



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

Arbitration CAS 2023/A/9366 North Carolina FC v. 1. FC Nürnberg, award of 11 September 2023

Panel: Mr Marco Balmelli (Switzerland), Sole Arbitrator

Football

Training compensation

New evidence in the sense of Article R57 (3) of the CAS Code

Event giving rise to a dispute in the context of training compensation

1. According to Article R57 (3) of the CAS Code, a panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered. The *de novo* standard of review is fundamental in the foundation of the CAS system and should not be undermined by an overly restrictive interpretation in relation to Article R57 (3) of the CAS Code.
2. Article 25 (5) of the FIFA Regulations on the Status and Transfer of Players (RSTP) stipulates that the FIFA Dispute Resolution Chamber shall not hear any case subject to the FIFA regulations if more than two years have elapsed since the event giving rise to the dispute. Article 3 (1) and (2) of Annexe 4 of the FIFA RSTP shall apply to determine the starting point of the two-year time limit.

I. PARTIES

1. North Carolina FC (the “Appellant” or the “Club”) is a professional football club from the United States of America, affiliated to the United States Soccer Federation (the “USSF”), which in its turn is a member association of the *Fédération Internationale de Football Association* (the “FIFA”).
2. 1. FC Nürnberg (the “Respondent”) is a professional football club from Germany, affiliated to the German Football Association (the “DFB”), which in its turn is a member association of the FIFA.

II. FACTUAL BACKGROUND

A. Background Facts

3. Below is a summary of the main relevant facts, as established based on the written submissions of Appellant and of the Respondent (the Appellant and the Respondent each as a “Party” and both together hereinafter, the “Parties”) and the evidence examined in the course of the proceedings. This background is set out for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be referred to, where relevant, in connection with the later legal discussion. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence available to him in the present proceedings, only the submissions and evidence necessary to explain the reasoning of the award will be referred to in the following paragraphs.
4. Mr. A (the “Player”) is a professional football player born in the United States of America, who was trained by the Appellant as an amateur. According to the Player’s passport issued by the USSF (the “US Player Passport”), the Player was registered, among others, for the following teams:
 1. Capital Area Soccer League, from 1 July 2015 until 28 August 2016, as an amateur;
 2. Capital Area Railhawks Academy, from 29 August 2016 until 26 August 2017, as an amateur;
 3. North Carolina FC Youth Academy, from 27 August 2017 until 15 April 2020, as an amateur; and
 4. North Carolina FC, from 16 April 2020 until 9 July 2020, as an amateur.
5. On 27 August 2020, the Player signed a contract with the Respondent, which was valid from 1 September until the end of the 2020/2021 season, i.e., 30 June 2021.
6. On 1 September 2020, the Player was registered for the first time as a professional with the Respondent according to the Player’s passport issued by the DFB (the “DFB Player Passport”).

B. Proceedings before the FIFA Dispute Resolution Chamber

7. On 28 September 2022, the Appellant lodged a claim before the FIFA Dispute Resolution Chamber (the “FIFA DRC”) requesting its due training compensation pursuant to the FIFA Regulations on the Status and Transfers of Players (the “FIFA RSTP”), in view of the Player’s first professional contract and registration with the Respondent. The Appellant requested EUR 143,150.69 as training compensation plus interest.
8. On 18 November 2022, the FIFA DRC issued the following decision (the “Appealed Decision”):
 1. *The claim of the Claimant, North Carolina FC, is admissible.*

2. *The claim of the Claimant is partially accepted.*
3. *The Respondent, 1. FC Nürnberg, shall pay to the Claimant EUR 13,972.60 as training compensation, plus 5% interest p.a. on that amount, as from 30 October 2020 until the date of effective payment.*
4. *Any further claim lodged by the Claimant is rejected.*
5. *Full payment (including all applicable interest) shall be made to the bank account indicated in the enclosed Bank Account Registration Form.*
6. *Pursuant to article 24bis of the Regulations on the Status and Transfer of Players if full payment (including all applicable interest) is not paid **within 45 days** of notification of this decision, the following **consequences** shall apply:*
 1. *The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of three entire and consecutive registration periods.*
 2. *The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not paid by the end of the of the three entire and consecutive registration periods.*
7. *The consequences **shall only be enforced at the request of the Claimant.***
8. *The final costs of the proceedings in the amount of USD 14,800 are to be paid by the parties to FIFA with reference to case no. TMS 11351 (cf. note relating to the payment of the procedural costs below) as follows:*
 - *The amount of USD 8,000 shall be paid by the Respondent; and*
 - *The amount of USD 6,800 shall be paid by the Claimant.*
9. In the grounds of the decision, issued on 16 December 2022, the FIFA DRC evaluated, in summary the following:
 - Regarding the argument of the Respondent that the claim of the Appellant is time-barred, the FIFA DRC stated that according to Article 25 (5) of the FIFA RSTP (June 2020 edition), it shall not hear any case subject to the FIFA Regulations if more than two years have elapsed since the event giving rise to the dispute. The FIFA DRC then identified that the event giving rise to the dispute was the potential training compensation. Training compensation was due to be paid by the Respondent to any entitled club on 29 October 2020. Since the Appellant lodged its claim on 28 September 2022, the claim of the Appellant is admissible.
 - Training compensation is due when a player is registered for the first time as a professional before the end of the season year of his 23rd birthday (Article 2 (1) lit. i) of

