Arbitration CAS 2009/A/1908 Parma FC S.p.A. v. Manchester United F.C., award of 9 July 2010

Panel: Mr Christian Duve (Germany), President; Mr Michele Bernasconi (Switzerland); Mr Mark Hovell (United Kingdom)

Football
Compensation for training
Role of the FIFA Circular Letters for the interpretation of the FIFA Regulations
Adjustment of the compensation for training in case of clear disproportion of such compensation
Role of Circular 769 and Circular 799 in the assessment of clear disproportion
Services of players' agents and talent scouts
Value and quality of the player

1. **The Circular Letters issued by FIFA are not regulations in a strict legal sense. However, they reflect the understanding of the FIFA and the general practice of the federations and associations belonging thereto. Thus, these Circular Letters are relevant also for the interpretation of the FIFA Regulations.**

2. **Circular 826 allows the adjustment of training compensation calculated on the basis of the indicative amounts contained therein if the objecting club proves that such compensation is clearly disproportionate. Since the 'clear disproportion' rule is an exception to the general rule, the objecting party has the burden of adducing enough evidence to substantiate its assertion on the basis of specific documents, such as invoices, costs of training centres, budgets, and other documentation of expenses showing that the expenses bear a clear relation to the training of its youth sector. In the absence of such evidence, the indicative amounts apply.**

3. **The assessment of the training and education costs to be compensated cannot be calculated for each individual club pursuant to the principle contained in Circular 769, as the provisions of FIFA preclude from assessing the training compensation fee on the basis of the budget of any individual club which has trained the young player before his first professional contract. However, the guidelines contained in Circular 799 can be used to assess whether training compensation calculated on the basis of the indicative amounts is clearly disproportionate to the particular circumstances of this case.**

4. **Costs related to the services of players' agents and talent scouts cannot be considered for the calculation of the training compensation under the heading "salaries of other professionals" in accordance with the guidelines comprised in Circular 799 as they are not *"actual costs of training young players at clubs"*.**

5. The relevant FIFA provisions concerning training compensation do not expressly provide for the *"value and quality of a player"* as relevant factors for the assessment of clear disproportion. Instead, it is rather the *"value of the formation received by the player"* which can be regarded as *"particular circumstances"* in the sense of Circular 826 requiring the adjustment of the amounts for the training compensation so as to reflect the specific situation of the case.

Parma F.C. S.p.A ("Appellant" or "Parma") is an Italian football club with its registered office in Parma, Italy. It is affiliated to the Italian Football Association and competes in the Italian Serie A.

Manchester United F.C. ("Respondent") is an English football club with its registered office in Manchester, United Kingdom. It is affiliated to the English Football Association and competes in the English Premier League.

The present dispute is concerned with the calculation of training compensation owed by Respondent to Appellant for the training of the player G. (the "Player"), born in February 1987.

The Player was registered as an amateur with Appellant from 25 January 2000 until 30 June 2004, i.e. between the ages of 12 and 17. In July 2004, the Player registered as an amateur with Respondent. On 3 November 2004, the Player signed his first professional contract with Respondent.

With a letter dated 20 May 2004 Respondent indicated to Appellant that it was willing to register the Player as a professional and pay the amount of training compensation due in accordance with the relevant FIFA Regulations for the Status and Transfer of Players, edition 2001 (the "FIFA Regulations").

Between 3 June 2004 and 20 December 2004, the parties tried to settle in amicable terms the amount of training compensation payable to Appellant. In this regard, Respondent repeatedly offered to pay Appellant a training compensation fee calculated pursuant to the FIFA Regulations, the corresponding Regulations governing the Application of the Regulations on the Status and Transfer of Players, edition 2001 (the "Application Regulations") and FIFA Circular Letters Nos. 769, 799, 826 (the "Circular Letters").

On 7 July 2004, Respondent deposited with the English Football Association for onward transmission to Appellant a sum of EUR 200,000 as a maximum amount it deemed payable to Appellant for training compensation in accordance with the indicative amounts set in FIFA Circular Letter No. 826 ("Circular 826").

After several attempts to reach a mutual agreement, on 20 December 2004, Respondent re-evaluated its position and offered an amount of EUR 280,000 in training compensation for the Player under the condition that Appellant would finally agree to settle the dispute in an amicable manner.

Appellant, however, rejected all offers as it considered that it was entitled to a greater amount of compensation for the training of the Player. In this regard, it consistently argued that the indicative amounts would not properly reflect the actual expenses of Appellant's youth program and that such disproportionality would demand departure from said indicative amounts.

As a result, on 3 January 2005, Appellant requested the FIFA Dispute Resolution Chamber (the "DRC") to order Respondent to pay EUR 1,356,300 in training compensation for the Player. Appellant claimed that the indicative amounts for training compensation set in Circular 826 were clearly disproportionate to the specific circumstances of the case and requested that the calculation of the training compensation would be based on the average annual amount Appellant had spent on the training of young players during the seasons when the Player was registered with Appellant, divided by the average number of players trained by it that reached professional status each year (i.e. the "player factor"). In addition, in its calculation for the training compensation fee, Appellant considered G.'s quality as a player and his career as a national team player in Italy's junior programs.

In its answer of 18 March 2005, Respondent requested to base the calculation of the training compensation solely on the indicative amounts set out in the FIFA Regulations, FIFA Application Regulations and Circular 826 rather than on the training costs of the individual club. In this regard, Respondent requested the DRC to reject Appellant's claim for training compensation above the amount of EUR 200,000.

On 1 June 2005, the DRC rendered its decision (the "First Decision of the DRC") only partially accepting Appellant's claim and ordering Respondent to pay training compensation for the Player in the amount of EUR 205,000 pursuant to the FIFA Regulations, the Application Regulations and Circular 826. In this regard, the DRC held that Appellant had failed to fulfil its burden of proof in claiming disproportionality of the indicative amounts in relation to the actual costs of its youth program.

On 4 July 2005, the First Decision of the DRC was notified to the parties.

On 14 July 2005, Appellant lodged its first appeal before the Court of Arbitration for Sport (CAS), under the docket number CAS 2005/A/927. It submitted its appeal brief on 25 July 2005 requesting CAS to partially reverse the First Decision of the DRC. Appellant argued that the DRC had wrongfully applied the relevant FIFA Regulations and FIFA Circular Letters, as the DRC had failed to inform Appellant that the evidentiary submissions it had presented had been insufficient to prove the alleged disproportionality of the indicative amounts. Moreover, Appellant emphasized that the DRC had erroneously calculated the Player's period of training as starting from the 1999/2000 sporting season, instead of the beginning of the 1998/1999 sporting season, already. In this regard, Appellant requested that CAS, in the event the indicative amounts were considered applicable, would order Respondent to pay an additional EUR 80,000 in training compensation.

