, see *supra* at para. 55), which bears the burden of proving that that PLGP matches constitute "organised football" as defined under the RSTP.

144. The second element for a match to be considered "organised football" is that it be "association football". In the Sole Arbitrator's opinion, it is clear from Mr. Garlick's testimony that PLGP matches are not "association football".

145. To be considered as such, a match must be played in accordance with the IFAB Laws of the Game. This is evident from the FIFA Statutes which define "association football" as "*the game controlled by FIFA and organised by FIFA, the confederations and/or the member associations in accordance with the Laws of the Game*" (emphasis added), and the "*Laws of the Game*" as "*the laws of association football issued by The IFAB in accordance with art. 7 of these Statutes*".

146. The Parties, however, disagree as to whether PLGP matches are played under the IFAB Laws of the Game. The Appellant argues that PLGP matches do not have to be played under the IFAB Laws of the Game, whereas FIFA contends that there is no evidence in support thereof and, in any case, modifications to the IFAB Laws of the Game are permissible and do not prevent a match from qualifying as "association football".

147. The Sole Arbitrator observes that it is true, as FIFA points out, that the IFAB Laws of the Game not only set the standard rules of play but also make room for the national associations to make certain modifications thereto. Indeed, the IFAB Laws of the Game state that "*national FAs (and confederations and FIFA) now have the option to modify all or some of the following organisational areas of the Laws of the Game for football for which they are responsible: For youth, veterans, disability and grassroots football: • size of the field of play • size, weight and material of the ball • width between the goalposts and height of the crossbar from the ground • duration of the two (equal) halves of the game (and two equal halves of extra time) • the use of return substitutes • the use of temporary dismissals (sin bins) for some/all cautions (YCs)*" (IFAB Laws of the Game, Section entitled "Modifications to the Laws", page 25). The Sole Arbitrator further observes that the modifications made may even go beyond those explicitly cited in the IFAB Laws of the Game, provided that the relevant national football association grants permission to the competition seeking the modifications. This is stated clearly in the IFAB Laws of the Game which so read: "*Permission for other modifications. National FAs have the option to approve different modifications for different competitions – there is no requirement to apply them universally or to apply them all. However, no other modifications are allowed without the permission of The IFAB. National FAs are asked to inform The IFAB of their use of these modifications, and at which levels, as this information, and especially the reason(s) why the modifications are being used, may identify development ideas/strategies which The IFAB can share to assist the development of football in other national FAs*" (*ibidem*, page 26).

148. However, the Sole Arbitrator is comfortably satisfied, based on the evidence before him, that PLGP matches do not have to be played in accordance with the IFAB Laws of the Game. As declared by Mr. Garlick in his unrebutted testimony, the format and features of each particular match or competition of the Foundation and Youth Development Phases of the PLGP is left in the hands of the participating clubs, and often go beyond the modifications permitted under the IFAB Laws of the Game, with for example, "power play" rules, unbalanced teams, rebound boards, etc., all without the FA's express permission or approval. The Sole Arbitrator considers the testimony of Mr. Garlick, who is responsible for the organization and structure of the PLGP, as sufficient evidence that this array of different formats and features are used in PLGP matches, and there is no evidence on the record indicating that a permission approving such atypical modifications to the Laws of the Game (i) has ever been requested by the PL or one of the PL clubs, (ii) has ever been granted by the FA, or (iii) has ever been requested from the IFAB.

149. In light of the above, the Sole Arbitrator holds that PLGP matches do not count as "organised football" under Article 5.1 RSTP and, therefore, that the Appellant did not breach that provision in relation to the 40 players who participated in such matches prior to or without ever registering.

150. Nevertheless, the Sole Arbitrator does not lift all the violations of Article 5.1 RSTP found by the FIFA Appeal Committee. Based on the evidence on record and taking judicial notice of the publicly available information on the competitions listed on each of the player's match records, the Sole Arbitrator confirms that 8 players (nos. 2, 6, 24, 49, 52, 54, 63 and 64) participated in other competitions that do qualify as "organised football" prior to or without ever registering with the FA. This includes:

- Players 2 and 6 in U-18 PL matches, which are sanctioned or authorized by the FA, as Mr. Garlick confirmed in his testimony;

- Player 24 in the International Marveld Tournament 2016, which is played in the Netherlands in accordance with the regulations and conditions of FIFA and the Dutch Football Association (KVNB);

- Players 49 and 63 in the *Euro Miniementornooi Bierbeek*, which is played in Belgium in accordance with the rules and regulations of the Belgian Football Association (KBVB);

- Players 52 and 63 in the *Torneo delle Sirene*, which is played in Italy in accordance with the IFAB Rules of the Game and under the auspices of the Italian Football Association (FIGC);

- Players 52 and 64 in the Madrid Football Cup, which is played in Spain in accordance with the rules of the Spanish Football Association (RFEF) and organized by the already mentioned regional association FFM under the auspices of the RFEF;

- Player 52 in the *Coppa Angelo Quarenghi*, which is organized in Italy under the auspices of the FIGC;

- Player 54 in the Istria Youth Cup, which is played in Croatia in accordance with the IFAB Laws of the Game and organized under the auspices of the Croatian Football Federation.

