

Date: 20 August 2021

Sent to:

Valdivara 5Terre

c/o Francesco Rondini

rondini.francesco@teletu.it; segreteria@valdivara5terre.it; segreteria@pec.valdivara5terre.it;

C.C.:

Italian Football Association (FIGC)

Notification of the grounds of the Decision

Ref FDD-8070

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by the FIFA Disciplinary Committee on 30 June 2021.

We would appreciate your taking due note of this decision and ensuring its implementation.

Yours faithfully,

FIFA



Carlos Schneider

Director of the FIFA Judicial Bodies

Decision of the FIFA Disciplinary Committee

passed on 30 June 2021

DECISION BY:

Mr. Jorge Palacio, Colombia (Chairman)
Mr. Thomas Hollerer, Austria (Member)
Mr. Leonardo Stagg, Ecuador (Member)

TO DISCUSS THE CASE OF:

Valdivara 5Terre

(Decision FDD-8070)

REGARDING:

Failure to comply with:

Art. 19 par. 3 and 4 RSTP – Protection of Minors

Art. 1 par. 1 Annexe 2 RSTP – Procedure governing applications for first
registration and international transfer of minors

Art. 1 par. 3 Annexe 3 RSTP – Transfer Matching System

I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the FIFA Disciplinary Committee has thoroughly considered in its discussion and deliberations any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. On 26 April 2021, FIFA Regulatory Compliance Department transferred a report (hereinafter to “the Report”) concerning the club Valdivara 5Terre (hereinafter also referred to as “the Respondent” or “the Club”), affiliated to the Italian Football Association (hereinafter also referred to as: ‘the FIGC’), containing the following case summary:

“The Nigerian System

Following media allegations and upon request for information from FIFA, the Italian Football Federation (Federazione Italiana Giuoco Calcio, hereinafter: FIGC) provided us with documentation and information concerning an alleged illegal scheme put in place by Spezia Calcio and involving certain clubs and individuals, including Valdivara, discovered by the Police of La Spezia.

The investigation of the Police of La Spezia allowed discovering such a scheme, also known as the “Nigeria System”. Such investigation would have led to proceedings before FIGC and national courts against Spezia Calcio, Valdivara and individuals employed by the respective clubs, who all pled guilty in front of the competent body of FIGC as it will be further described in this report.

The information below would be drawn from the police report:

Spezia Calcio adopted the “Nigeria System” as early as 2013, which led to Nigerian minors being illegally brought into Italy. The goal was to facilitate bringing the top talent from Nigerian club Football College Abuja, affiliated to the Nigerian Football Federation (NFF), to play for Spezia Calcio or one of their subsidiary amateur clubs, with the aim of eventually selling them for profit once they were of age. First, the club helped the minors obtain tourist visas to enter Italy. The athletes would be accompanied into Italy with coach/guardian Renzo Gobbo of the Football College Abuja (an individual who received payments from Spezia Calcio). Once the players arrived in Italy, they were assigned a tutor guardian, who enrolled them into the local school and subsequently “parked” with either Spezia Calcio’s youth side (hereinafter Spezia Primavera), amateur club USD Lavagnese 1919 (hereinafter “Lavagnese”) or Valdivara 5Terre, with the amateur clubs acting in the interest of (and receiving benefits from) Spezia Calcio. Findings of the Police of La Spezia found that the players were not attending school. Except Players 1 and 2 who were registered in FIGC via Limited Minor Exemption (hereinafter: LME), the players would eventually be engaged in a first registration with FIGC when they turned at least 18 years old.

From February 2018, an investigation by the Police of La Spezia commenced, which included technological devices used against individuals employed by the Spezia Calcio and Valdivara to obtain evidence. The motive being that Spezia Calcio violated the provisions of Italian Legislative Decree no. 286/98 on immigration, by engaging in behaviour aimed at

encouraging the illegal stay of young Nigerian football players, who were underage, within national territory.

The outcome of the investigation led the Police of La Spezia to conclude that Spezia Calcio had direct influence in deciding which players from Football College Abuja were selected to be transferred to Italy, facilitation of the tourist visa application process, their entry into Italy, the placement with a guardian who enrolled them in the local school, acquire an Italian residency permit, placement with an amateur club affiliated to FIGC and then the eventual registration with the latter once they were over 18 years old. Spezia Calcio is therefore “identified both as the real beneficiary of the economic benefits and as a central and crucial part of the ‘Nigeria system’, by virtue of the illegal conduct implemented since 2013”.

The investigation by the Police of La Spezia would have led to proceedings before FIGC and national courts against Spezia Calcio, Valdivara and individuals employed by the respective clubs.

The proceedings opened by FIGC against Valdivara and its representatives referred to the illegal transfers of players 8-10. Spezia Calcio and its representatives pled guilty in such proceedings.”

3. The Report referred to three (3) minor players, which had allegedly been illegally transferred by Spezia Calcio. The situation of each player is summarized hereafter and takes into account information from the case file as well as the finding contained in the case Report from the Regulatory Compliance Department.