Annexe 4 of the FIFA RSTP). The Player's first registration as a professional was on 29 September 2020 and took place during the season of his 18th birthday. Therefore, training compensation is due.

- For the first registration of a professional, the registering club shall pay compensation within 30 days of registration to every club with which the player has previously been registered, starting from the season of his 12th birthday. The amount is calculated on a *pro rata* basis according to the period of training that the player spent with each club (Article 3 (1) of Annexe 4 FIFA RSTP).
- The FIFA DRC stated that, in principle, the Respondent shall pay training compensation to the Player's training club(s).
- The FIFA DRC determined all the mentioned names as clubs and differentiated between these clubs in light of the presented evidence by the Appellant. The Appellant alleged that all clubs (North Carolina FC Youth Academy, Capital Area Railhawks Academy, Capital Area Soccer League) are the same entity or belonged to the Appellant. FIFA DRC held that the burden of proof regarding this allegation lies with the Appellant.
- After reviewing and discussing the evidence brought forward by the Appellant, the FIFA DRC decided that the Appellant failed to provide supportive evidence for its allegations and had not met its burden of proof. The evidence submitted by the Appellant failed to demonstrate that the Appellant's club, North Carolina FC Youth Academy, Capital Area Soccer League, Capital Area Railhawks Academy belonged to the same entity. However, it was established that the Player was registered with the Appellant from 16 April 2020 until 9 July 2020. This results in 85 days of the Player's 17th birthday season for which training compensation was due and to be paid by the Respondent to the Appellant.
- The amount of training compensation payable is calculated by taking the training costs of the new club, multiplied by the number of years of training, in principle from the season of the player's 12th birthday to the season of his 21st birthday (Article 5 (2) of Annexe 4 FIFA RSTP). The Respondent was classified as a category II club in UEFA when it registered the Player. The yearly amount set for these clubs corresponds to EUR 60,000.00. Therefore, the amount of training compensation is EUR 13,972.60 (EUR 60,000.00 divided by 365 and multiplied by 85 days).
- The Respondent did not pay any training compensation to the Appellant to date, although the Player was registered with the Respondent on 29 September 2020 and the deadline for training compensation according to art. 3 para. 2 of Annexe 4 FIFA RSTP is 30 days following the registration of the professional with the new association, i.e. 29 October 2020.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

10. On 6 January 2023, the Appellant filed its statement of appeal (the “Statement of Appeal”) in accordance with Article R48 of the Code of Sports-related Arbitration (hereinafter, the “Code”) against the Appealed Decision with the Court for Arbitration for Sport (the “CAS”).
11. On 11 January 2023, the CAS Office granted a time limit extension to the Appellant until 3 February 2023 for the filing of the Appeal Brief.
12. On 1 February 2023, the Appellant requested a further time limit extension to submit its Appeal Brief until 10 February 2023. On the same date, following the Respondent’s agreement, the CAS Office confirmed the Appellant’s time limit extension until 10 February 2023 for the filing of the Appeal Brief.
13. On 10 February 2023, the Appellant filed its Appeal Brief to the CAS timely. The CAS Court Office (the “CAS Office”) acknowledged the receipt of the Appellant’s Appeal Brief and informed the Respondent that, as previously agreed upon by the Parties, it shall file with CAS, within thirty-four days from receipt of this letter by courier, an Answer to the Appeal Brief.
14. On 16 March 2023, the CAS Office acknowledged receipt of the Respondent’s Answer to the Appellant’s Appeal Brief (the “Answer”) to the CAS Office. It informed the Parties that unless the Parties agree or the Sole Arbitrator orders otherwise on the basis of exceptional circumstances, Article R56 of the Code provides that the Parties shall not be authorized to supplement or amend their requests or their argument, nor to produce new exhibits, not to specify further evidence on which they intend to rely, after the submission of the Appeal Brief and of the Answer. The CAS Office also invited the Parties to inform the CAS Office by 23 March 2023 whether they prefer a hearing to be held or for the Sole Arbitrator to issue an award based solely on the Parties’ written submissions. It further acknowledged receipt of the Appellant’s payment of the totality of the advance of costs for this matter and informed the Parties that, pursuant to Article R54 of the Code, Dr Marco Balmelli, Attorney-at-law in Basel, Switzerland, had been appointed as Sole Arbitrator in the present matter.
15. On 5 April 2023, the CAS Office informed the Parties that they failed to indicate whether they prefer a hearing to be held, within the prescribed time limit. It advised the Parties that pursuant to Article R57.2 of the Code, the Sole Arbitrator deems himself sufficiently informed to render an arbitral award solely based on the Parties’ written submissions without holding a hearing.
16. On the same day, the CAS Office acknowledged receipt of the Appellant’s letter of today and its annexures. It informed the Appellant that its letter of 23 March 2023 has not been received by the CAS Office. After reviewing the Appellant’s letter, the CAS Office noted that the Appellant does not consider a hearing to be necessary in this matter but requests a deadline to file further submissions in reply to the Respondent’s Answer. The CAS Office invited the Respondent to comment on the Appellant’s request no later than 12 April 2023 and informed the Parties that, upon receipt of the Respondent’s comments, the Sole Arbitrator will rule on the Appellant’s request.