On 17 August 2005, Respondent filed its answer to Parma's appeal brief, requesting CAS to confirm the First Decision of the DRC. Respondent argued that the DRC had correctly applied the FIFA Regulations and the Circular Letters by calculating the training compensation solely on the basis of

the indicative amounts, notably because the DRC had no obligation to request additional evidence from Appellant. Instead, Respondent concluded that Appellant had not met its burden of proof.

On 19 December 2005, the CAS rendered its award setting aside the First Decision of the DRC (the "First CAS Award"). The matter was referred back to the DRC with the order for it to render a new decision, after:

- requesting Appellant to provide all the documents, such as invoices, accounts, training centre budgets, etc., considered necessary to evidence and calculate the training compensation it claims for the Player;
- determining, on the basis of the evidence provided by Appellant, whether the indicative amounts would represent only a disproportionate amount of training compensation in relation to the actual circumstances and costs of Appellant's youth program.

In order to arrive to this conclusion, the CAS Panel acknowledged that the DRC's interpretation of Circular 826 was crucial for the decision. In this regard, the CAS found that:

> *"FIFA Circular letter no. 826 requires the DRC to at least give a claimant the opportunity of providing further evidence of its individual calculation if the DRC does not reject the type of calculation proposed but merely estimates insufficient evidence to have been submitted regarding the quantum. […]*
>
> *the DRC's discretion must be limited by a duty to seek further information if the DRC does not reject per se the type of individual calculation invoked as the basis for contesting the indicative amounts of training compensation, but simply considers evidence of the figures upon which the calculation is made to be lacking.*
>
> *the DRC failed to correctly exercise its function and properly fulfil its duties under the FIFA Regulations […] to give Parma the opportunity of producing further evidence of its costs and investments if the DRC deemed relevant information to be missing".*
>
> (CAS 2005/A/927, paras. 36 and 40)

On 16 March 2006, Appellant initiated a second proceeding before the DRC and provided it with documents it deemed adequate evidence for the calculation of training compensation for the Player.

On 14 December 2006, Respondent replied to Appellant's submissions emphasizing that Appellant still had not discharged its burden of proof. In addition, Respondent argued that certain expenses of Appellant should not be taken into account as they were not supported by FIFA Circular Letter No. 799 ("Circular 799"). These included: expenses for players' agents, talent scouts, and a staff retirement pension fund. Furthermore, Respondent stated that according to FIFA Circular Letter No. 769 ("Circular 769") a departure from the indicative amounts concerning the calculation of training compensation would lead to great legal uncertainty as it would become a precedent.

In the meantime, the Player was either loaned or transferred by Respondent on three occasions. First, at the beginning of the 2006/2007 season, the Player was transferred on a loan agreement to English club Newcastle United. Second, at the beginning of the second half of the 2006/2007 season, the Player was transferred on an additional loan agreement once again to Appellant. Finally, before the 2007/2008 season, the Player was transferred by Respondent to Spanish club Villarreal CF for an estimated amount of EUR 9,950,000.

On 5 November 2007, Appellant presented again an individual calculation for training compensation based on its own alleged player factor, this time totalling at an amount of EUR 1,403,785 requested a deviation from the indicative amounts based on the fact that the Player was transferred by Respondent to a third club for an amount of EUR 9,995,000. In addition, Appellant once again alternatively argued that a calculation based solely on the indicative amounts would result in Appellant being entitled to an amount of EUR 285,000 in training compensation, instead of only EUR 205,000, as the DRC had wrongly applied the amount of EUR 10,000 (category 4) to the season of the Player's 15th birthday, when actually category 4 only applies to the training conducted during the seasons of the Player's 12th, 13th and 14th birthday. Hence, Appellant claimed it was entitled to further payment of EUR 80,000 (i.e. the amount of category 1 – EUR 90,000 – minus the amount for category 4 – EUR 10,000).

On 14 January 2008, Respondent requested the DRC to reject the claim of Appellant.

On 12 March 2009, the DRC rejected the claim of Appellant (the "Second Decision of the DRC"). In this regard, the DRC confirmed the earlier payment of EUR 205,000 made by Respondent to Appellant.

To arrive to this conclusion, the DRC first considered Appellant's argument that the transfer fee in the amount of EUR 9,995,000 – received by Respondent from the Player's transfer to a third club – would justify deviation from the indicative amounts. In this regard the DRC held:

> *"As a matter of fact, between the moments in time when, on the one hand, training compensation became due and, on the other hand, the player was transferred from the respondent to a third club, the player had been trained and had played for a considerable period of time with the respondent's team. Therefore, it is rather a result of the respondent's training efforts that the value of the player's services, such as established in the transfer of the player from the respondent to a third club, has reached the amount such as alleged by the claimant, and not primarily an achievement of the claimant".*

With regard to Appellant's notion of the wrongful application of category 4 of the indicative amounts to the season of the Player's 15th birthday, the DRC stated that the issue had not been part of the proceedings before CAS in the earlier case CAS 2005/A/927. Thus, since it had not been referred back to the DRC, the DRC could not consider it in those proceedings. However, to avoid any doubts the DRC held that Appellant's calculation of training compensation amounting to EUR 285,000 was contrary to the clear wording of article 7 (2) of the Application Regulations.

Furthermore, the DRC held that pursuant to Circular 826 and article 42(1)(b)(iv) of the FIFA Regulations it had no obligation to deviate from the indicative amounts but rather that the DRC enjoyed the discretion to do so only if it was confronted with a case of clear disproportionality.

As a result, the DRC subsequently analyzed whether this was a case of clear disproportionality. The DRC expressed its regret that despite Appellant having submitted an extensive documentation to demonstrate its effective training costs in Italian language, such documentation had only been partially translated by Appellant into one of the official FIFA languages. In particular, since the Appellant's balance sheets had not been translated, the DRC said it was not in a position to decide

whether the numbers given by Appellant in its individual calculation of the training costs *"would actually correlate with any amount indicated in the Italian balance sheet"*.

However, even considering the numbers indicated by Appellant in its written submission as correct, namely the average number of players reaching professional status per year (i.e. 6.4) and the average annual amount Appellant allegedly spent on training (i.e. EUR 3,752,257), the DRC concluded that the application of the indicative amounts *"cannot be considered as totally disproportionate"*. In this regard, the DRC stated:

> *"In fact, considering that a European first category club pays an amount of EUR 580'000 for the training of a player from the season of his 12 to the season of his 21 birthday (4 x EUR 10'000 plus 6 x 90'000), and multiplying this amount with 6.4, i.e. the average number of players of the claimant allegedly reaching professional status per year, this results in an amount of EUR 3'712'000. The difference between this amount and the annual amount the claimant allegedly spent on training young players (i.e. EUR 3,752,257) is thus a negligible amount. As a result thereto, the Chamber stated that the application of the indicative amounts in the present case is not clearly disproportionate".*

On 26 June 2009, the Second Decision of the DRC was notified to the parties.