Player 8:	Chukwuemeka Emmanuel Iroanya
Date of birth:	13 September 1999
Nationality:	Nigeria
Previous association:	None
Date of the ITC:	-
Date of entrance into Italy:	3 March 2017 (17 years old)
Date of first registration with FIGC:	13 November 2017 for Valdivara (18 years old)
Name of the guardian/tutor:	Roberto Sannino

Player 9:	Abiola Bankole Ejalonibu
Date of birth:	15 November 1999
Nationality:	Nigeria
Previous association:	None
Date of the ITC:	-
Date of entrance into Italy:	3 March 2017 (17 years old)
Date of first registration with FIGC:	27 November 2017 for Valdivara (18 years old)
Name of the guardian/tutor:	Roberto Sannino

Player 10:	Taiwo Hamid Olonisakin
Date of birth:	25 May 1999
Nationality:	Nigeria
Previous association:	None
Date of the ITC:	-
Date of entrance into Italy:	3 March 2017 (17 years old)

Date of first registration with FIGC: 13 November 2017 for Valdivara (18 years old)
Name of the guardian/tutor: Roberto Sannino

“Valdivara 5Terre and Spezia Calcio (Players 8-10)”

Minor Players 8-10 entered into Italy via tourist visas in 2017³ being under 18 years old, where they were assigned to Roberto Sannino as their tutor guardian. The tutor registered the players at Caboto Institute of Chiavari, although they never attended school. The players, entirely at the discretion from Spezia Calcio, were parked to amateur club Valdivara without a formal registration until they were 18. The tutor guardian received payment from Spezia Calcio, via Valdivara, for their efforts.

With reference to the website of Spezia Calcio, there are media releases that clearly disclose that Valdivara is a club affiliated to Spezia Calcio.

Based off conversations recorded both via telephone and electronic eavesdropping, it was clear that Valdivara and its individuals were merely acting as a temporary accommodation for players 8-10, before they could potentially register or transfer to Spezia Calcio. The players were not engaged in a first registration with the FIGC until they turned at least 18 years old. There were no subsequent transfers to Spezia Calcio.”

4. In addition, the Report contained reference to the following remarks and considerations from FIFA Regulatory Compliance Department. Having in mind that the Report was particularly extensive, the following is intended to illustrate the main elements and information contained in such Report and is without prejudice to other sections of it that may be relevant to the present case.

1. *Italian Budget Law, Law no. 205 of 27 December 2017 (hereinafter, Italian Law)*

- *The Italian Law provides that “foreign minors, even if they entered Italian country soil and are residing in Italy in breach of the applicable immigration rules – have to be registered with national Sports Federations, as if they were Italian citizens, (...) provided that they have been registered for at least one year at any level of a school within the Italian school system”.*
 - *Due to the Italian Law, the FIGC has stated that it must strictly comply with the respective law that entitles foreign minor citizens that are enrolled for at least one year in an Italian school to be registered with the FIGC under the same conditions granted to Italian minor citizens if they are in breach of Italian immigration. The FIGC acknowledged that “a significant number of cases that would have normally been rejected [by the FIFA sub-committee] were processed”, which ultimately results in the registration of said minor players on the basis of Italian Law and in breach of FIFA’s regulations.*
 - *According to the police report, it appears that the Nigerian System takes advantage of the compatibility issues between the Italian Law and the provisions of the FIFA regulations on the protection of minors. In fact, important components of the Nigerian System for the successful circumvention of the FIFA rules on minors were the assignment of the players to a tutor guardian (that was eventually*

economically compensated by Spezia Calcio) and their enrolment at a high school (where the player eventually failed to attend classes). In this way, Spezia Calcio could take advantage of the peculiarities of the Italian law and circumvent art. 19 of the RSTP.

- *With reference to the compatibility of a national law in connection to the provisions of FIFA, the CAS rendered an award where it had to answer the question to whether national law and the regulations of a national federation have any impact on the club's duty to comply with the relevant regulations of FIFA. The CAS Panel held if a club voluntarily applies for a minor player to be registered, such is bound by the FIFA RSTP and national law¹.*
- *Regulatory Compliance cannot ignore Valdivara's apparent complicity and role in assisting Spezia Calcio with the scheme to circumvent the relevant rules and regulations.*

2. Protection of Minors

- *An aim of art. 19 of the RSTP is to prevent, among others, practices of illicit trafficking and exploitation of young footballers. In this case, it would appear that the Nigerian minors were transferred to Italy by means of abuse of power and vulnerability with the purpose to economically benefit from their eventual sale to other clubs. In this respect, Regulatory Compliance finds that the entire system that would have been put in place by Spezia Calcio – and in which Valdivara would appear to have played a key role – could be summarized by quoting Gobbo's statement "[launch] them and take advantage of them and sell them over".*
- *CAS has previously emphasized that clubs have the "direct and primary obligation to avoid transferring under-aged players, unless it can demonstrate that one of the statutory exceptions embedded in Art. 19.2 RSTP have been met [...]"². Without demonstrating the effort to comply with the regulations, other sectors of law would deem the behavior "willful ignorance" and "deliberate shutting of eyes". With no minor application entered in TMS by Spezia Calcio or Valdivara, there appears to be no attempt of the club to transfer the minor players on the basis of any of the exceptions.*
 - *Regulatory Compliance cannot ignore the police report which would appear to describe the actions and extent to which Valdivara collaborated as an intermediary with Spezia Calcio to transfer the minors into Italy to avoid suspicion as an aggravating factor. Likewise, Regulatory Compliance wishes to emphasize how Spezia Calcio would have used Valdivara to indirectly remunerate the minors' guardian, who played an essential role in the implementation of the Nigeria System and circumvention of FIFA rules.*
- *The foregoing would show how the conduct of Valdivara, at the request of Spezia Calcio, to facilitate in bringing Nigerian minors to Italy, corresponds to a serious infringement of the FIFA rules regarding the protection of minors.*