17. On 6 April 2023, the Respondent's email with its attachments was acknowledged by the CAS Office. It notes that, on 17 March 2023, the Respondent submitted its position regarding the holding of a hearing and considered that such a hearing would not be necessary. Further, the CAS Office noted the Respondent's objection to the Appellant's request to be granted a second round of written submissions and informed the Parties that the Sole Arbitrator will rule on the Appellant's request shortly.
18. On 12 April 2023, the CAS Office informed the Parties that, pursuant to Article R57 (1) of the Code, the Sole Arbitrator had requested a copy of the FIFA file in the present matter. Upon receipt of the FIFA file, the Sole Arbitrator then shall rule on the Appellant's request to be granted a second round of written submissions.
19. On 13 April 2023, the CAS Office shared a copy of the FIFA's letter of today, which contains a link to download the complete FIFA file related to this matter.
20. On 11 May 2023, the CAS Office informed the Parties that the Sole Arbitrator studied the FIFA DRC files and considered that no new arguments have been raised by the Respondent in its Answer and a second round of written submissions was not warranted. Consequently, the Appellant's request to be granted a second round of written submissions was denied. Since no hearing will be held in this matter, the Sole Arbitrator will render an arbitral award on the basis of the Parties' written submissions. The CAS Office enclosed the Order of Procedure and invited the Parties to sign and return such Order of Procedure to the CAS Office on or before 18 May 2023. On the same day, the CAS Office confirmed the receipt of the Respondent's signed Order of Procedure.
21. On 12 May 2023, the CAS Office acknowledged receipt of the Appellant's Order of Procedure and its letter of today, in which the Appellant notified the CAS Office of an amendment concerning the amount in dispute, considering the request in its Appeal Brief and the amount granted in the Appealed Decision. The Appellant amended the amount in dispute to EUR 129,178.08.

IV. SUBMISSIONS OF THE PARTIES

22. The following outline of the Parties' positions is illustrative only and does not necessarily compromise each and every contention put forward by them. The Sole Arbitrator, however, has carefully considered all the submissions made by the Parties, even if no explicit reference has been made in what immediately follows. The Parties' written submissions and the content of the Appealed Decision were all taken into consideration.

A. Submissions of the Appellant

23. The Appellant filed the following prayers for relief to the CAS:
 1. *That the CAS accepts the present appeal;*
 2. *That the present appeal be upheld and the Appealed Decision set aside or amended;*

ON THE MERITS

PRIMARILY

3. *That the Sole Arbitrator renders an award establishing that The Respondent shall pay to the Appellant the amount of EUR 143,150.68 as training compensation, plus 5 % interest p.a. on that amount, as from 01 October 2020 until the date of effective payment;*

SUBSIDIARILY

4. *That the Sole Arbitrator renders an award establishing that the Respondent shall pay to the Appellant the amount of EUR 131,452.05 as training compensation, plus 5 % interest p.a. on that amount, as from 01 October 2020 until the date of effective payment;*

LASTLY SUBSIDIARILY

5. *That the Sole Arbitrator renders an award establishing that the Respondent shall pay to the Appellant the amount of EUR 121,452.05 as training compensation, plus 5 % interest p.a. on that amount, as from 01 October 2020 until the date of effective payment.*