151. As the Sole Arbitrator has found that the above 8 players participated in "organised football" matches prior to registering with or without ever registering with the FA, the Sole Arbitrator holds that the Appellant violated Article 5.1 RSTP in those cases.

D. On the violations of Article 9.1 RSTP

152. Pursuant to Article 9.1 RSTP, players registered at one national association may only be registered at a new national association after the latter receives an ITC from the former national association (see the fully quoted provision *supra* at para. 49).

153. The FIFA Appeal Committee held that the Appellant breached this provision in 20 cases (players 1, 2, 4, 6, 7, 10, 11, 16, 19, 20, 28, 35, 38, 40, 52, 59, 60, 62, 63 and 78).

154. According to FIFA, all of the breaches of this provision must be upheld because the concerned players participated in "organised football" prior to their registration, a step which required obtaining an ITC. FIFA relies on the *Atlético Madrid* award which held that "*the Club's argument that article 9(1) FIFA RSTP cannot be violated because there is no duty to obtain an ITC if a player was never registered, but did participate in organised football, must be dismissed. Indeed, both the registration and the ITC are prerequisites for a player to be eligible to participate in organised football. A failure to obtain an ITC must therefore be regarded as a violation separate from the failure to validly register a player. By the same token, a club's failure to obtain an ITC prior to the participation of the player concerned in organised football must be considered as a violation of article 9(1) FIFA RSTP*" (see para. 306 of the award).

155. The Sole Arbitrator disagrees with the conclusion reached in the *Atlético Madrid* award on this point.

156. It is true that, according to Article 5 RSTP, in order to participate in "organised football" a player must first be "registered at an association", and that in the case of an international transfer, in order to be "registered at a new association", an ITC must be obtained pursuant to Article 9.1 RSTP. It logically follows then, as the *Atletico Madrid* award deduces, that in order to participate in "organised football" two steps must first be taken in relation to a player moving from a national association to another: (i) obtaining an ITC, and (ii) registering the player with the new association. However, the fact than an ITC is necessary for registration with a national association, which is, in turn, necessary to participate in "organised football" does not mean that Article 9.1 RSTP is breached when a player participates in "organised football" prior to obtaining an ITC. It is clear from the language of Article 9.1 RSTP, that a breach occurs only when the new association does not "*receive an ITC*" prior to the player's "*registrat[ion] at a new association*". Article 9.1 RSTP makes no mention whatsoever of a player's participation in "organised football" as being an element to finding a breach. Moreover, as held *supra* at paras. 91 *et seq.*, the concept of "*de facto*" registration is not

sustained by the FIFA regulations and, as held supra at paras. 129 *et seq.*, the concept of "organized football" does not extend as far as suggested by FIFA.

157. Therefore, an *actual* registration with the new association is necessary in order to trigger Article 9.1 RSTP, leaving it entirely irrelevant, in assessing whether a violation of that provision occurred, whether the concerned player participated in "organised football" prior to obtaining an ITC.

158. With this in mind, the Sole Arbitrator concludes the following:

(i) The fact that 4 of the players for which the FIFA Appeal Committee found a violation of Article 9.1 RSTP (nos. 2, 6, 52, and 63) participated in "organised football" prior to or without ever registering with the FA (see *supra* at para. 129 *et seq.*) is irrelevant in determining whether such violation occurred.

(ii) There is no indication that players 1, 2, 4, 7, 10, 11, 16, 19, 20, 35, 40, and 62 did not obtain an ITC prior to being registered with the FA. Therefore, the Sole Arbitrator holds that the Appellant did not commit a breach of Article 9.1 in relation to these players.

(iii) Players 6, 28, 38, 52, 59, 60 and 63 never formally registered with the FA. The Sole Arbitrator thus holds that the Appellant did not commit a breach of Article 9.1 in relation to said players.

(iv) The Appellant never obtained an ITC for player 78 because it erroneously thought that he qualified as a first registration of a national (see *supra* at para. 127). This was a clear mistake since the player had been previously registered with the Canadian Soccer Association as an amateur and, therefore, an ITC was necessary prior to the player's registration with the FA. Since the Appellant did not obtain an ITC before his registration, the Sole Arbitrator holds that the Appellant violated Article 9.1 RSTP in relation to this player.