¹ CAS 2016/A/4805 Club Atletico de Madrid SAD v. FIFA

² CAS 2014/A/3793 Futbol Club Barcelona v. FIFA

3. Res judicata and ne bis in idem

- *Contrary to what was claimed by Valdivara that they have already been sanctioned in Federal court, it is submitted that FIFA has jurisdiction to sanction violations of the FIFA Regulations. The sanctions imposed by the FIGC on this matter referred exclusively to their national regulations. Moreover, art. 19 par. 4 lit. d) of the FIFA Regulations is very clear in establishing that the FIFA Disciplinary Committee is competent to sanction any violation of art. 19. Therefore, it is considered that there is no res judicata on this matter concerning FIFA regulations.*

4. Affiliation

- *With reference to the website of Spezia Calcio, there are media releases that clearly disclose that Valdivara is a club affiliated to Spezia Calcio.*
- *The Viareggio Cup is a youth tournament based in Viareggio, Italy that is in collaboration with FIGC. Based on the rosters of the clubs participating in the tournament, it appears that Players 8 - 10 participated with Abuja Football Club in 2017. It should be noted that the tournament takes place every year in March and falls within the timeline of the players residing in Italy and participating in the tournament before officially registering with the FIGC. Regulatory Compliance considers that the foregoing shows how the players' participation in the Viareggio Cup was aimed at taking them to Italy, where they would then remain as part of the "Nigeria System".*
- *Moreover, it is submitted that the entire Nigeria System would appear to show a clear connection between Valdivara and Spezia Calcio, since the former would appear to have played a key role in ensuring that some of the minors in question could move to Italy in clear circumvention of all applicable rules.*

5. Breaches of FIFA RSTP

First registration of a non-national minor without the prior approval (Art. 19.3 and 19.4 RSTP)

- *Pursuant to the FIFA regulations pertaining to the international transfer of minors, clubs are obliged to request prior approval of the Player's Status Sub-Committee for the first registration of a non-national minor.*
- *From the date Players 8-10 entered into Italy and joined Valdivara to the date in which Valdivara officially registered them with the FIGC at 18 years old, it is clear that the club was focused on the obligation under the Italian law to have the players registered in a school for at least one year, which would allow them to circumvent conflicting obligations under article 19.3 and 19.4 of the FIFA RSTP and allow the club to officially register the players with FIGC.*
- *The NFF confirmed that Players 8-10 are Nigerian citizens, and could not provide registration details of a registration with the NFF (Annexe 13). Therefore, Valdivara should have submitted minor applications in TMS to register the players for the first registration of the above-mentioned non-national minors.*

- *It appears that Lavagnese and Spezia Calcio would have taken advantage of the Italian law and aided in first registrations with FIGC, via LME, for minor Player 1 and Player 2 after they had resided in Italy with a guardian, had been enrolled in an Italian school and had registered with the amateur club acting in the interest of Spezia Calcio. It is worth recalling that the enrolment was a mere façade since Player 1 and Player 2 (as well as all remaining players) never attended school, according to the Investigation Report by La Spezia Police.*
- *In view of the above, Player 1 and 2 were incorrectly included in the LME whereas Lavagnese should have submitted a minor application to FIFA. Consequently, Player 1 and 2 were registered with Lavagnese without approval from FIFA, in breach of art. 19.1.*

6. Conclusions from the Investigation report by La Spezia police

The following conclusions would be drawn from the La Spezia police report:

- *The transcripts of the eavesdropping and recordings highlight the subordination of Roberto and Giorgio Sannino to Spezia Calcio by accepting payments from latter, via Valdivara, for their collaboration of being the guardians for the minor players. The payment method via Valdivara was a way for Spezia Calcio “[...] to avoid any possible direct and visible connection with Nigerian players, although it de facto managed them in their entirety, from selection to entry and during their stay in Italy”.*
- *The transcripts of the eavesdropping and recordings highlight the awareness of the notable individuals of their actions and outcome of the Nigeria system. “...all persons of the top management were involved in the illegal conduct in question,...”.*
- *Excerpts from the police report outline the practices and strategies discussed amongst key role players of how to eradicate suspicions of Spezia Calcio’s involvement in the “system”. Conclusions from the police report were that “The sports club SPEZIA CALCIO s.r.l. is therefore identified both as the real beneficiary of the economic benefits and as a central and crucial part of the “Nigeria system”, by virtue of the illegal conduct implemented since 2013”. Additionally, “[...] all the evidence collected during the technical activity show that [Valdivara], particularly the president Plategher and the managers, acted de facto according to instructions given by [Spezia Calcio], through its management”.*

7. Communications from the FIGC’s Federal Prosecutor’s office

The following information would be drawn from the Communications from the FIGC’s Federal Prosecutor’s office

- *Luigi Micheli – Secretary and later Managing Director of Spezia Calcio - was charged in being actively involved in the illegal transfer of players 8 – 10 (among other minors) to Italy. Mr Micheli facilitated the players’ entry into Italy and followed the players in the pre-registration phase by Spezia Calcio, which assigned them to affiliated amateur clubs; handled the financial aspects related to the activity of the guardians Roberto Sannino and his spouse Elena Achilli. Based of wiretaps concluded by the Spezia police, it was apparent that Mr. Micheli was aware of the illegality of his conduct.*