IN ANY CASE

6. *that the Respondent be ordered to bear the entire costs and fees of the present arbitration;*
7. *that the Respondent be ordered to pay the Appellant a contribution towards its legal fees and other expenses incurred in connection with these arbitration proceedings in an amount deemed fair by the Sole Arbitrator.*
24. The Appellant's submissions, in essence, may be summarized as follows:
- The Player was registered for the first time as a professional with the Respondent. It is evident that the Appellant is entitled to receive the training compensation for the entire period that it trained the Player as an amateur.
 - The amount of the training compensation shall be calculated according to the time duration that the Player was registered with the Appellant. The Player's US Player Passport indicates that the Player was registered for a total of 1,835 days between the seasons of the Player's 12th to 17th birthdays, amongst others, by four different teams: the Appellant, North Carolina FC Youth Academy, Capital Area Soccer League and Capital Areas Railhawks Academy.
 - When the Respondent registered the Player for the first time as a professional, it was considered a UEFA Category II Club. Therefore, the training compensation adds up to EUR 143,150.68 for the duration of 1,835 days.
 - The Appellant relies on a statement of the USSF (Exhibit 19; hereinafter, the "Letter of Confirmation"), which confirms that North Carolina FC, North Carolina FC Youth Academy and Capital Area Railhawks Academy are all the same club, i.e., the Appellant.

- Regarding the Player's time registered under the Capital Area Soccer League, the Appellant claims that Capital Area Soccer League is the Appellant's former name. The Appellant relies on document titled "Certificate of Assumed Name for Corporation" (Exhibit 12; hereinafter, the "Notary Public Certificate"), stating that the club Capital Area Soccer League and North Carolina FC Youth are the same entity.
- The Appellant relies on an email thread between the Director of the Appellant and the USSF in March 2016 to prove that Capital Area Soccer League and Capital Area Railhawks are the same entity. In those emails, the change of the name from Capital Area Soccer League to Capital Area Railhawks was addressed and the Director of the Appellant answered with a signature for both. According to the Appellant, this shows that the same person acted as Director of the Appellant.
- The Appellant relies on an email thread between the Director of the Appellant and the USSF Development Academy in April 2017 to prove its name change. It then claims that the email thread proves that the North Carolina Academy has developed players in its earlier days as Capital Area Railhawks, Triangle Futbol Club Alliance, and Capital Area Soccer League.
- With respect to North Carolina FC Youth Academy, the Appellant states that it is obvious and notorious that such team is the Appellant's youth categories, while the Appellant is merely the adult "A-Team". Further, the Appellant states that the USSF requests regarding the Player's release for youth national teams are all addressed to the Appellant even during the periods in which the Player is according to its US Player Passport registered with North Carolina FC Youth Academy. This right to release the Player for youth national team appearance indicates that the Player is registered with the Appellant.
- Although North Carolina FC and North Carolina FC Youth Academy have different accounts in TMS, only the account of North Carolina FC is operational. The only account that manages all categories of the male team is the North Carolina account.
- Regarding the submission of the Letter of Confirmation as evidence only at this instance, the Appellant points out the long-standing CAS jurisprudence stating that the discretion to exclude new evidence presented in appeal proceedings should be exercised with caution. It is reserved for situations where a party may have engaged in abusive procedural behaviour or acted in bad faith. Considering the CAS jurisprudence, the Appellant did not engage in any abusive procedural behaviour, nor was it in bad faith in presenting the Letter of Confirmation only with the present appeal.

B. Submissions of the Respondent

25. The Respondent filed the following prayers for relief:

1. *The Appeal is rejected.*
2. *The Appellant shall bear the costs of the CAS procedure including a fair contribution to the costs and expenses of the Respondent.*