159. In conclusion, the Sole Arbitrator confirms only 1 out of the 20 violations of Article 9.1 RSTP found by the FIFA Appeal Committee (i.e. in relation to player 78).

E. On the violations of Article 19.4 RSTP

160. Article 19.4 RSTP requires that every international transfer of a minor player or first registration of a foreign minor player – aged between 10 and 18 (or between 12 and 18 prior to Circular 1468) – with a national football association, is subject to the approval of the Sub-Committee (see the fully quoted provision *supra* at para. 51).

161. The FIFA Appeal Committee held that the Appellant breached this provision, in conjunction with Annexe 2 RSTP and Article 1.3 of Annexe 3 RSTP, in 11 cases (players 1, 2, 4, 6, 11, 16, 20, 27, 35, 40 and 78). FIFA seeks to uphold all 11 violations.

162. The Sole Arbitrator first notes that two of the aforementioned players participated in "organised football" prior to their actual registration or without ever registering with the FA

(nos. 2 and 6). However, as held *supra* at paras. 91 *et seq.*, this does not equate to a "*de facto*" registration, a notion that the Sole Arbitrator has dismissed. Therefore, in order for the Sole Arbitrator to find a breach of Article 19.4 RSTP the players had to have been *formally* registered with the FA without the approval of the Sub-Committee.

163. With this in mind, the Sole Arbitrator finds that:

(i) Players 1 and 11 both formally registered with the FA at the age of 18. As such, they were not minor players and did not need the approval of the Sub-Committee. Therefore, the Appellant did not commit a violation of Article 19.4 RSTP in relation to these players.

(ii) Players 2, 4, 16, 20, 35, and 40 were all approved by the Sub-Committee prior to their formal registration with the FA. Therefore, the Appellant did not commit a violation of Article 19.4 RSTP in relation to these players.

(iii) Players 6 and 27 were never registered with the FA. Therefore, the Appellant did not commit a violation of Article 19.4 RSTP in relation to these players.

(iv) As mentioned *supra* at para. 127, the Appellant incorrectly treated player 78 as a first registration of a national. However, due to his previous registration with the Canadian Soccer Association, the player actually should have been treated as an international transfer of a minor and, as such, required the approval of the Sub-Committee prior to his registration with the FA. Since no such approval was sought or obtained, the Appellant violated Article 19.4 RSTP in relation to this player.

164. In conclusion, the Sole Arbitrator confirms only 1 out of the 11 violations of Article 19.4 RSTP found by the FIFA Appeal Committee (i.e. in relation to player 78).

F. On the violations of Article 19bis, para. 1, RSTP

165. According to Article 19bis, para. 1, RSTP a club operating an academy must report all minor players who attend the academy to the national association where the academy is located (see the fully quoted provision *supra* at para. 52).

166. The FIFA Appeal Committee found that the Appellant committed a violation of this provision in 50 cases (players 1, 2, 4, 6, 11, 15, 16, 20, 25, 27, 30, 32, 33, 34, 35, 36, 37, 39, 40, 41, 43, 44, 45, 50, 51, 53, 54, 55, 57, 58, 61, 65, 68, 70, 71, 72, 73, 75, 77, 78, 84, 105, 122, 134, 135, 136, 138, 139, 140 and 152). FIFA seeks to uphold all 50 violations. The Appellant, on the other hand, while not disputing that it operates an "academy" within the meaning of Article 19bis, para. 1, RSTP, claims that it did not breach the provision in any of the 50 cases.

167. Specifically, with regard to players 15, 73, 122, 134, 135, 138, 139 and 140, the Appellant argues that it did not breach Article 19bis, para. 1, RSTP because they were registered prior to 1 October 2009, the date on which the provision first came into force. In the Appellant's view, it only had the duty, from that date onward, to report any *new* players who came to attend the academy. The Sole Arbitrator, based on the plain language of para. 1 of Article

19bis RSTP, rejects the Appellant's position. This provision unequivocally states that a club is obliged to report "*all minors who attend the academy*". It does not ask for a report on those that "come to attend" or "join" the academy. Nor does it make an exception, explicit or implicit, for players who were already attending the academy at the time of the rule's enactment. Therefore, the Sole Arbitrator holds that the Appellant was not excused from reporting players 15, 73, 122, 134, 135, 138, 139 and 140 to the FA.