- *According to a communication from the Prosecutor's office, Mr. Micheli and Spezia Calcio accepted a guilty plea, in relation to the proceedings concerning the illegal transfer of players 8-10.*
- *According to the letter provided by the Federal Prosecutor's office informing about the investigation and charges, Giovanni Plotegher, was charged for the violation of principles of loyalty, fairness and honesty in conducting sporting business activity in relation to the illegal registering of players 8-10. Additionally, he was in violation for allowing Roberto Sannino to register as a manager for the club with the purpose to assist in the illegal transfers of the Nigerian minors. Mr. Plotegher was involved in paying compensation to Mr. Sannino for their guardian services and made efforts to conceal any link between them and Spezia Calcio. The investigative findings revealed that Mr. Plotegher was fully aware of the illegality of his conduct, promoted them and received economic compensation from Spezia Calcio.*
 - *In a decision by the FIGC National Federation Court, the latter accepted the application of plea agreements submitted by Plotegher, Sannino and Valdivara with respect to the transfer of the three Nigerian minors into Italy. The sanctions resulted in suspensions and a fine for the club.*

8. Conclusions

- *According to the Swiss Federal Tribunal, "a circumvention of a regulation is given in case someone acts according to the wording of such regulation but does not respect/comply with its purpose". Based on that wording, it would appear that Valdivara waited until players 8-10 turned 18 years old before having their assigned tutor guardian register them with FIGC in order to circumvent FIFA's regulations on internationally transferring or registering minors. Nonetheless, Regulatory Compliance considers having demonstrated that in reality the players joined Valdivara before turning 18.*
 - *The Italian Law has no impact on Valdivara's duty to comply with its obligations under the FIFA RSTP. Therefore, if the club proceeds to internationally transfer minor players to its club it is bound to article 19 of the FIFA Regulations.*
 - *It appears that Valdivara is in breach of the FIFA Regulations by not requesting prior approval of the Players' Status Sub-Committee for the first registration of non-national minor players and submitting a minor application through TMS with respect to players 8-10. Moreover, Regulatory Compliance wishes to underline that the infringements committed by Valdivara are aggravated by the fact that they would have taken an active role in the Nigeria System to facilitate Spezia Calcio's scheme aimed at intentionally circumventing the rules.*
5. At the end of the Report, the FIFA Regulatory Compliance Department considered the Valdivara 5Terre potentially breached the following provisions of the FIFA Regulations on the Status and Transfer of Players (ed. 2016) for all three players:
- Art. 19 (3);
 - Art. 19 (4);

- Art. 1 (1) of Annex 2;
 - Art. 1 (3) of Annex 3.
6. On 27 April 2021, following the investigations conducted by FIFA Regulatory Compliance Department, disciplinary proceedings were opened against Valdivara 5Terre with respect to potential breaches of arts. 19, and Annexes 2 and 3 of the RSTP. The latter was provided with a six-day deadline to provide the Secretariat to the FIFA Disciplinary Committee (hereinafter also referred to as ‘the Secretariat’) with its position.

II. RESPONDENT’S POSITION

7. On 07 December 2020, Valdivara 5Terre submitted the following responses to the FIFA Regulatory Compliance Department:
- *“It is important to point out that this club is an amateur and non-professional sports association, it is required to compliance with the federal regulations issued by the Italian Football Federation and in the case of membership if approved by the same, they are based on the presentation of documents that any member must compulsorily produce.”*
 - *“In [this case], however, this company was sanctioned as transcribed in the decision of federal court on 14/11/2019 and present in the annexes you dealt with.”*
 - *“The ‘Nigeria System’ defined by you, with absolute certainty cannot even be thought of by the Amateurs, because in the vast majority of cases they survive on the salaries of those who make up the Board of Directors within the association.”*
8. On 04 May 2021, following the opening of disciplinary proceedings, Valdivara 5Terre provided the Secretariat with its position, which can be summarized as follows:
- The players 8, 9 and 10 were all players of legal age at the time of registration by the ASD Valdivara amateur club;
 - Said players have never been previously registered with another club;
 - The players were regularly registered according to Italian law;
 - At the time of the proceedings before the Federal Court of FIGC, the former president of the club pled guilty and admitted having relations with Spezia Calcio;
 - The new president of the club is unaware of the situation described in the file;
 - The new administration’s mission is to achieve social change, meaning to give young people the opportunity not to take delinquent paths;
 - The Respondent claimed that it has not strict liability with regard to the alleged violation of art 19 RSTP;
 - The Respondent argued that did not benefit from the alleged registration of said players (neither economically nor in football terms);
 - In light of all the above, the Respondent requested that no sanction be imposed on it.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

9. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects, namely, its jurisdiction and the applicable law, before entering into the substance of the matter and assessing the possible breaches of arts. 19 together with Annexes 2 and 3 RSTP by Valdivara 5Terre as well as the potential sanctions, if applicable, resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

10. First of all, the Committee noted that at no point during the disciplinary proceedings did Valdivara 5Terre challenge its jurisdiction or the applicability of the FIFA Disciplinary Code (FDC).
11. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of art. 53 of the FDC as read together with arts. 19 (4) and 25 (3) and art. 9 (2) of Annexe 3 RSTP, it is competent to evaluate the present case and to impose sanctions in case of corresponding violations.

B. Applicable law

a. Relevant applicable FIFA provisions

12. In order to duly assess the matter, the Committee decided to begin by recalling the content and the scope of the relevant provisions of the 2016 edition of the RSTP, which is, in the Committee's view, the edition applicable to the present case.