26. The Respondent relies, in essence, on the following arguments:

- The fact that the Player was temporarily registered for an entity called North Carolina FC Youth Academy does not make it “self-explanatory” that this entity is identical with the Appellant. If that entity actually was identical, it would have the same name as the Appellant. The Respondent argues that academies or youth teams up to a certain age are often run by a different entity than the one that is running the professional adult football teams. Therefore, the use of different designations is not an argument in favour of the Appellant, but to be held against it.
- The Letter of Confirmation to which the Appellant refers to as confirmation that the Player played for the same entity during its time as an amateur player, i.e. for the Appellant, contradicts to the US Player Passport that was also issued by the USSF.
- The Appellant failed to comply with Article 13 (5) of the Procedural Rules Governing the Football Tribunal (the “FIFA Procedural Rules”), which stipulate that the party, which asserts a fact bears the burden of proof. The Appellant asserts to be the legal successor of the entities the Player was registered for from 1 July 2015 until 15 April 2020 pursuant to the US Player Passport. To that the Respondent argues that Appellant did not provide sufficient evidence:
 - The USSF is not the appropriate person to establish a legal succession, which is credibly proven only by excerpts from the register of associations or can be seen from the register of commerce.
 - The Notary Public Certificate mentioned the name North Carolina FC Youth. This name does not appear in the US Player Passport nor in any other document. The US Player Passport includes a registration of the Player for Capital Area Railhawks Academy on 10 May 2017. However, the Notary Public Certificate indicates that at that time, the Player was registered for North Carolina FC Youth or Capital Area Soccer League.
 - The email signature used by the Director of the Appellant in its correspondence with the USSF mentioned both “Capital Area Soccer League” and “Capital Area Railhawks”. However, these emails do not clarify the relationship between both entities and cannot be seen as proof that both are the same entities.
- The majority of the evidence (especially Exhibit 19) brought forward by the Appellant is new evidence in the sense of Article R57 (3) of the Code that shall not be considered by the Sole Arbitrator. Exhibits 13, 15, 16 and 17 were already available long before the Appealed Decision. Consequently, the scope of review of the Sole Arbitrator must be the evidence already submitted by the Appellant with FIFA, which is not appropriate to prove the alleged legal succession.
- The Appellant’s claim should have been rejected as inadmissible due to the fact that the first contact between the Appellant and its counsel was on 31 August 2022, which is the date when the Power of Attorney was signed. The Appellant became only aware less

exactly after 24 months after the Player's registration for the Respondent on 1 September 2020. The Respondent argues that the claim filed with FIFA by the Appellant on 28 September 2020 was too late. The Respondent also states considering Article 23 (3) FIFA RSTP, that the event giving rise to the dispute was the Player's registration and not 30 days after.

- The Respondent argues that the amount of EUR 13,972.60 must be deducted since it had paid to the Appellant EUR 15,378.79 on 15 December 2022, which corresponds to the amount awarded in the Appealed Decision (EUR 13,972.60 plus 5 % interest thereof since 30 October 2020).

V. JURISDICTION, ADMISSIBILITY, APPLICABLE LAW

A. Jurisdiction

27. Article R47 of the 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".

28. The jurisdiction of CAS, which is not disputed, derives from Article 57 (1) of the FIFA Statutes as it determines that *"Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question"*.
29. The Parties further confirmed the jurisdiction of CAS by signing the Order of Procedure.
30. It follows that CAS has jurisdiction to decide on the present dispute.

B. Admissibility

31. Article R49 of the Code provides:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against".

32. In addition, Article 57 (1) of the FIFA Statutes states:

"Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question".

33. The Appealed Decision was notified to the Parties on 16 December 2022 and the Statement of Appeal was filed on 6 January 2023, i.e. within the 21 days set by Article 57 (1) of the FIFA

Statutes. Furthermore, the appeal complied with all other requirements of Article R48 of the Code, including the payment of the CAS Court Office fee.

34. It follows that the appeal is admissible.

C. Applicable Law

35. Pursuant to Article R58 of the Code:

“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”.

36. The Sole Arbitrator notes that Article 56 (2) of the FIFA Statutes stipulates the following:

“The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.

37. In light of the above, the Sole Arbitrator will decide the present dispute primarily in accordance with the FIFA Regulations and, subsidiarily, in accordance with Swiss law in case of any lacuna in the FIFA Regulations.

VI. MERITS

A. New evidence brought forward by the Appellant

38. The Respondent argues that the Appellant introduced a lot of Exhibits as evidence in front of the CAS which were not submitted at first instance. It refers to Exhibit 19 in particular and argues that this Exhibit is “new” evidence in the sense of Article R57 (3) of the Code. Moreover, the Respondent states that the Exhibits 13, 15, 16 and 17 already existed and were available at the time of the proceedings before FIFA. Therefore, these Exhibits as well as Exhibit 19 should be disregarded in due application of Article R57 (3) of the Code.

39. Article R57 (3) of the Code states the following:

“The Panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered”.

40. Relevant CAS jurisprudence, as cited in CAS 2014/A/3486, determines the following regarding this provision:

“A CAS panel’s inherent discretion to exclude certain evidence under Article R57.3 of the Code is just that the panel is free to accept or reject evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered. Article R57.3 of the Code should therefore be construed in accordance with the fundamental principle of the de novo power of review which is, in

essence, the foundation of the CAS appeals system. The standard of review should not be undermined by an overly restrictive interpretation of Article R57.3 of the Code. As such, the discretion to exclude evidence should be exercised with caution, for example, in situations where a party may have engaged in abusive procedural behaviour, or in any other circumstances where the panel might, in its discretion, consider it either unfair or inappropriate to admit new evidence” (CAS 2014/A/3486, pg. 11, para. 53).