On 16 July 2009, Parma filed with CAS its statement of appeal against the Second Decision of the DRC.

On 14 August 2009, Parma submitted its appeal brief.

On 9 September 2009, Respondent filed its answer with the CAS.

On 12 February 2010, a hearing was conducted in the present matter before the CAS at Château de Béthusy, Lausanne, Switzerland.

Two witnesses were heard: Appellant called F. (Appellant's Head of Administration, Finance and Control) and P. (Appellant's Secretary General) as witnesses. Respondent did not call any witnesses.

F., an Italian speaker who recognized not being fully fluent in English, confirmed that he was foremost responsible for the compilation of Appellant's cost presentation. F. answered questions from both parties and the Panel concerning Appellant's evidence. F. pointed out that the allocation of 50 % of the training costs to the youth sector was based on an internal system that reflects the amount of time spent by the employees in the youth sector, in accordance with the statements made by each of the employees. Furthermore, F. provided the Panel with an explanation of the relation between the accounting records, the balance sheets and the extracts showing the training costs of the youth sector for the relevant sporting seasons prepared by Appellant's accounting department which were included in Appellant's petition to the DRC filed in the second DRC proceeding. Moreover, F. explained that Appellant's balance sheet of the 2003/2004 sporting season had not been carried out or certified by Appellant's auditing company due to the fact that during this time period Appellant's parent company was in insolvency proceedings. In addition, F. tried to clarify the relation between the training of the youth sector and the costs listed in the accounting records, the invoices or other documentation presented by Appellant, in particular, with regard to the claims for

reimbursement and transportation-related expenses. However, F. was not able to answer all of the questions posed to him concerning the inconsistencies or defects in Appellant's evidentiary submissions. In this context, F. admitted, when asked, that the relation between the training of the youth sector and the claimed costs listed in the accounting records did not follow from the documentary evidence provided in the file.

P., an Italian speaker who was recognised as not being fully fluent in English, gave the Panel a general idea of how Appellant's youth sector is organized. P. elaborated on the distinctiveness of Appellant's youth program in Italian football, explaining the amount of players that are currently being trained by Appellant. Furthermore, P. was able to identify most of the names of Appellant's employees (coaches) during the sporting seasons when the Player was trained, expressing that they were working exclusively for the youth sector. However, P. could not remember the amount of employees that worked exclusively for Appellant's youth sector during the sporting seasons: 1999/2000; 2000/2001; 2001/2002; 2002/2003 and 2003/2004 (the "Training Period") but expressed his belief that it should be around the same number as the amount currently involved, i.e. 70. In addition, P. mentioned that there were other employees working for the youth sector but not exclusively, such as drivers or technicians.

Both parties had the opportunity to put questions to the witnesses as well as to deliver opening and closing legal arguments. At the conclusion of the hearing, the parties, after making submissions in support of their respective requests for relief, raised no objections regarding their right to be heard and to be treated equally in the arbitration proceedings.

LAW

Admissibility and Jurisdiction

1. The Second Decision of the DRC was notified to the parties on 26 June 2009. Appellant, therefore, had under article 63 para. 1 of the FIFA Statutes until 17 July 2009 to file its statement of appeal, which it did on 16 July 2009. Hence, the appeal is admissible as it was filed within the stipulated deadline.

2. The jurisdiction of CAS, which is not disputed between the parties, derives from articles 62 and 63 of the FIFA Statutes. Article R47 of the CAS Code also provides basis for the jurisdiction of CAS in the present matter.

3. The scope of the Panel's jurisdiction is defined in article R57 of the CAS Code, which provides that:

   "the panel shall have full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance".

4. The CAS, therefore, is not bound by the facts as established by the DRC if parties present new facts in the present proceedings.

Applicable Law

5. Abiding by article R58 CAS Code, the CAS settles disputes:

"according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate".

6. Moreover, article 62 para. 2 of the FIFA Statutes provides that 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".

7. The parties have based their arguments on the FIFA Regulations (edition 2001); as well as the Application Regulations (edition 2001); Circular 769; Circular 799; and Circular 826.

8. The Panel confirms the applicability of the 2001 FIFA Regulations and the Application Regulations 2001. The 2001 edition of the FIFA Regulations is applicable rather than another edition for the following reasons: the professional contract concluded between Respondent and the Player which triggered Respondent's obligation to pay training compensation to Appellant and, therefore, serves as the basis of the present dispute, was signed on 3 November 2004, when the 2001 Regulations were still in force. Additionally, the parties have recognized the applicability of the FIFA Regulations in their 2001 edition throughout the proceedings. Furthermore, and for the same reasons as stated above, the Panel deems applicable the Application Regulations 2001.

9. In addition, FIFA has issued a certain number of Circular Letters. Although these Circular Letters are not regulations in a strict legal sense, they reflect the understanding of the FIFA and the general practice of the federations and associations belonging thereto. Thus, the Panel considers these Circular Letters to be relevant also for the interpretation of the FIFA Regulations (cf. CAS 2003/O/527, p. 10; CAS 2004/A/560, p. 9; CAS 2004/A/686, p. 8 and CAS 2007/A/1320-1321, para. 44).

10. Finally, Swiss law is also applicable due to the fact that the parties in the present case are bound by the FIFA Statutes for two reasons: first, they made a tacit choice of law when they submitted themselves to arbitration rules that contained provisions relating to the designation of the applicable law; and second, all parties are – at least indirectly – affiliated to FIFA. Thus, this dispute is subject, in particular, to article 62(2) of the FIFA Statutes, which provides that CAS *"shall primarily apply the various regulations of FIFA and, additionally, Swiss law"* (CAS 2006/A/1180, para. 7.9).

11. As a result, in light of the indispensable need for the uniform and coherent application worldwide of the rules regulating international football (CAS 2005/A/983-984, para. 24), the Panel rules that Swiss law will be applied for all the questions that are not directly regulated by the FIFA Regulations (cf. CAS 2005/A/871, para. 4.15 and CAS 2009/A/1517, para. 118).

Appellant's Motion to Increase the Amount Claimed in Training Compensation

12. During the hearing, Appellant filed a motion to increase the relief sought from EUR 1,403,785 to EUR 1,758,870 for training compensation for the Player, without relying on new evidence or a reinterpretation of the evidence. Respondent opposed this motion.

13. To decide whether to accept this motion, the Panel considers that none of the provisions of the CAS Code including article R56, prevents Appellant from amending its motion. Furthermore, the Panel notes that Appellant is not changing the substance of the relief sought as it is still asking for training compensation for the same training period for the same Player based on the same evidence and on the same interpretation of this evidence. Moreover, the Panel notices that the change in the amount sought seems to have been caused by a clerical error in one of the numbers included in the formula proposed by Appellant to calculate the training compensation. Such formula remains the same (i.e. the formula still requires the division of the average annual training costs by the average amount of players that reached professional status and then the multiplication of the result by the number of training years).