168. The Appellant then argues that, except for players 6 and 27, all of the minor players for which it was charged under para. 1 of Article 19bis RSTP – *i.e.* 48 total players – were reported in accordance with the provision through their registration with the PL. In the Appellant's view, (i) the fact that, as confirmed by the FA before the FIFA Disciplinary Committee, the registry of the PL was and remains accessible to the FA at all times, and (ii) the fact that Article 19bis, para. 1, RSTP does not specify or regulate the manner or format of reporting, must yield the conclusion that this system of reporting in England (put in place *inter alia* by the FA) is permissible. The Sole Arbitrator rejects the Appellant's argument and holds that, in order to comply with para. 1 of Article 19bis RSTP, a club must directly report the players to its national association. The language of Article 19bis, para. 1, RSTP ("*report [...] to the association upon whose territory the academy operates*") may not be construed otherwise. The Sole Arbitrator fully adheres here to the *Real Madrid* award (CAS 2016/A/4785 at para. 100) and *Barcelona* award (CAS 2014/A/3793 at para. 9.17), which held that reporting the players attending a club's academy is a further and different obligation than registering a player.

169. With regard to the remaining players – nos. 6 and 27 – the Appellant explains that the players were never registered with it and, as a consequence, they were not reported to the FA through a registration with the PL. However, as already stated, reporting is a further and different obligation than registering a player, particularly because it tends to protect those minors that train or play with a club's academy but are not registered (see CAS 2016/A/4785 at para. 100 and CAS 2014/A/3793 at para. 9.17). This is exactly the status that players no. 6 and 27 held at the Club's academy and, therefore, they should have been reported to the FA.

170. In light of the above considerations, the Sole Arbitrator confirms all 50 of the Article 19bis, para. 1, RSTP violations found by the FIFA Appeal Committee.

G. On the violations of Article 18bis, para. 1, RSTP

171. Article 18bis, para. 1, RSTP prohibits a club from entering into a contract which enables it to acquire the ability to influence in employment and transfer-related matters another club's independence, policies or the performance of its teams (see the fully quoted provision *supra* at para. 50).

172. The Appealed Decision found that the Club violated this provision in relation to two agreements with other clubs.

173. The two agreements are (i) a contract signed on 4 May 2017 with the Scottish club Rangers FC Ltd. ("Rangers") for the future transfer of player 18, who went on to be registered by the Club with the FA on 31 August 2017 at the age of 16 after approval by the Sub-Committee

(the "Rangers Agreement"), and (ii) a contract signed on 5 May 2016 with AFC Ajax NV ("Ajax") for the future transfer of player 46, who went on to be registered by the Club with the FA on 9 August 2016 at the age of 16 after the approval by the Sub-Committee (the "Ajax Agreement").

174. The Rangers Agreement contained the following clauses:

- Article 6.1(c): "*Rangers hereby warrants to Chelsea that: [...] it shall continue to retain the Player's registration until Chelsea requires that the Player's registration be transferred to it on a permanent basis, and will not transfer the Player's registration to any other club on a temporary basis without Chelsea's written consent*";

- Article 6.1(d): "*Rangers hereby warrants to Chelsea that: [...] prior to the registration of the Player with Chelsea it shall release the Player to Chelsea for such periods of training and development of participation in friendly matches or tours as Chelsea shall require subject to the applicable rules and requirements of FIFA, the SFA, SPFL, The FA and the PL*"; and

- Article 6.1(f): "*Rangers hereby warrants to Chelsea that: [...] neither it, nor any of its advisors, agents or intermediaries shall, either directly or indirectly, solicit, accept or engage in any discussion or negotiation in relation to any offer from any other club for the temporary or permanent transfer of the Player's registration without Chelsea's express prior written consent*".

175. Nearly identical provisions are found in the Ajax Agreement, including:

- Article 5.1(c): "*The Transferor hereby represents and warrants to Chelsea that: [...] it shall continue to retain the Player's registration unencumbered until 20 June 2016 or on such other date as Chelsea directs that the Player's registration be transferred to it on a permanent basis, and will not transfer the Player's registration to any other club on a temporary basis without Chelsea's written consent*";

- Article 5.1(d): "*The Transferor hereby represents and warrants to Chelsea that: [...] prior to the registration of the Player with Chelsea it shall release the Player to Chelsea for such periods of training and development of participation in friendly matches or tours as Chelsea shall reasonably require subject to the applicable rules and requirements of FIFA, The FA and the PL*"; and

- Article 5.1(f): "*The Transferor hereby represents and warrants to Chelsea that: [...] neither it, nor any of its advisors, agents or intermediaries shall, either directly or indirectly, solicit, accept or engage in any discussion or negotiation in relation to any offer from any other club for the temporary or permanent transfer of the Player's registration without Chelsea's express prior written consent*".