41. Further, in CAS 2016/A/4852, the Panel determined in relation to Article R57 (3) of the Code the following:

“Panels should reserve the application of this provision to exceptional circumstances and as a safeguard in order to avoid abusive conduct by one of the parties: the control of good faith should therefore be the key element prior to the application of Article R57 para. 3” (CAS 2016/A/4852, pg. 10, para. 56).

42. Considering the abovementioned CAS jurisprudence regarding Article R57 (3), the Sole Arbitrator shall determine whether the Appellant’s procedural behaviour was abusive.
43. The Sole Arbitrator notes that Exhibits 13, 15, 16 and 17 were already available but not submitted at first instance. Also, Exhibit 19 was presented before the CAS as “new” evidence, i.e. such document was not available at the time of the proceeding before FIFA. The Sole Arbitrator stresses that the principle of *de novo* power of review is fundamental in the foundation of the CAS system. The standard of review should not be undermined by an overly restrictive interpretation in relation to Article R57 (3) of the Code. Further, the Sole Arbitrator does not see any abusive procedural behaviour by the Appellant in the submission of this evidence. Moreover, the Sole Arbitrator does not consider the circumstances as exceptional. Furthermore, Exhibit 19 was issued after the Appealed Decision was rendered.
44. Consequently, the Sole Arbitrator concludes that the Appellant’s Exhibits 13, 15, 16, 17 and 19 shall be admissible as evidence in these proceedings and shall be considered accordingly.

B. Is the Appellant’s claim time-barred?

45. The Sole Arbitrator turns his attention to the question whether the Appellant’s claim was time-barred.
46. Article 25 (5) of the FIFA RSTP stipulates that FIFA DRC shall not hear any case subject to the FIFA Regulations if more than two years have elapsed since the event giving rise to the dispute. The Sole Arbitrator notes that the Parties disagree regarding what is meant by “the event giving rise to the dispute” in order to define the starting point of the two-year time limit for lodging the claim with FIFA.
47. Article 3 (1) and (2) of Annexe 4 of the FIFA RSTP shall apply to determine the starting point of the two-year time limit. These provisions stipulate the following:

“¹ On registering as a professional for the first time, the club with which the player is registered is responsible for paying training compensation within 30 days of registration to every club with which the player has previously been registered (in accordance with the players’ career history as provided in the player passport) and that has contributed to his training starting from the calendar year of his 12th birthday. [...]”.

“² In both of the above cases, the deadline for payment of training compensation is 30 days following the registration of the professional with the new association”.

48. The commentary on the FIFA RSTP (the “Commentary on the RSTP”) states the following with regard to the provision above:

“Regarding claims for training compensation, the new club must pay training compensation within 30 days of the player being registered with their affiliated member association. Since the last possible due date is the thirtieth day after the player registers with the new club, the club will be in default from the thirty-first day onwards. Accordingly, the two-year time limit for lodging any claim with FIFA also starts as of the thirty-first day following the player’s registration with the new club” (Commentary on the FIFA RSTP, Chapter IX, art. 23, pg. 384).

49. In application of the above-mentioned provisions, the Sole Arbitrator notes that the two-year time limit under Article 25 (5) FIFA RSTP during which the Appellant had to lodge its claim with FIFA started on the thirty-first day following the Player’s registration with the Respondent, i.e. 2 October 2020.
50. The Sole Arbitrator notes that the Appellant lodged its claim less than two years since the event giving rise to the dispute, i.e. 28 September 2022.
51. Consequently, the Sole Arbitrator concludes that the Appellant’s claim is not time-barred and therefore admissible, regardless of any arguments of the Respondent in this respect.

C. Amount of training compensation due to the Respondent

a. Overview and Scope of the main legal dispute regarding the training compensation

52. The basis for the calculation of the training compensation and the principle that training compensation is payable for the period for which the Player was trained by North Carolina FC, the Appellant, are undisputed. It is also undisputed that the Respondent owes a training compensation for 85 days between 16 April 2020 and 9 July 2020 during which the Player in accordance with the Player’s US Player Passport was registered as an amateur for the Appellant.
53. Further, the Respondent does not dispute that the Player was trained by the North Carolina FC Youth Academy, the Capital Area Railhawks Academy and the Capital Area Soccer League (the “Training Teams”).
54. The Sole Arbitrator notes that the main point of this dispute is to clarify to what extent the Training Teams are the Appellant’s predecessor or Appellant’s former teams and therefore considered as one training club according to Article 20 FIFA RSTP.
55. While the Appellant argues that the Training Teams are all a part of the Appellant or teams of the Appellant’s predecessors, the Respondent argues that the Training Teams are considered one training club each.