14. As a result, for the above-stated reasons this Panel accepts the motion to increase the amount claimed in training compensation sought for the Player from EUR 1,403,785 to EUR 1,758,870.

Merits

15. The main issues to be resolved by the Panel in deciding this dispute are the following:
    A. Is Appellant entitled to training compensation?
    B. If the answer is yes, what is the correct calculation of the training compensation?
    C. Are there any reasons to adjust the training compensation, in principle?
    D. Has Appellant discharged its burden of proof?
    E. Legal consequences of the Panel's findings.

A. Is Appellant Entitled to Training Compensation?

16. It is not disputed between the parties that Appellant is entitled to receive training compensation. This entitlement, which was recognized by the DRC, derives from the reading of the relevant provisions of the FIFA Regulations.

17. Article 13 of the FIFA Regulations 2001 provides:

"A player's training and education takes place between the ages of 12 and 23. Training compensation shall be payable, as a general rule, up to the age of 23 for training incurred up to the age of 21, unless it is evident that a player has already terminated his training period before the age of 21".

18. Article 14 of the FIFA Regulations states:

"When a player signs his first contract as a non-amateur, a sum of compensation shall be paid to the club(s) involved in the training and education of the player".

19. In the case at hand, the Player was registered as an amateur with Appellant from 25 January 2000 until 30 June 2004, i.e. between the ages of 12 and 17. In July 2004, the Player registered as an amateur with Respondent until 3 November 2004, when the Player signed his first professional contract with Respondent. The Player was less than 23 years old when Appellant lodged a formal claim before FIFA for the training compensation, i.e. on 3 January 2005. Respondent has never raised the possibility nor tried to establish that the Player terminated his training before the age of 21.

20. Hence, according to the aforementioned provisions, the Panel affirms that Appellant is entitled to receive training compensation from Respondent for the training received by the Player during the Training Period. In this regard, the Panel would like to highlight that since the Player was registered with Appellant only from January 2000 onwards, Appellant is only entitled to receive half of the amount of training compensation for the Player for the sporting season 1999/2000. For the other sporting seasons, Appellant is entitled to receive training compensation for the Player in the full amount.

21. Concerning the timing for the payment of the training compensation, according to article 9 (1) of the Application Regulations and section 2.d of Circular 769 training compensation is to be paid within 30 days of the signature of the first non-amateur contract. As a result, Respondent should have paid training compensation to Appellant for the Player before 3 December 2004.

B. What is the Correct Calculation of the Training Compensation?

22. Considering that the Panel has already determined that Appellant is entitled to receive training compensation from Respondent for the training of the Player during the Training Period, the Panel will now determine how this training compensation is to be calculated.

23. In order to calculate the amount of training compensation, the Panel considers article 16 of the FIFA Regulations, which requires the application of the Application Regulations. Therefore, the Panel looks into the articles of the Application Regulations that are relevant to this case.

24. Article 6 the Application Regulations refers to the categorization of clubs as a parameter to calculate the training compensation by providing:

"1. ***In order to calculate the compensation due for training and education costs, the clubs will be categorised in accordance with their financial investments in training players****.*

2. Four categories shall be established according to the following guidelines:

(a) Category 1 (top level, e.g. high quality training centre):

all first-division clubs of national associations investing on average a similar amount in training players. These national associations will be defined based on actual training costs, and this categorisation can be revised on a yearly basis.

[…]

3. ***National associations may propose other criteria for categorising the training and education costs incurred by clubs affiliated to them****. The training and education costs per category shall be calculated by multiplying the cost of training one player by an average player factor. The player factor determines the ratio between the number of players who need to be trained to produce one professional player.*

[…]

6. ***Guidelines on what type of costs may be included in the calculation of training and education costs will be set out in a circular letter from FIFA****".*

[Emphasis added]

25. Article 7 the Application Regulations addresses the method to calculate the training compensation by stating:

"1. The calculation for training and education shall be obtained by multiplying the amount corresponding to the category of the training club for which the player was registered by the number of years training from 12 to 21.

2. To ensure that training compensation for very young players is not set at unreasonably high levels, the amount for players aged 12 to 15 shall be based on the training and education costs for category 4.

3. As a general principle, compensation for training is based on the training and education costs of the country in which the new club is located. […]".

26. However, since the Application Regulations do not contain the actual categories of the clubs but rather generally make reference in article 6 (6) to *"a circular letter from FIFA"*, the Panel resorts to the wording of Circular 826, which established the so-called "indicative amounts" to assess the training compensation fees *"subject to review by the Dispute Resolution Chamber in individual cases"*. Circular 826 stipulates that:

"The actual compensation fee is calculated by multiplying the amount corresponding to the category of the relevant training club by the number of years of training from 12 to 21".

27. In addition, Circular 826 establishes the following indicative amounts for European clubs:

"1. Category: EUR 90,000

2. Category: EUR 60,000

3. Category: EUR 30,000

4. Category: EUR 10,000".

28. The Panel takes note that other CAS Panels have previously relied on Circular 826 as a valid basis for the calculation of the training compensation (cf. CAS 2003/O/527, para. 7.3.9; CAS 2003/O/469, para. 6.48 and CAS 2003/O/506, para. 84). In addition, previous CAS jurisprudence has already established that article 7 (2) of the Application Regulations is to be applied strictly, always calculating the amount of training compensation owed for players aged 12 to 15 on the training and education costs of category 4 (cf. CAS 2003/O/506, para. 93).

29. Both Appellant and Respondent are European clubs belonging to category 1, i.e. a club of the Italian Serie A and a club of the English Premier League.

30. Based on the foregoing and in particular on article 7 (1), 7 (2) and 7 (3) of the Application Regulations, the Panel calculates the training compensation of the Player for the Training Period according to the indicative amounts by applying category 1 to seasons 2002/2003 and 2003/2004 and category 4 to the seasons 1999/2000; 2000/2001 and 2001/2002.

31. As a result, in accordance with the indicative amounts Appellant would be entitled to receive a total of EUR 205,000 in training compensation for the Training Period (2 times EUR 90,000 + 2.5 times EUR 10,000), as it can be seen from the following table:

Sporting Season	**Club with which the Player was registered**	**Age of the Player**	**Applicable Category**	**Indicative Amount**	**Appellant's entitlement**
1999-2000	US Junior Team (until December 1999); Appellant (from January 2000)	12-13	1 [recte: 4]	EUR 10,000	EUR 5,000
2000-2001	Appellant	13-14	1 [recte: 4]	EUR 10,000	EUR 10,000
2001-2002	Appellant	14-15	1 [recte: 4]	EUR 10,000	EUR 10,000
2002-2003	Appellant	15-16	4 [recte: 1]	EUR 90,000	EUR 90,000
2003-2004	Appellant	16-17	4 [recte: 1]	EUR 90,000	EUR 90,000
TOTAL AMOUNT OF TRAINING COMPENSATION					**EUR 205,000**

C. Are There Any Reasons to Adjust the Training Compensation, in principle?

32. According to Appellant the training compensation fee calculated on the basis of the indicative amounts is clearly disproportionate to the case under review. Therefore, Appellant asks for this Panel to adjust the training compensation to the special circumstances of the case, in accordance with article 42(1)(b)(iv) of the FIFA Regulations, the DRC *"shall have discretion to adjust the training fee, if it is clearly disproportional to the case under review"*.