Article 19 of the RSTP – Protection of minors

13. This article governs the international transfer of minor players as well as the first registration of foreign minor players. This provision was implemented with the aim of protecting minor players in the context of international transfers, as young football players are generally extremely vulnerable to exploitation, abuse and mistreatment in a foreign country. Furthermore, although international transfers may benefit the sporting career of a young player in specific cases, it is far more likely that they will harm the overriding interests of the minor in question. Put differently, the adequate and healthy development of a minor as a whole must always prevail over mere sporting interests.
14. In light of the above, it is therefore essential that member associations and clubs comply with this provision to safeguard the interests of minor players. Moreover, it is only through the consistent and strict application of this provision that football authorities, such as FIFA, can ensure effective control of international transfers and guarantee the protection of minor players.

15. Bearing the foregoing in mind, it is worth recalling that the international transfer of a player is only permitted if the latter is over the age of 18. The same principle applies to the first registration of a foreign player. These two bans are reflected in paragraphs 1 and 3, respectively:

“International transfers of players are only permitted if the player is over the age of 18.”

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

16. Notwithstanding the above, art. 19 (2) RSTP provides for three exceptions to the aforementioned general principle, whereby an international transfer of a minor player or the first registration of a foreign minor player is possible:

“The following three exceptions to this rule apply:

- a) The player’s parents move to the country in which the new club is located for reasons not linked to football.*
- b) The transfer takes place within the territory of the European Union (EU) or European Economic Area (EEA) and the player is aged between 16 and 18. In this case, the new club must fulfil the following minimum obligations:
(...)*
- c) The player lives no further than 50km from a national border and the club with which the player wishes to be registered in the neighbouring association is also within 50km of that border. The maximum distance between the player’s domicile and the club’s headquarters shall be 100km. In such cases, the player must continue to live at home and the two associations concerned must give their explicit consent.”*

17. Consequently, when a minor player complies with one of the exceptions set out in art. 19 (2) RSTP, the association concerned is required, upon request of its affiliated club, to request and obtain the approval of the Sub-Committee appointed by the Players’ Status Committee (hereinafter, “the Sub-Committee”) as established under art. 19 (4) RSTP, provision which reads as follows:

“Every international transfer according to paragraph 2 and every first registration according to paragraph 3, as well as every first registration of a foreign minor player who has lived continuously for at least the last five years in the country in which he wishes to be registered, is subject to the approval of the subcommittee appointed by the Players’ Status Committee for that purpose. The application for approval shall be submitted by the association that wishes to register the player. The former association shall be given the opportunity to submit its position. The sub-committee’s approval

shall be obtained prior to any request from an association for an International Transfer Certificate and/ or a first registration. (...)."

18. Such approval will be given only if it can be demonstrated that the minor player complies with one of the exceptions of art. 19 (2) RSTP. In addition, this approval must be obtained before any further steps are taken in relation to the registration of the player, such as the ITC request (art. 9 (1) RSTP) and the registration of the player with the association concerned (art. 5 (1) RSTP).
19. In a nutshell, the aforementioned procedure can be summarised as follows:
 - a) For a minor player who was previously registered with a foreign association and is therefore subject to an international transfer:
 - i. One of the exceptions of art. 19 (2) RSTP must be applicable to the player's situation;
 - ii. The association concerned, upon request of its affiliated club, submits an application for the approval of the Sub-Committee via TMS (art. 19 (4) RSTP along with Annexe 2 and art. 1 (3) of Annexe 3 RSTP);
 - iii. Once the approval is granted by the Sub-Committee, the association requests the player's ITC from the former association (cf. art. 9 (1) RSTP);
 - iv. Once the former association has issued the ITC, the new association receives the ITC and proceeds to the player's registration (art. 9 together with art. 5 RSTP).
 - b) For a foreign minor player who wishes to be registered for the first time³:
 - i. One of the exceptions of art. 19 (2) RSTP must be applicable to the player's situation;
 - ii. The association concerned submits, upon request of its affiliated club, an application for the approval of the Sub-Committee via TMS (art. 19 (4) RSTP along with Annexe 2 and art. 1 (3) of Annexe 3 RSTP);
 - iii. Once the approval is granted by the Sub-Committee, the association proceeds to the player's registration (art. 5 RSTP).
20. The contours of the provisions at stake being outlined, the Committee then referred to the jurisprudence of the Court of Arbitration for Sport (CAS), which has shed some light on this matter.
21. First, it should be recalled that art. 19 (1) of the RSTP is the backbone of the RSTP on the protection of minor players and is a provision that must be observed by clubs and associations alike⁴.

³ To be considered as a foreign minor player wishing to register for the first time, the prerequisites are as follows:

- a. The player is not a national of the country in which he wishes to be registered for the first time and has not lived continuously for at least the last five years in said country and;
- b. The player has never previously been registered for a club or his last match played for his previous club occurred more than 30 months ago.

⁴ CAS 2014/A/3813.

22. Secondly, the rules contained in the aforementioned provision are divided into substantive and procedural rules as follows⁵:
- a. Pars. 1 to 3 are regarded as substantive rules establishing a general ban on the international transfer (par. 1) of a minor player and on the first registration of a foreign minor player (par. 3), unless one of the exceptions set out in par. 2 of that article applies to the minor concerned.
 - b. Par. 4 is a procedural provision requiring the national association to seek and obtain approval of the Sub-Committee before taking any further step in the registration of the minor player.
23. This distinction implies that an association or a club would, on the one hand, be in breach of art. 19 (1) or (3) RSTP, and therefore subject to sanctions, if it has registered a minor player for whom none of the exceptions of art. 19 (2) RSTP applied at the time of registration⁶.
24. On the other hand, an association or a club would be facing sanctions in the event that it failed to submit an application for approval to the Sub-Committee, and obtain that approval, before registering the minor player. In particular, the RSTP contains no exception to art. 19 (4) RSTP and to the strict and mandatory obligation to seek for the Sub-Committee's approval, even if such approval was subsequently granted (once the player has already been registered with the association)⁷.
25. It follows that, when determining whether the provisions governing the protection of minor players have been infringed by an association or a club, FIFA's Judicial Bodies are required to analyse distinctly and separately if the association has infringed the substantive and/or the procedural rules of art. 19 RSTP.
26. Finally, it is worth recalling that CAS has confirmed on repeated occasions that the protection of minor players constitutes a key element in FIFA's overall regulatory framework⁸. Moreover, the legality of these provisions was validated by CAS, which in addition, concluded that these regulations do not contravene any rule of public policy or European law⁹.