176. FIFA argues that the Appellant breached Article 18bis, para. 1, RSTP because the aforementioned clauses of the agreements allegedly enabled it to influence in employment and transfer-related matters the independence, policies and team performances of Rangers and Ajax, whereas the Club argues that those agreements never conferred on CFC the ability

to exercise any influence of the kind forbidden by Article 18bis, para. 1, RSTP (see *supra* at paras. 32 (vi) and 34 (vii) for a more detailed account of the Parties' arguments on this issue).

177. In the Sole Arbitrator's opinion, to have contractual rights vis-à-vis a club for just a single player normally does not amount to having the level of influence on another club required to trigger the application of Article 18bis, para. 1, RSTP, i.e. "*the ability to influence in employment and transfer-related matters its independence, its policies or the performance of its teams*". In the vast majority of cases the proper interpretation of the terms "independence", "policies" and "performance of teams" requires much more than a contractual obligation related to one player. In the Sole Arbitrator's view, unless a single player is so exceptionally important for a given club that an agreement like the ones at hand can demonstrably influence that club's sporting and economic behaviour, there must be a network of similar agreements for various players that, aligned together, can truly influence the "independence", "policies" or "performance of teams" of a club.

178. The Sole Arbitrator cannot uphold that the Rangers and Ajax Agreements gave the Appellant that level of influence, considering that FIFA (who bears the burden of proof) submitted no evidence that players 18 and 46 – even with the benefit of hindsight – could be of so exceptional importance for Rangers and Ajax, respectively, to influence these clubs' independence, policies or performance of teams. In addition, in applying Article 18bis, para. 1, RSTP one must also consider, on a case-by-case basis, the relative standing, prominence and market power of the involved clubs. It would be illogical, after all, to consider that important clubs such as Rangers or Ajax, well-known on the European stage, could be influenced in their "independence", "policies" or "performance of teams" based just on the obligations respectively undertaken in reference to players 18 and 46.

179. In light of the above, the Sole Arbitrator holds that the Appellant did not violate Article 18bis, para. 1, RSTP in relation to those two agreements.

H. Summary of the violations committed by the Appellant

180. To summarize, the Sole Arbitrator holds that the Appellant has breached the following provisions of the RSTP:

- Article 19.1 RSTP in 5 cases (players 25, 30, 43, 68 and 78), reduced from the 15 violations found by the FIFA Appeal Committee (see *supra* at para. 128);

- Article 19.3 RSTP in 2 cases (players 65 and 84), reduced from the 12 violations found by the FIFA Appeal Committee (see *supra* at para. 128);

- Article 19.4 in conjunction with Annexe 2 RSTP and Article 1 para. 3 of Annexe 3 RSTP in 1 case (player 78), reduced from the 11 violations found by the FIFA Appeal Committee (see *supra* at para. 164);

- Article 5.1 RSTP in 8 cases (players 2, 6, 24, 49, 52, 54, 63, and 64), reduced from the 40 violations found by the FIFA Appeal Committee (see *supra* at para. 151);

- Article 9.1 RSTP in 1 case (player 78), reduced from the 20 violations found by the FIFA Appeal Committee (see *supra* at para. 159); and

- Article 19bis, para. 1, in 50 cases (players 1, 2, 4, 6, 11, 15, 16, 20, 25, 27, 30, 32, 33, 34, 35, 36, 37, 39, 40, 41, 43, 44, 45, 50, 51, 53, 54, 55, 57, 58, 61, 65, 68, 70, 71, 72, 73, 75, 77, 78, 84, 105, 122, 134, 135, 136, 138, 139, 140 and 152), which is the same number of violations found by the FIFA Appeal Committee.

181. Finally, the Sole Arbitrator found no violation of Article 18bis, para. 1, RSTP.

I. Determination of the sanction

182. The Appellant argues that, in the case only some of the breaches are confirmed, the sanction must be significantly reduced. In the Appellant's view, the overall sanction imposed by the FIFA Appeal Committee is unequal and disproportionate if compared to the cases of (i) the Spanish clubs, in particular Atlético Madrid, whose infringements, in its opinion, were significantly more serious in nature than CFC's and where several aggravating factor were present, (ii) RSC Anderlecht, where FIFA only imposed a fine of CHF 200,000 for 4 breaches of Articles 19.1 and 19.3 RSTP (the "*Anderlecht* case"), and (iii) Manchester City FC ("MCFC"), where FIFA only imposed a fine of CHF 370,000 for 16 substantive breaches of Article 19 RSTP.