33. To decide whether Appellant is entitled to an adjustment of the training compensation on account of the special circumstances of the case, the Panel will first analyze the nature of the discretion mentioned in article 42(1)(b)(iv) of the FIFA Regulations [see a) below]; then interpret the role of Circular 769 and Circular 799 in the assessment of clear disproportionality [see b) below]; and finally, determine whether calculating the training compensation on the basis of the indicative amounts is clearly disproportionate to the specific circumstances of this case [see c) below].

a) Discretion to Adjust the Training Compensation in Case of Clear Disproportionality

34. Since the general principle of equal treatment of the member federations requires that such adjustments are based only on criteria established by the applicable rules and regulations (cf. CAS 2003/O/527, para. 30; and CAS 2006/A/1027, para. 36), the Panel examines the FIFA Regulations, the Application Regulations and the Circular Letters in order to determine whether the deviation from the indicative amounts requested by Appellant is possible.

35. The Panel underlines that the system of training compensation *"intends to reward clubs for the worthy work done in training young players and is not designed to simply reimburse the club for its actual costs incurred in cultivating youth teams. The training compensation appears to be a reward and an incentive rather than a refund (CAS 2003/O/506, award of 30 June 2004, par. 78, p. 16). Such solidarity principle applies with the purpose of providing financial assistance to weaker clubs by stronger ones. The indicative amounts […] are supposed to reflect this principle and are a general average applying globally. In other words, they are supposed to facilitate the handling of transfer cases by making specific calculations unnecessary, thereby simplifying and speeding up the compensation and transfer process (see also CAS 2003/O/500, award of 24 February 2004, par. 7.7, p. 12)"* (CAS 2009/A/1810 & 1811, para. 82).

36. Having the solidarity principle in mind, the Panel considers Circular 826, which stipulates that:

> *"**These [indicative] amounts will be used** when applying the provisions contained in Chapter VII of the FIFA Regulations for the Status and Transfer of Players […], as well as Chapter III of the Regulations governing the Application of the Regulations for the Status and Transfer of Players […], **together with circular letters nos. 769 and 799** […]*
>
> ***Any party that objects to the result of a calculation based on the rules on training compensation is entitled to refer the matter to the Dispute Resolution Chamber. The Chamber will then review whether the training compensation fee calculated on the basis of the indicative amounts and the principles of the revised regulations, as simplified below, is clearly disproportionate to the case under review** in accordance with Art. 42. 1. b. (iv) of the Basic Regulations, while taking into account the indicative nature of these amounts. Whenever particular circumstances are given, the Dispute Resolution Chamber can adjust the amounts for the training compensation so as to reflect the specific situation of a case […]".*
>
> [Emphasis added]

37. CAS jurisprudence has interpreted that the training compensation calculated on the basis of the indicative amounts was to be considered as *"a general guide in determining the Training Compensation to be paid in the present case. This amount, therefore, may be applied, increased or reduced, according to the facts and circumstances of the particular case"* (CAS 2003/O/500, para. 7.12).

38. Moreover, CAS Panels have recognized that Circular 826 allows the adjustment of training compensation calculated on the basis of the indicative amounts if the objecting club proves that such compensation is disproportionate (cf. CAS 2003/O/506, para. 99; and CAS 2009/A/1810-1811, para. 83). In addition, since *"the 'clear disproportion' rule set out by Circular 826 is an exception to the general rule dictating the use of the indicative amounts […] the objecting party has the burden of adducing enough evidence to substantiate its assertion that the amount calculated in accordance with the table of Circular 826 is not only disproportionate but also clearly so"* (CAS 2003/O/506, para. 100).

39. This was also acknowledged by the First CAS Award [see above], which stated:

"the DRC '…has the discretion to adjust the training fee if it is clearly disproportionate to the case under review'. However, the question remains how the DRC must exercise such discretion and notably whether it should spontaneously seek additional information in case of doubt concerning the content and/or proof of an individual calculation. […]

The Panel finds that the procedure described in above paragraph of the FIFA Circular letter no. 826 requires the DRC to at least give a claimant the opportunity of providing further evidence of its individual calculation if the DRC does not reject the type of calculation proposed but merely estimates insufficient evidence to have been submitted regarding the quantum"

(CAS 2005/A/927, paras. 33, 34 and 36).

40. However, the First CAS Award emphasized that this more proactive duty of the DRC does not affect the strict standard for the burden of proof that an objecting club has concerning the facts it relies on to allege clear disproportionality:

"The foregoing interpretation of the DRC's function and duties under the current FIFA regulations does not modify the weight of evidence required of the claimant to succeed on the merits, since the claimant remains bound by the strict proof of the facts relied on. It simply recognizes a certain form of inquisitorial duty imposed on the DRC under the current formulation of the FIFA regulations, bearing in mind that FIFA's 'circular letters' are intended, among other things, to inform members of the FIFA's practice under its regulations"

(CAS 2005/A/927, para. 37).

41. In addition, the Panel considers the wording of article 8 of the Swiss Civil Code, which stipulates:

"Chaque partie doit, si la loi ne prescrit le contraire, prouver les faits qu'elle allègue pour en déduire son droit".

In loose translation:

"Each party must, if the law does not provide for the contrary, prove the facts she alleges to derive her right".

42. As a result, this Panel reaffirms the ruling of previous CAS Panel establishing that *"in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must*

meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue. In other words, the party which asserts facts to support its rights has the burden of establishing them (see also article 8 of the Swiss Civil Code, ATF 123 III 60, ATF 130 III 417). The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some facts and persuade the deciding body, it must actively substantiate its allegations with convincing evidence" (cf. CAS 2003/A/506, para. 54; and CAS 2009/A/1810&1811, para. 46).