Article 1 (1) of Annexe 2 and Article 1 (3) of Annexe 3 of the RSTP

27. Finally, as for as the procedure to obtain the approval of the Sub-Committee is concerned, the following provisions specify that the process should take place in the Transfer Match System (TMS) as per art. 1 (1) Annexe 2 and art. 1 (3) Annexe 3 RSTP, respectively:

⁵ CAS 2019/A/6301.

⁶ CAS 2019/A/6301.

⁷ CAS 2016/A/4805.

⁸ CAS 2005/A/955 & 956; CAS 2008/A/1485; CAS 2011/A/2354; CAS 2011/A/2494; CAS 2012/A/2787; CAS 2014/A/3611; CAS 2014/A/3793; CAS 2014/A/3813; CAS 2015/A/4312; CAS 2016/A/4785; CAS 2016/A/4805; CAS 2017/A/5244.

⁹ CAS 2008/A/1485.

“All applications for a first registration of a minor according to article 19 paragraph 3, or an international transfer involving a minor according to article 19 paragraph 2, must be submitted and managed through TMS.”

“TMS helps safeguard the protection of minors. If a minor is being registered as a non-national for the first time or is involved in an international transfer, an approval must be given by a sub-committee appointed by the Players’ Status Committee for that purpose (cf. article 19 paragraph 4). The request for approval by the association that wishes to register the minor on the basis of article 19 paragraphs 2 and 3 and the subsequent decision-making workflow must be conducted through TMS (cf. Annexe 2).”

C. Standard of proof

28. Firstly, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
29. Secondly, the Committee pointed out that, according to art. 35 (3) FDC, the standard of "comfortable satisfaction" is applicable in disciplinary proceedings. According to this standard of proof, the onus is on the sanctioning authority to establish the disciplinary violation to the comfortable satisfaction of the judging body, taking into account the seriousness of the allegation.
30. In particular, CAS, which also applies this standard in disciplinary proceedings, defined this standard of proof as higher than the civil standard of *“balance of probability”* but lower than the criminal standard of *“proof beyond a reasonable doubt”*¹⁰.
31. In addition, the Committee underlined that CAS has recently confirmed that the standard of proof to be applied in disciplinary proceedings involving a potential violation of art. 19 RSTP is "comfortable satisfaction"¹¹.
32. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

D. Merits of the dispute

a. Issue of review

(1) The “Nigerian System”

33. The Committee started to analyze the evidence at its disposal, in particular the documentation and information provided in the scope of the proceedings before the FIFA Regulatory Compliance Department as well as the present disciplinary proceedings, to determine the potential violations of the RSTP committed by Valdivara 5Terre.

¹⁰ See amongst other CAS 2009/A/1920; CAS 2010/A/2172; CAS 2013/A/3323; CAS 2017/A/5006.

¹¹ CAS 2019/A/6301.

34. For the sake of good order, the Committee noted that it was undisputed that all three (3) players involved in the present case had Nigerian citizenship and entered Italy when they were under 18 years old.
35. Then, the Committee observed that, in the light of the investigation carried out by *La Spezia police* and referred to in the Report, Spezia Calcio appeared to be deeply involved in the "Nigerian System", as the Club:
- had direct influence in deciding which players from the Football College Abuja were selected to be transferred to Italy;
 - facilitated the tourist visa application process, the entry of the minors into Italy, the placement with a guardian who enrolled them in the local school;
 - remunerated those guardians/tutors;
 - acquired an Italian residency permit for those players;
 - placed them with different clubs affiliated to the FIGC or parked them directly in its own youth teams.
36. In particular, the Committee noted that under this system, the players were placed either with different clubs, at the present case in Valdivara 5Terre.
37. Moreover, the Committee noticed that players 8-10 were not immediately registered with the FIGC, but the general practice was to wait until the players in question reached the age of 18 to register them with the FIGC.

(2) Purposes of the "Nigerian System"

38. In view of the aforementioned observation and the information contained in the case file, it was apparent to the Committee that Spezia Calcio and Valdivara 5Terre put in place the "Nigerian System" by taking advantage of the compatibility issues between the Italian Law and the provisions of the FIFA regulations on the protection of minors. As set out in the Report, the assignment of the players to a tutor and their enrolment at a high school, the *Caboto Institute of Chiavari*, were key components of that system to successfully circumvent the regulations put in place by FIFA to protect minor players.
39. The Committee also underlined that the former president of the Club pled guilty and declared to have relations with Spezia Calcio, however, the new president of the Club argued that is unaware of the situation described in the Report. Therefore, it concluded, that has not strict liability with regard to the infringements at stake. Moreover, the Committee observed that Valdivara 5Terre argued that the players 8-10 were registered at the age of 18 years old
40. Despite the arguments put forward by the Respondent, the Committee was comfortably satisfied that Valdivara 5Terre was involved in the conduct described in the Report. In this context and after examining the evidence on file, the Committee concluded that the Respondent took an active role in the "Nigerian System" to facilitate Spezia Calcio's scheme

aimed at intentionally circumvent the prohibition on international transfers of minor players or on first registration of foreign minor players enshrined in art. 19 RSTP, since none of the three players parked with the Respondent were eligible for any of the exceptions listed in art. 19 (2) RSTP.