183. The Appellant believes it is being treated differently, unfairly and unequally than all major teams across England who operate the same way in relation to trialists, MCFC (which FIFA has not charged in respect of players it registered while under the age of 12 pre-Circular 1468 and under the age of 10 post-Circular 1468), FC Barcelona and Atlético Madrid (which apparently were not investigated in relation to players whose involvement with the club would fall under the concept of "*de facto*" registration). The Appellant is adamant that the inconsistency in the respective sanctions imposed on CFC and MCFC cannot be justified by the sort of "plea bargain" under which MCFC admitted its breaches and accepted responsibility for its actions. The Appellant argues in this respect that since MCFC's admission came nearly four years after FIFA's investigation began, absent any satisfactory explanation for such a delay, FIFA must have allowed, if not willingly enabled, MCFC to delay the proceedings so that it could avail itself of Article 58 FDC (a provision allowing clubs to propose and FIFA to accept that its sanction be limited to a fine), which was introduced only three days before MCFC's "admission" and was not available to CFC even though the case against it commenced after MCFC's case. Nor does the Appellant believe that the inconsistency in sanctions imposed on CFC and MCFC can be explained by the nature in MCFC's breaches, since MCFC's actions are – in FIFA's perspective – not less serious than CFC's.

184. The Appellant asserts that mitigating circumstances warrant a reduction of the sanction to at most a fine or reprimand. The Appellant alleges that the following circumstances are present in the case at hand: (i) the full cooperation of CFC in the investigation, (ii) the fact that the breaches were not deliberate and do not reflect multiple separate actions but stem from a limited number of decisions by CFC forming its overall approach, (iii) the uncertainty in FIFA's interpretation of the rules that led to the Club's overall approach, (iv) the delay in

conducting the FIFA investigations, (v) the fact that CFC never put the well-being of players at risk, and (vi) the fact that CFC never deprived other training clubs of financial entitlements.

185. FIFA, on the other hand, considers that the sanction imposed is not evidently and grossly disproportionate, even if reduced to 6 breaches of paras. 1 or 3 of Article 19 RSTP. In its view, only two consecutive transfer bans would, considering the importance of the rules protecting minors, reflect the gravity of the wilful and intentional infringements committed and deter CFC from repeating them. FIFA considers that the sanction is consistent with those imposed on MCFC, Anderlecht, or the Spanish clubs. Specifically with regard to CFC's allegation that FIFA treated CFC and MCFC unequally, FIFA argues *inter alia* that (i) CFC's breaches were significantly more serious than those of MCFC and involved far more "organised football" matches played, (ii) CFC cannot claim equality in illegality ("*égalité dans l'illégalité*") since it has not proven that FIFA has consistently failed to observe the applicable rules in a manner in which it would not revert to their correct application case, (iii) comparisons of the timing of the CFC and MCFC investigations are irrelevant towards showing an alleged unequal treatment, as each is different and its particularities may require more investigative measures than in others that do not always necessarily depend on the parties under investigation, (iv) the option taken by MCFC to accept responsibility has been available to every party in disciplinary proceedings even before its codification in Article 50.8 FDC (in fact, FIFA judicial bodies, in line with Article 39.4 FDC 2017, had taken such acceptance of responsibility into account as a mitigating circumstance, for example in the *Anderlecht* case, and (vi) there was no "plea bargain" and MCFC's admission of guilt and proposed sanction was not a determining factor, as the proposal was accepted only after a thorough evaluation of the case file and confirmation that the sanction was appropriate for the violations committed and in line with the relevant jurisprudence. In conclusion, FIFA argues that there are no mitigating circumstances to justify a reduction of the sanction. In particular, CFC did not fully cooperate throughout the proceedings, and CFC's argument that it never put the well-being of young players at risk is irrelevant, since what it in dispute is the (wrongful) method employed by CFC to remove (partially or fully) players from the "natural habitat" and to the club. Nor has CFC shown any remorse or recognition of guilt as did MCFC and Anderlecht.

186. In order to determine the appropriate sanction, the Sole Arbitrator first turns its attention to the legal framework under the FDC.

187. According to Article 12 FDC, a club can be sanctioned with the following: a transfer ban, playing a match without spectators, playing a match on neutral territory, a ban on playing in a particular stadium, the annulment of the result of a match, an expulsion, a forfeit, the deduction of points, and the relegation to a lower division. Article 32 FDC provides that sanctions may be combined unless otherwise specified.

188. Pursuant to Article 39 FDC, in deciding what is the appropriate sanction(s), the deciding body must "*take into account [...] all of the relevant factors in the case and the degree of the offender's guilt*".

189. Article 41 FDC then specifies that where there are concurrent infringements, the deciding body must take into account the most serious offense committed and, depending on the circumstances, may increase that sanction: "*1. If several fines are pronounced against someone as a result of one or more infringements, the relevant body bases the fine on the most serious offence committed and, depending on the circumstances, may increase the sanction by up to fifty per cent of the maximum sanction specified for that offence. 2. The same applies if a person incurs several time sanctions of a similar type (two or more match suspensions, two or more stadium bans etc.) as the result of one or several infringements*".