43. For the reasons mentioned above, this Panel finds that Appellant is entitled to object to a training compensation calculated on the basis of the indicative amounts contained in Circular 826. However, since training compensation is a reward and an incentive rather than a claim for refund of training costs, Appellant bears the burden of proving to the comfortable satisfaction of this Panel that such compensation is clearly disproportionate when considering the truly particular circumstances involved in the case under review and that therefore the calculated compensation must be adjusted. Appellant has to satisfy its burden of proof on the basis of specific documents, such as invoices, costs of training centres, budgets, and other documentation of expenses showing that the expenses bear a clear relation to the training of its youth sector. In the absence of such evidence, the indicative amounts apply (cf. CAS 2003/O/500, para. 7.10; CAS 2003/O/506, paras. 80, 99 and 100; CAS 2003/O/527, para. 7.4.3; CAS 2004/A/560, para. 7.6.2; CAS 2006/A/1027, paras. 38 and 39; CAS 2007/A/1218, para.82; and CAS 2009/A/1810, para 83).

b) The Role of Circular 769 and Circular 799 in the Assessment of Clear Disproportionality

44. To determine whether training compensation calculated on the basis of the indicative amounts is clearly disproportionate to the particular circumstances of this case, the Panel has to take into account Circular 769 and Circular 799 which were issued by FIFA before establishing the system of indicative amounts set forth in Circular 826.

45. Circular 769 sets forth the philosophy underlying the rules on training compensation. As recognized by CAS jurisprudence, Circular 769 tries to reconcile the opposite and equally legitimate needs of clubs training youth teams and of young players launching out into a professional career, providing that training compensation will not be calculated for each individual club (cf. CAS 2003/O/506, paras. 59 to 62):

"This system is designed to encourage more and better training of young football players, and to create solidarity among clubs, by awarding financial compensation to clubs which have invested in training young players. At the same time, care has also been taken to ensure that the amounts of training compensation do not become disproportionate, and unduly hinder the movement of young players.

[…]

In order to render the system manageable and to ensure predictability as to the amount of training compensation due, ***the training and education costs to be compensated will not be calculated for each individual club****".*

[Emphasis added]

46. Furthermore, Circular 799, which was later addressed to national associations, contained a method expressly meant for national associations to calculate themselves the annual average training costs for each category of clubs according to certain guidelines which listed the costs that should be considered *"when calculating a value for the actual costs of training young players at clubs"* (cf. CAS 2003/O/469, paras. 6.36, and 6.46 to 6.48; CAS 2003/O/506, paras. 67 to 70):

"On the basis of the responses from national associations and studies carried out by the FIFA General Secretariat, ***we set out below guidelines, which are not intended to be exhaustive, as to the types of expenses that national associations should take into account when calculating a value for the actual costs of training young players at clubs. These costs must be limited to those which are incurred by clubs in each category in the country concerned in training young players****, based on the criteria set out below.*

- *Salaries and/or allowances and/or benefits paid to players (such as pensions and health insurance)*
- *Any social charges and/or taxes paid on salaries*
- *Accommodation expenses*
- *Tuition fees and costs incurred in providing internal or external academic education programmes*
- *Travel costs incurred in connection with the players' education*
- *Training camps*
- *Travel costs for training, matches, competitions and tournaments*
- *Expenses incurred for use of facilities for training including playing fields, gymnasiums, changing rooms etc. (including depreciation costs)*
- *Costs of providing football kit and equipment (e.g. balls, shirts, goals etc.)*
- *Expenses incurred in playing competitive matches including referees expenses, and competition registration fees*
- *Salaries of coaches, medical staff, nutritionists and other professionals*
- *Medical equipment and supplies*
- *Expenses incurred by volunteers*
- *Other miscellaneous administrative costs (a % of central overheads to cover administration costs, accounting, secretarial services etc.)".*

47. CAS jurisprudence has explained the method of Circular 799 as follows:

"In order to determine an average training compensation amount for each different category, the figure representing the annual average training cost for each category is then divided by the total number of players that are effectively trained, on average, by a club in each category. The resulting figure represents the average cost for training one player at a club in a particular category. Finally, to arrive at the training compensation amount, this figure is multiplied by the average "player factor". The player factor represents the number of players that need to be trained on average by a club in a given category in order to produce one professional player. The actual amount of compensation to be paid for a particular player is then calculated by multiplying this amount by the number of years training which the player effectively received from a particular club" (CAS 2003/O/469, para. 6.36).

48. On account of the above, this Panel finds that the assessment of the training and education costs to be compensated cannot be calculated for each individual club pursuant to the principle contained in Circular 769, as the provisions of FIFA preclude the Panel from assessing the training compensation fee on the basis of the budget of any individual club which has trained the young player before his first professional contract (cf. CAS 2003/O/506, para. 82). However, the guidelines contained in Circular 799 can be used to assess whether training compensation calculated on the basis of the indicative amounts is clearly disproportionate to the particular circumstances of this case.

c) Assessment of Clear Disproportionality

49. Concerning the assessment of clear disproportionality, Appellant, in brief, maintains that it is entitled to an amount of training compensation calculated by deviation from the indicative amounts on account of four reasons: first, the outstanding quality and value of the Player; second, the integrity of Appellant's cost presentation; third, the distinctiveness of Appellant's youth program; and finally, in light of the aforementioned reasons, the need for the DRC to exercise its discretion in this case to deviate from the indicative amounts. In support of its claim, Appellant submitted the following evidence to this Panel:

- Annex A: copy of Appellant's submission to the DRC dated 5 November 2007 (filed in the second proceeding before the DRC);
- Annex B: copy of the invoices and statements that are reported in Appellant's official balance sheet of the 2001/2002, 2002/2003 and 2003/2004 sporting season (filed in the second proceeding before the DRC);
- Annex C: translation into English of the accounting schedules of Appellant's balance sheet of the 2001/2002, 2002/2003 and 2003/2004 sporting seasons (filed in the second proceeding before the DRC);
- Annex D: copy of Appellant's official balance sheet of the 2001/2002 and the 2002/2003 sporting season (filed in the second proceeding before the DRC);
- Annex E: Appellant's appeal brief dated 25 July 2005, without annexes (filed in the first proceeding before CAS – CAS 2005/A/927);

- Annex F: Respondent's answer to Appellant's appeal brief dated 17 August 2005 (filed in the first proceeding before CAS – CAS 2005/A/927).

50. In contrast, Respondent submits that the DRC correctly applied the FIFA Regulations by calculating the training compensation on the basis of the indicative amounts provided therein, notably due to three reasons: first, both the value and quality of the Player as well as the distinctiveness of Appellant's youth program are irrelevant for the calculation of training compensation; second, the DRC had no obligation to deviate from the indicative amounts and imposing such a high fee training compensation fee would be contrary to European law as it hinders the Player's freedom of movement; and finally, the fact that Appellant failed to meet its burden of proving the invoked investments. In this regard, Respondent questions Appellant's cost presentation on several aspects [for details see below paragraphs 53 *et seq.*]

51. In the Second DRC Decision Appellant's request for calculation of the training compensation by deviation from the indicative amounts was rejected due to fact that the DRC found that it was not in a position to decide whether the numbers given by Appellant in its individual calculation of the training costs *"would actually correlate with any amount indicated in the Italian balance sheet"*. Furthermore, even considering the numbers indicated by Appellant in its written submission as correct, the DRC ruled that the application of the indicative amounts to the calculation of the training compensation could not be considered as clearly disproportionate to the specific circumstances of this case. As a result, the DRC confirmed that Appellant was entitled to receive from Respondent a total of EUR 205,000 in training compensation for the Player for the Training Period.