41. Under the scheme, and to successfully assist Spezia Calcio in circumventing art. 19 RSPT, Valdivara 5Terre not only facilitated the potential subsequent transfer of the players to Spezia Calcio, but first took these minor players to the Club without registering them with FIGC and only applied for registration with FIGC when the players turned 18, so that the prohibitions set out in art. 19 RSTP could no longer apply.

b. Infringements committed by Valdivara 5Terre in connection with the “Nigeria System”

42. As explained above, the Committee found that Valdivara 5Terre was an accomplice in the "Nigerian system", a system implemented to circumvent the provisions governing the protection of minor players. Therefore, it was necessary for the Committee to assess whether the Club had breached the rules contained in art. 19 RSTP, as implied in the Report.
43. To this end, the Committee decided to begin with the procedural aspects of art. 19 RSTP and then to focus on the possible violation of the substantive rules contained therein, and finally to analyze whether further provisions had been infringed by Valdivara 5Terre.

(1) Failure to request the approval of the Sub-Committee – art. 19 (4) RSTP and Annexes 2 and 3 RSTP

44. As far as the procedural rule of art. 19 is concerned, the Committee had not doubt that, by introducing this system, Spezia Calcio, with the active support of Valdivara 5Terre, sought to evade the control mechanism established by FIFA in art. 19 (4), which was set up to verify that the situation of the player to be transferred/registered for the first time corresponded to one of the exceptions laid down in art. 19 (2) RSTP.
45. In particular, the Committee noticed that the Respondent did not submit a request for approval to the Sub-Committee in the Transfer Matching System (TMS) for any of the three (3) players involved in the present case. This led the Committee to conclude that Valdivara 5Terre failed to comply with art. 19 (4) RSTP with regard to these players and therefore breach the provisional rule contained in art. 19 RSTP.
46. Furthermore, the Committee recalled that the procedure for obtaining the approval of the Sub-Committee must be carried out in TMS. Therefore, by not submitting a request for approval to the Sub-Committee in the said system, Valdivara 5Terre breached art. 1 (1) of Annex 2 and art. 1 (3) of Annex 3 RSTP in respect of all players implicated in the present case.

(2) Breach of the ban on first registration of foreign minor players – art. 19 (3) RSTP

47. The Committee then turned its attention to the substantive rules contained in art. 19 RSTP and noticed that Valdivara 5Terre contravened the general prohibition on first registration of foreign minor players.
48. Indeed, after examining the evidence available to it, the Committee had no doubt that none of the three players qualified for any of the exceptions listed in art. 19 (2) RSTP at the time of their respective entry into Italy.
49. In particular, the Committee observed, according to the case file, that players 8-10 had never been registered with any association before moving to Italy. Consequently, any registration with the FIGC would constitute a first registration within the meaning of art. 19 (3) RSTP. However, as already outlined, these Nigerian minor players did not satisfy one of the exceptions of art. 19 (2) RSTP and did not live continuously for at least five years in Italy, thus excluding any first registration with the FIGC. Nevertheless, the Spezia Calcio moved these minor players from Nigeria to Italy as part of the "Nigerian system" and parked them with Valdivara 5Terre, which waited until they reached the age of 18 before requesting their registrations with FIGC, thereby breaching art. 19 (3) RSTP in respect of these three players.

(4) Conclusion

50. All in all, the Committee was firmly convinced that Valdivara 5Terre collaborated with Spezia Calcio and participated in the "Nigerian System" with the intention of moving or more appropriately, "bringing" these Nigerian minor players from their home country to Italy, in total disregard of the rules put in place by FIFA to protect the integrity and health of minor players.
51. Indeed, the three minor players brought to Italy by Spezia Calcio could not benefit from any of the exceptions to the general prohibition laid down in art. 19 RSTP, so that with the help of Valdivara 5Terre, the three aforementioned players were parked with the Respondent for as long as their registration with FIGC was impossible. Only once they turned 18 years old did Valdivara 5Terre proceed with their official registration in order to potentially transfer them to Spezia Calcio. In other words, the above-mentioned system was meant to escape not only FIFA's radar, but also that of FIGC.
52. Having determined all of the above, in particular that Valdivara 5Terre infringed arts. 19 (3) and (4) RSTP together with art. 1 (1) of Annex 2 and art. 1 (3) of Annex 3 RSTP, the Committee held that Valdivara 5Terre had to be sanctioned for the aforementioned violations.

b. The determination of the sanction

53. The violations of the RSTP by the Respondent having been established, the Committee subsequently considered the sanction(s) to be imposed.
54. The Committee observed in the first place that the Respondent is a legal person, and as such can be subject to the sanctions described under art. 6 (1) and (3) FDC.