190. With this legal framework in mind, the Sole Arbitrator notes that for the most serious of the Appellant's breaches, *i.e.* the violations of paras. 1 and 3 of Article 19 RSTP, the FIFA Appeal Committee imposed a two-period transfer ban and a fine of CHF 435,000, which was then increased pursuant to Article 41 FDC by CHF 165,000 for the Appellant's breaches of Articles 5.1, 9.1, 19.4 (in conjunction with Annexe 2 of the RSTP and Article 1, para. 3, of Annexe 3 of the RSTP), 19bis, para. 1, and 18bis, para. 1.

191. However, the Sole Arbitrator has held that the Appellant has committed less infractions than those found by the FIFA Appeal Committee. Indeed, the number of violations of paras. 1 and 3 of Article 19 RSTP have been significantly reduced from 27 to 7. Therefore, it would appear reasonable to reduce the sanction imposed by the Appealed Decision.

192. However, in assessing what could be a reasonable and proportionate sanction for the Appellant, the Sole Arbitrator does not find particularly helpful, regrettably, to look at the CAS and FIFA decisions that in the last years held other clubs (somewhat comparable to the Appellant in terms of status within European football) in breach of Article 19, paras. 1 and 3, RSTP. In fact, there does not appear to be any real consistency in the sanctions imposed on those clubs. Real Madrid was sanctioned with a single-period transfer ban for two violations, Barcelona with a two-period transfer ban for ten violations, Atlético Madrid with a two-period transfer ban for 26 violations, Manchester City with only a fine for 16 violations (with admission of guilt and an "agreed" sanction), and Anderlecht with only a fine for 4 violations (with admission of guilt as mitigating circumstance).

193. Therefore, the Sole Arbitrator must primarily look at the specifics of this case. In particular, the Sole Arbitrator gives weight to both a quantitative and a qualitative factor. In terms of quantity, the Sole Arbitrator finds it important that the number of violations of Article 19, paras. 1 or 3, RSTP has been so significantly reduced. In terms of quality, the Sole Arbitrator has carefully scrutinized the individual situations of the 7 players for which a violation of para. 1 or para. 3 of Article 19 RSTP has been upheld – players 25, 30, 43, 65, 68, 78 and 84 (see *supra* at para. 122) – and has come to the conclusion that in most of those cases the Appellant did not place its own sporting and financial interests over those of the minor players and absolutely did not impair their adequate and healthy development.

194. Indeed, six of those minor players are essentially kids for whom the evidence on record has not been sufficient to qualify for an exception, but whose age, country of origin and personal situation at the time of registration does not raise any meaningful red flag. Players 30 and 65 are two Polish children (brother and sister) aged 9 and 7, respectively; players 43 and 84 are both aged 8 and have a German and a Belgian nationality, respectively; players 25 and 78

are both aged 9 and have a French and a Canadian nationality, respectively, and the latter's father is a high executive of a prominent media company. The evidence on file, albeit insufficient to grant any exception, suggests that none of those six minors was "*induced to relocate internationally in order to join CFC*" (FIFA Answer at para. 17) or joined the Club "*with the ultimate goal of becoming professional football players*" (*ibidem*).

195. Only for player 78 (a British national aged 13 who had been previously registered in Canada, see *supra* at para. 127), given the scant evidence provided, the Sole Arbitrator cannot exclude the possibility that this is actually a case where the Club did place its own interests over those of the minor. In the case of this player, therefore, the Sole Arbitrator finds that the Club committed a serious violation (of both the substantive and the procedural rules of Article 19 RSTP). Even if it were only an administrative mistake, as the Appellant contends but does not prove, such mistake would be inexcusable for a club of the standing of CFC.

196. In light of the above considerations, the Sole Arbitrator finds that the Club's overall degree of guilt was quite low, and in any event much less than that found by the FIFA disciplinary bodies. Accordingly, the Sole Arbitrator considers it fair and appropriate to reduce the sanction imposed on the Appellant for its violations of paras. 1 and 3 of Article 19 RSTP to a transfer ban for a single registration period and a fine of CHF 200,000.

197. As for the fine of CHF 165,000 imposed for the remaining breaches, the Sole Arbitrator also considers it fair and appropriate to reduce it to CHF 100,000 in response to the decrease in the number of violations it found in this Award. The Sole Arbitrator has found a reduction in the Appellant's breaches of (i) Article 9.1 RSTP from twenty to one, (ii) Article 19.4 RSTP in conjunction with Annexe 2 RSTP and Article 1.3 of Annexe 3 RSTP from eleven to one, (iii) Article 18bis, para. 1, RSTP from two to none, and (iv) Article 5.1 RSTP from forty to eight, while confirming all fifty breaches of Article 19bis, para. 1, RSTP.