56. In the Appealed Decision, the FIFA DRC held that the Appellant could not provide sufficient evidence to prove that the Training Teams are former teams of the Appellant. Therefore, the Appellant did not meet its burden of proof regarding the training compensation for the time the Player trained with the Training Teams.
57. The Sole Arbitrator will therefore assess with respect to each Training Team whether it shall be considered as part or predecessor of the Appellant.

b. Training compensation due to the Player's registration under North Carolina FC Youth Academy

58. The Sole Arbitrator will first determine whether the Appellant is entitled to training compensation for the time when the Player was registered under the North Carolina FC Youth Academy.
59. The Appellant must be able to prove that the North Carolina Academy is a part of the FC North Carolina, i.e. the Appellant, or was part of the Appellant's predecessor.
60. The Sole Arbitrator turns his attention to the Letter of Confirmation. In the Letter of Confirmation, the USSF states that the Appellant is an affiliated club and a member of the U.S. Soccer Development Academy league from 2007 to current. From August 2017 to 15 April 2020, the Appellant participated under the name North Carolina FC Youth Academy. The Letter of Confirmation further states that despite the change of the Club's name, the Appellant remained one consistent club throughout its time in the Development Academy league.
61. The Respondent argues that the USSF is not the appropriate person to establish a legal succession of a club. This is credibly and reliably determined only by excerpts from the register of associations or can be seen from the register of commerce. Moreover, this letter is not sufficient evidence for the Appellant to meet the burden of proof.
62. Considering the Letter of Confirmation, the Sole Arbitrator finds that it is sufficiently substantiated and that the credibility of the statements within the Letter of Confirmation is not in doubt. In particular, the statements are consistent with the information in the Player's US Player Passport. Furthermore, the USSF is a valid authority to comment on the Appellant's history of names that it competed under. Thus, the Sole Arbitrator considers the statements of the USSF in the Letter of Confirmation to be credible and suitable as evidence.
63. Therefore, the Sole Arbitrator concludes that the Letter of Confirmation is sufficiently credible to demonstrate that the North Carolina FC Youth Academy is a part of the Appellant or the Appellant's predecessor. Consequently, the Appellant is entitled to training compensation for the time the Player was registered with the North Carolina FC Youth Academy.

c. *Training compensation due to the Player's registration under Capital Area Railhawks Academy*

64. Next, the Sole Arbitrator will determine whether the Appellant is entitled to training compensation for the time when the Player was registered under the Capital Area Railhawks Academy.

65. In this regard, the Appellant also refers to the Letter of Confirmation. The Letter of Confirmation states the following about the Capital Area Railhawks:

"[...] From 2007 until 2017, the Appellant competed in the league under the name Capital Area Railhawks Academy. [...]"

66. In view of this statement regarding the Capital Area Railhawks Academy, the Sole Arbitrator refers to paragraphs 57-62 which shall apply to Capital Area Railhawks Academy by reference.

67. Consequently, the Appellant is entitled to training compensation for the time the Player was registered with the North Carolina FC Youth Academy.

d. *Training compensation due to the Player's registration under Capital Area Soccer League*

68. Lastly, the Sole Arbitrator will determine whether the Appellant is entitled to training compensation for the time when the Player was registered under the Capital Area Soccer League.

69. In order to prove that the Capital Area Soccer League was a part of the Appellant as a team or the Appellant's predecessor, the Appellant submitted the Notary Public Certificate. According to the Appellant, the Notary Public Certificate demonstrates that the Appellant's former club name was Capital Area Soccer League.

70. The Respondent argues that the Notary Public Certificate only shows the name North Carolina FC Youth but not the Appellant's name. Further, the name North Carolina FC Youth as mentioned on the Notary Public Certificate does not appear on the Player's US Player Passport, nor does it explain what connection North Carolina FC Youth has to the Appellant or to any former teams of the Appellant.

71. In this respect, the Sole Arbitrator finds that the Appellant's argument is insufficient to prove that the Capital Area Soccer League is the Appellant's former club name because the name mentioned in the Notary Public Certificate, i.e. North Carolina FC Youth does not match the Appellant's name used in May 2017 according to the Confirmation Letter ("North Carolina FC Youth Academy").

72. Furthermore, the Sole Arbitrator points out that the USSF does not include the name Capital Area Soccer League as one of the former names of the Appellant. Thus, the Sole Arbitrator notes that the USSF does not confirm that the Capital Area Soccer League is one of the Appellant's former teams or is to be considered as the Appellant's predecessor.