D. Has Appellant Discharged its Burden of Proof?

52. To assess whether training compensation calculated on the basis of the indicative amounts is clearly disproportionate to the specific circumstances of this case, this Panel will first concentrate on the integrity of Appellant's evidentiary submissions [see a) below]; and afterwards address the value of the formation of the Player [see b) below].

a) Appellant's Evidentiary Submissions

53. Concerning the integrity of Appellant's evidentiary submissions, this Panel not only considered Respondent's extensive contentions on the lack of completeness and the widespread defects found in Appellant's evidentiary submission but also took particular consideration of Annexes B, C and D to assess whether Appellant had discharged its burden of proving the clear disproportionality of calculating the training compensation on the basis of the indicative amounts considering the particular circumstances of this case.

54. The Panel examined closely the evidence presented by Appellant and noted that the expenses claimed by Appellant as incurred for the training of its youth sector for the sporting seasons of 2001/2002, 2002/2003 and 2003/2004 had been listed by Appellant in pages 19 to 24 of

Annex A, totalling an overall amount of EUR 11,256,772. This list comprises a total of 113 items with different categories of expenses (considering all three seasons). In this regard, the Panel found the following deficiencies concerning the evidence presented:

- there is a general lack of substantiation concerning Appellant's expenses [see subsection aa)];
- Appellant failed to substantiate its claims by merely presenting internal documents [see subsection bb)];
- Appellant failed to substantiate its claims by not submitting all invoices included in the accounting schedules or by submitting illegible or partial documents [see subsection cc)];
- Appellant did not submit any evidence regarding certain amounts claimed [see subsection dd)];
- Appellant claims certain amounts which cannot be considered "training expenses" under Circular 799 [see subsection ee)]; and
- Appellant failed to substantiate its claims regarding its travel expenses [see subsection ff)].

aa) General lack of substantiation concerning Appellant's expenses

55. With reference to 93 items (out of a total of 113), the bills or invoices presented by Appellant do not evidence that the expenses allegedly incurred by Appellant had any relation to the training of Appellant's youth sector. Appellant failed to provide sufficient additional explanations as to how these expenses were related to the training of the youth sector at the hearing, in its statement of appeal, its appeal brief or the other Annexes filed with this Panel to substantiate its claim. Examples of these evidentiary defects can be found, inter alia, in Appellant's Annex B, season 2001/2002, Dox 1, Tabs 1, 2, 4, 5, and 6.

bb) Lack of substantiation concerning Appellant's internal documents

56. Pertaining to over half of the items (out of the 93 items previously mentioned in aa)), Appellant provided the Panel with printouts of internal documents in the Italian language apparently elaborated by Appellant's accounting department allegedly showing payments of salaries, social security and national insurance. However, the Panel cannot determine from these internal printouts provided which payments were actually made and on what account, especially because the documents do not explain the relation of these internal documents to the relevant accounting schedules or their translation. This deficiency in the documentary evidence was not explained by Appellant at the hearing, in its Statement of Appeal, its Appeal Brief or the other Annexes filed with this Panel to substantiate its claim. Examples of these evidentiary defects can be found, *inter alia*, in Appellant's Annex B, season 2001/2002, Dox 2, Tabs 12, 13, 14 and 15; Appellant's Annex B, season 2002/2003, Dox 2, Tabs 13, 14, 15 and 16; and Appellant's Annex B, season 2003/2004, Dox 2, Tabs 13, 14, 15 and 16. Thus,

Appellant has failed to substantiate the amounts claimed pertaining to this substantial number of items.

cc) Lack of substantiation concerning Appellant's invoices

57. Further, with regard to 11 items (out of the total of 93 items), several of the invoices listed in the accounting schedules are missing, illegible, partial or the documentation consists just of handwritten calculations which are not comparable to an invoice or a bill. Moreover, sometimes Appellant even submitted invoices which were not listed in the accounting schedules at all. Examples of these evidentiary defects can be found, *inter alia*, in Appellant's Annex B, season 2001/2002, Dox 1, Tabs 3, 7 and 8; Appellant's Annex B, season 2002/2003, Dox 1, Tab 8; and Appellant's Annex B, season 2003/2004, Dox 1, Tabs 2, 7, 8, and 11. Hence, the Panel finds that Appellant has failed to substantiate in a satisfactory manner the amounts claimed with regard to such 11 items too.

dd) No evidence submitted by Appellant

58. Concerning 8 other items (out of the total of 113), Appellant presented no evidence at all in support of the claimed amounts. Examples of these evidentiary defects are, *inter alia*, the juvenile teams' assistants' salaries for the sporting season 2001/2002, social security payments on assistants' salaries for the sporting season 2001/2002, and national security payments on assistants' salaries for the sporting season 2001/2002. Therefore, the Panel finds that Appellant has failed to substantiate the amounts claimed concerning these 8 items.

ee) Alleged expenses cannot be considered "training expenses"

59. As to 8 other items (out of the total of 113), Appellant has claimed as costs related to the training of its youth sector the payment of salaries, social security and national insurance it allegedly made in relation to the services of players' agents and talent scouts. In this regard, and lacking other information and evidence that would justify another interpretation, the Panel agrees with Respondent that these costs cannot be considered for the calculation of the training compensation under the heading "salaries of other professionals" in accordance with the guidelines comprised in Circular 799 as they are not *"actual costs of training young players at clubs"*. Examples of these costs can be found, *inter alia*, in Appellant's Annex B, season 2001/2002, Dox 2, Tabs 17 and 18; and Appellant's Annex B, season 2002/2003, Dox 2, Tabs 16 and 17.

ff) Lack of substantiation concerning Appellant's travel expenses

60. In relation to 11 other items (out of the total of 113), Appellant provided the Panel with invoices from travel agencies, bus rental companies, hotels, restaurants but failed to provide sufficient additional explanations as to how these expenses were related to the training of the youth sector in its Statement of Appeal, its Appeal Brief or the other Annexes filed with this Panel to substantiate its claim. Moreover, Appellant also submitted letters addressed to third clubs that appear to be providing for the reimbursement of their organizational and other costs as well as reimbursement claims against the Italian football association (also known as FIGC) for players that participated in the Italian national youth teams or simply handwritten calculations. Appellant failed to provide evidence for some of the amounts claimed in the accounting schedules and has again provided documentary evidence for some amounts that do not appear in the accounting schedules. Moreover, the witnesses appointed by Appellant were not able to supplement or satisfactorily explain the evidence submitted. Examples of these evidentiary defects can be found, *inter alia*, in Appellant's Annex B, season 2001/2002, Dox 2, Tab 20; Appellant's Annex B, season 2002/2003, Dox 1, Tab 5; Appellant's Annex B, season 2003/2004, Dox 1, Tabs 5 and 9.