198. In conclusion, the Sole Arbitrator holds that the Appellant must be sanctioned with a transfer ban for a single registration period and a fine of CHF 300,000. The Sole Arbitrator notes that the Club has already served that transfer ban pending these proceedings, on the occasion of the 2019 summer registration period. Therefore, it only remains for the Appellant to pay the fine of CHF 300,000.

199. Then, the Sole Arbitrator confirms (i) the warning imposed on the Appellant on its future conduct pursuant to Article 10(a) and Article 13 FDC, and (ii) the reprimand imposed on the Appellant pursuant to Article 10(b) and Article 14 FDC. The Sole Arbitrator finds that imposing a warning and reprimand is appropriate given the importance of the substantive principles enshrined in the FIFA rules concerning the protection of minors and a certain superficiality with which the Club appears to have dealt with this very delicate issue prior to the FIFA investigation.

J. Regularization of the situation

200. Under item 8 of the Appealed Decision, the Appellant is ordered within a period of 90 days "*to regularize the situation with regard to the underage players that are presently with the Club and are subject to the present proceedings*".

201. The Appealed Decision confirmed the Disciplinary Committee decision, which specified that the Appellant had to regularize the situation for the minors that are currently with the club and (i) were found in breach of Article 19 RSTP or (ii) which the club wishes to field in "organised football". In particular, the FIFA Disciplinary Committee sought for CFC to request approval for the aforementioned players from the competent body, *i.e.* either the Sub-Committee or the FA.

202. However, the Sole Arbitrator observes that this item of the Appealed Decision derives from a conceptual confusion between the substantive and procedural aspects of Article 19. A regularization – which would entail either the procedure under Article 19.4 for minor players older than 10 (or 12 before Circular 1468), or a procedure established at national association level for players below those thresholds – may be demanded only (i) in relation to a procedural violation consisting in not having pursued the required procedure and (ii) for minor players who are still with the Club and still need such an approval in order to be fielded. In the case at hand, players 25, 30, 43, 65, 68 and 84 were all aged below 10 at the time of registration and for them, accordingly, the Club (a) was not required to go through an approval procedure with the Sub-Committee, and (b) could not be expected to go through a procedure with the FA because such a procedure did not exist at the time; no retroactive regularization should thus be asked for those six players, also because by now (assuming that they still are with the Club) their registration is not linked to a current international transfer or does not currently constitute a first registration. As to player 78 (the only one for whom a procedural violation was committed by the Club), he was born on 7 September 2000 and, therefore, he has come of age and does not need any regularization through the Sub-Committee to be registered.

K. Further or different motions

203. All further or different motions or requests of the Parties are rejected.

XI. Costs

204. In accordance with Article R65.1 and 2 of the Code, since the present appeal is against a disciplinary decision of an international sports-body, the proceeding is free of charge, except for the Court Office Fee, which the Appellant already paid and shall be retained by the CAS.

205. As for contribution towards legal fees and expenses, the Sole Arbitrator turns to Article 65.3 of the Code, which states the following: "*Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties*".

206. In exercising his discretion in this regard, the Sole Arbitrator holds that, considering the Appellant's appeal against FIFA was only partially upheld (the violations of the RSTP and applicable sanction were reduced but not annulled), it is fair and appropriate that each party

be responsible to pay for its own legal costs and other expenses incurred in connection with the present proceedings.

207. The Sole Arbitrator also confirms the order on costs (Item 9) of the Appealed Decision.

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ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 29 May 2019 by Chelsea Football Club Limited against the decision rendered by the FIFA Appeal Committee on 11 April 2019 is partially upheld.
2. The decision rendered by the FIFA Appeal Committee on 11 April 2019 is amended as follows:
   - As to item 4 of the decision: Chelsea Football Club Limited is banned from registering any new players, either nationally or internationally, for one (1) entire registration period, which the club already served pending this proceeding during the 2019 summer registration period.
   - As to item 5 of the decision: Chelsea Football Club Limited is ordered to pay a fine to FIFA in the amount of CHF 300,000 (three hundred thousand Swiss Francs), payable within 30 days after receipt of the present arbitral award.
   - Items 3 and 8 of the decision are cancelled.
3. The present arbitral award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by Chelsea Football Club Limited, which is retained by the CAS.
3. Each party shall bear its own legal costs and other expenses incurred in connection with the present arbitration procedure.
4. All further or different motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 18 February 2020 (Operative part notified on 6 December 2019)

THE COURT OF ARBITRATION FOR SPORT

Massimo **Coccia**
Sole Arbitrator