55. For the sake of good order, the Committee underlined that it is responsible to determine the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking into account both aggravating and mitigating circumstances (art. 24 (1) FDC).
56. As it was established above, the Respondent was found guilty of violating arts. 19 (3) and (4), and art. 1 (1) of Annex 2 and art. 1 (3) of Annex 3 RSTP for the illegal first registration of three Nigerian players.
57. However, the Committee was far more concerned about the system – the so-called “Nigerian System” – put in place by Valdivara 5Terre and Spezia Calcio to circumvent the provisions governing the protection of minor players than about the number of players actually involved in the present case. Indeed, in the Committee's view, it is inconceivable and unacceptable that a club uses and manipulates underage players by playing with their health and education in order to generate profits on their back. Such a lack of respect and moral behaviour should be condemned in the strongest possible terms, but also with sanctions that reflect the seriousness of the offence.
58. Furthermore, the Committee was aware that the likely main beneficiary was probably not the Respondent, but Spezia Calcio. In this respect, the Committee strongly recommended that the persons behind the “Nigerian system”, the former administration from Spezia Calcio, be further investigated by the competent bodies.
59. In addition to the above, the Committee noticed that the new present of the club considered that the club should not be strictly liable for the misconduct of the former management.
60. The mere fact that the Club has a new owner does not in any way exonerate Valdivara 5Terre, as a club, from being sanctioned. On the contrary, the Committee considered that any other conclusion would jeopardise the application of art. 19 RSTP, as a club could, as in the present case, severely flout the said provision, be acquired by a new owner, who would admit the facts after taking over the club but argue that no sanction should be imposed because the management/ownership of the club is different.
61. Moving forward, the Committee recalled that when assessing the degree of fault of the Respondent, it was necessary to take into account the severity of the infringements with respect to the legal interest protected by that provision, namely the integrity of the minor's development. As stated above, the protection of minor players is one of the main pillar of the RSTP and art. 19 was implemented with the aim of protecting minor players in the context of international transfers, as young football players are generally extremely vulnerable to exploitation, abuse, and mistreatment in a foreign country.
62. In the light of the above clarification and the various precedents where clubs have been sanctioned for breaching the rules governing the protection of minors as well as those relating to international transfers of players, the Committee noted that the gravity of the

infringement in the present case was unprecedented and considered that a fine and a transfer ban were the minimum sanctions to be imposed in view of the Committee's and CAS's jurisprudence. Indeed, the Committee recalled that the Club had not inadvertently disregarded the rules governing the protection of minors but had set up a systematic and organized system for the movement of foreign minors with the main purpose of making financial gain.

63. Against this background, the Committee decided to start with the fine by determining its amount, which according to art. 6 (4) FDC, may not be lower than CHF 100 and greater than CHF 1,000,000.
64. As already explained, the Committee found that the Respondent deliberately disregarded the provisions at stake by collaborating in the "Nigerian system", which, according to the Committee, amounted to child trafficking. In other cases where the essence and purpose of the provision was blatantly and flagrantly disregarded, the severest possible sanctions were imposed on the offenders¹².
65. In view of the seriousness of the facts, the Committee considered that a fine of CHF 4,000 was appropriate and proportionate, taking into consideration its amateur status and willingness to cooperate.
66. With regard to the transfer ban, the Committee noted that neither the FDC nor any other FIFA regulation provides for a maximum or minimum duration for such a ban. However, when determining the duration of such a ban, the Committee is obliged to bear in mind the proportionality of the sanction as a guiding principle. The Committee would like to stress, in view of the elements highlighted above, that the degree of culpability of the Club is of the highest degree. In this context, it should be recalled once again that FIFA takes the protection of minors in football very seriously. Therefore, the Committee considered that a ban on national and international registration of players for four (4) full and consecutive registration periods was appropriate based on the violations committed by the Respondent.
67. The Committee clarified that this sanction involves a strict ban on the Club registering new players at national and international level for four (4) complete and consecutive registration periods. In particular, the Respondent will only be able to register new players at national and international level from the registration period following the full implementation of the transfer ban and will not be able to make use of the exception and provisional measures specified in article 6 of the RSTP in order to register new players at an earlier stage. The Committee also pointed out that the sanction applies to all categories and sections of men's eleven-a-side football of the Respondent, with the exception of women's football, beach soccer and futsal.

¹² Cf. decisions of the FIFA Adjudicatory Chamber in cases involving Mr Yves Jean-Bart (adj. ref. no 3/2020) or Mr Keramuddin Karim (adj. ref. no 12/2019).

IV. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. The club Valdivara 5Terre is banned from registering new players, both nationally and international level, for four (4) entire and consecutive registration periods following the notification of this decision for failing to comply with the relevant provisions of the RSTP related to the protection and transfer of minors.**
- 2. The club Valdivara 5Terre is ordered to pay a fine to the amount of CHF 4,000.**
- 3. The above fine is to be paid within thirty (30) days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Mr. Jorge Palacio

Chairman of the FIFA Disciplinary Committee

NOTE RELATING TO THE PAYMENT OF THE FINE:

Payment can be made either in Swiss francs (CHF) to account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J or in US dollars (USD) to account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U, with reference to case number above mentioned.

NOTE RELATING TO THE LEGAL ACTION:

This decision can be contested before the FIFA Appeal Committee (art. 57 of the FDC, 2019 edition). Any party intending to appeal must announce its intention to do so in writing within three (3) days of notification of the grounds of the decision. Reasons for the appeal must then be given in writing within a further time limit of five (5) days, commencing upon expiry of the first-time limit of three (3) days (art. 56 (4) of the FDC, 2019 edition). The appeal fee of CHF 1,000 shall be transferred to the aforementioned bank account on the date of the expiry of the time limit of five days for submitting the reasons for appeal at the latest (art. 56 (6) of the FDC, 2019 edition).