73. Further, the Appellant submitted email threads as Exhibits 13 and 15, which intend to show the name change from the Capital Area Soccer League to the former Appellant's name or to the name of one of the Appellant's teams, i.e. Capital Area Railhawks. Further, the email signature used in the email threads include both names, the Capital Area Railhawks and the Capital Area Soccer League, which suggest that one was the predecessor of another.
74. The Respondent on the other hand states that the use of such email signature does not clarify the relationship between the Capital Area Railhawks and the Capital Area Soccer League especially since using both names rather suggest the existence of both at the same time then them to be considered as the same club.
75. In this respect, the Sole Arbitrator turns to the topic of conversation within the email thread. The Sole Arbitrator notes that the topic is a merger between three programs named the Capital Area Railhawks, the Capital Area Soccer League and the Triangle Futbol Club Alliance to one entity as North Carolina FC Youth.
76. As considered in paragraph 70 hereabove, the Sole Arbitrator holds that the Appellant was not able to prove that Capital Area Soccer League was the Appellant's former name. The email threads submitted by the Appellant do not support that argument either. It does not show the connection between Capital Area Soccer League and the Appellant.
77. Consequently, the Sole Arbitrator concludes that the Appellant did not meet its burden of proof regarding the fact that Capital Area Soccer League was the Appellant's predecessor. Thus, the Appellant is not entitled to training compensation for this period.

e. Calculation of training compensation due to the Player's registration for the training period under the Appellant

78. As shown above, the Sole Arbitrator found that the Respondent owes the Appellant training compensation for the period of time the Player was registered with the North Carolina FC Youth Academy and the Capital Area Railhawks Academy.
79. Since the bases of calculation regarding the training compensation are undisputed, the training compensation owed by the Respondent to the Appellant for the Player is calculated according to the FIFA Circular No. 1726 as follows:

Registered with Appellant	Duration	Training costs p.a. (Cat. II of UEFA)	Amount of training compensation
01.09.2016 – 31.08.2017	365 days	EUR 10,000.00	EUR 10,000.00
01.09.2017 – 31.08.2018	365 days	EUR 10,000.00	EUR 10,000.00
01.09.2018 – 31.08.2019	365 days	EUR 60,000.00	EUR 60,000.00
01.09.2019 – 09.07.2020	313 days	EUR 60,000.00	EUR 51,452.05

TOTAL	1,408 days		EUR 131,452.05
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80. Consequently, the Sole Arbitrator notes that the Respondent shall pay to the Appellant the amount of EUR 131,452.05 as training compensation, plus 5 % interest p.a. on that amount, as from 2 October 2020 until the date of effective payment.

D. Reduction of the training compensation due to the paid amount to the Appellant

81. In addition, the Respondent argues that it has made a payment to the Appellant for the amount awarded in the Appealed Decision as training compensation (EUR 13,972.60 plus 5 % interest thereof since 30 October 2020).
82. As evidence, the Respondent submitted a wire transcript (Exhibit 5; hereinafter, the “Confirmation of Payment”) that shows a payment on 15 December 2022 to the Appellant in the amount of EUR 15,378.79.
83. Therefore, the Respondent claims that the amount of EUR 13,972.60 must be deducted from any of the alternative claims listed within the Appeal Brief.
84. The Sole Arbitrator finds that the Confirmation of Payment is sufficient and credible as evidence and thus, the Respondent met its burden of proof regarding the deduction.
85. Therefore, the Sole Arbitrator concludes to reduce the Appellant’s claims for training compensation accordingly by the amount of EUR 13,972.60.
86. Consequently, the training compensation for the duration of 1,408 days that shall be paid from the Respondent to the Appellant in the amount of EUR 131,452.05 must be reduced by EUR 13,972.60. Therefore, the amount of training compensation due to the Appellant is EUR 117,479.45.

E. Conclusion

87. Based on the foregoing and after taking into due consideration all the evidence produced and all arguments raised, the Sole Arbitrator holds that the Appellant is entitled to EUR 117,479.45 as training compensation, plus 5 % interest p.a. on that amount, as from 2 October 2020 until the date of effective payment.
88. Any other and further motions or prayers for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by North Carolina FC against 1. FC Nürnberg on 6 January 2023 against the decision passed by the FIFA Dispute Resolution Chamber on 18 November 2022 is partially upheld.
2. The decision passed by the FIFA Dispute Resolution Chamber on 18 November 2022 is set aside.
3. 1. FC Nürnberg shall pay to North Carolina FC, within **thirty (30) days** from receipt of the present Arbitral Award, the amount of EUR 117,479.45 as training compensation, plus 5 % interest *p.a.* on that amount, as from 2 October 2020 until the date of effective payment.
4. (...).
5. (...).
6. All other and further prayers or requests for relief are dismissed.