61. Considering that Appellant has failed to explain how the expenses relate to the training of its youth sector, why the documentary evidence does not match the amounts listed in the accounting schedules, when the alleged trips were done, or even why it should be entitled to claim amounts that appear to have been reimbursed to Appellant already, the Panel finds that Appellant has failed to substantiate the amounts claimed in relation to these 11 items too.

62. Taking into account all deficiencies discussed during the Hearing and summarised above by the Panel in paragraphs 54 to 60, the Panel arrives to the conclusion that Appellant has failed to adequately substantiate and proved, respectively, the amounts claimed as representing its training costs.

63. Furthermore, the Panel has not been able to ascertain the effectiveness of the "player factor" (i.e. the average amount of players that need to be trained on average by a club in a given category in order to produce one professional player) in this case. Appellant submits before this Panel that during the relevant sporting seasons it trained an average of 150 players and that an annual average of 6.4 players became professionals. To support its allegations, Appellant provided this Panel with the lists of names of juvenile players above the age of 14 that were registered with Appellant during the sporting seasons of 2001/2002, 2002/2003 and 2003/2004 as well as lists of which of Appellant's juvenile players received a professional contract [Annexes 14 to 19 of Appellant's Annex A]. However, as correctly noted by Respondent, a closer look at these lists shows that some of the names included are of old players who are not between the ages of 12 and 21 as required by Circular 799 (such as A., born on 21/12/1973; B., born on 21/08/1968; S., born 12/10/1966; or T., born 08/05/1966). Moreover, Appellant has submitted no evidence to support its allegation that it trains every year an approximate number of 40 players aged 12 and 13. Therefore, regardless of its trustworthiness, the Panel cannot rely on such incomplete evidence; hence, the "player factor" cannot be reliably determined and it is not possible for the Panel to arrive at any kind

of accurate verification of the Respondent's [recte: Appellant's] alleged training costs and requested compensation (cf. CAS 2003/O/506, para. 107).

64. In addition, this Panel wants to highlight that the documentation filed by Appellant before this Panel to support its claim under Appellant's Annexes B, C and D is essentially the same that Appellant had previously provided to DRC to evidence the expenses it incurred for the youth sector in during the seasons 2001/2002, 2002/2003 and 2003/2004. Thus, the evidence suffers from the same defects for which Appellant's claim before the DRC was rejected.

65. As a result, the Panel rules that Appellant has failed to discharge its burden of proving that calculating the training compensation on the basis of the indicative amounts would be clearly disproportional to the specific circumstances of this case.

b) The Value of the Formation Received by the Player

66. Turning to Appellant's arguments that the value and quality of the Player or the distinctiveness of Appellant's youth program was evidence of clear disproportionality, this Panel would like to emphasize that the wording of the relevant FIFA provisions concerning training compensation do not expressly provide for the *"value and quality of a Player"* as relevant factors for the assessment of clear disproportionality pursuant to Circular 826. Instead, the Panel deems that it is rather the *"value of the formation received by the Player"* which can be regarded as *"particular circumstances"* in the sense of Circular 826 requiring the adjustment of the amounts for the training compensation so as to reflect the specific situation of the case to the comfortable satisfaction of this Panel.

67. The most important evidence presented by Appellant in this regard was the testimony of P. However, the Panel would like to emphasize that both F. and P. were designated by Appellant in its Appeal Brief *"as available witnesses regarding the compilation of Parma's relevant costs, in order to provide all clarifications and information that the Panel may request"*. Thus, even though P. provided the Panel with a general idea of how Parma's youth sector was organized and its prestige in Italian football, the testimony provided by P. was not based on or supported by the evidence duly filed by Appellant.

68. There is hardly doubt that Appellant tried its best to provide the Panel with evidence in support of its claim. However, possibly caused also by the corporate difficulties experienced during the recent years by Appellant, the above highlighted substantial evidentiary deficiencies made it impossible for the Panel to arrive to a satisfactory clear image of the expenses and the investments made by the Appellant in the relevant years for the youth sector. In particular, the evidence submitted could not show to the comfortable satisfaction of this Panel that the value of the formation received by the Player would be a particular circumstance requiring the adjustment of the amount of training compensation in this case.

69. Furthermore, the Panel notes that the payment of the training compensation fell due already on 3 December 2004 i.e. within 30 days of the Player's first professional contract. To support

its claim of disproportionality, Appellant has made reference to several achievements of the Player that occurred after this time. However, this Panel may not consider them as Appellant has failed to prove that this evolution was due to the training of the Player before he was registered as a professional with Respondent. In addition, it is one of the key features of the system of training compensation to provide a quick and unbureaucratic reward to former club for the training of the player. If, for whatever reason, the final calculation of the training compensation is delayed as in the case at hand, this should not serve to the advantage or disadvantage of any of the parties (cf. CAS 2003/O/469, in which the Panel partially upheld an earlier decision by the FIFA Special Committee not taking into account that the Player suffered an injury that would not allow him to play football at competitive level anymore).

70. Finally, the Panel rejects Appellant's consideration of the transfer of the Player realized more than 2 years and 8 months after the payment of the training compensation fell due as an exceptional circumstance that would justify deviation from the indicative amounts. As acknowledged in the Second Decision of the DRC, the value of a future transfer of a player is not an element that shall be taken into consideration when adjusting the training compensation on the basis of 42(1)(b)(iv) of the FIFA Regulations. Instead, it is under the solidarity mechanism that a training club can benefit from a rising value of the services of a player that it has trained, in case this player is transferred at a later stage during the course of an employment contract between two clubs belonging to different associations.

E. Legal Consequences of the Panel's Findings

71. The Panel has found that Appellant did not discharge its burden of proving that calculating the amount of training compensation based on the indicative amounts would be clearly disproportional to this case. Therefore, the Panel finds that Appellant is entitled to receive from Respondent a total of EUR 205,000 in training compensation for the Training Period. Since Respondent has already paid this amount, Appellant is not entitled to further payments from Respondent in connection with the training compensation of the Player.

72. The above conclusion, finally, makes it unnecessary for the Panel to consider the other requests and the other arguments submitted by the parties to the Panel. Accordingly, all other prayers for relief are rejected.

The Court of Arbitration for Sport rules:

1. The appeal filed by Parma FC S.p.A. against the decision issued on 12 March 2009 by the Dispute Resolution Chamber of FIFA is dismissed.

2. The decision issued on 12 March 2009 by the Dispute Resolution Chamber of FIFA is upheld.

(…)

5. All other prayers for relief are rejected.