



Arbitration CAS 2006/A/1027 Blackpool F.C. v. Club Topp Oss, award of 13 July 2006

Panel: Mr John A. Faylor (Germany), President; Mr Mark Hovell (United Kingdom); Mr Manfred Nan (Netherlands)

Football

Determination of the status of a player

Training compensation

Calculation of the training compensation

- 1. The fact for a player to be in a situation of directional control, on the part of the club, and subordination, on the part of the Player, shows an employer-employee relationship. The fact for a player to be entitled not only to a weekly wage and appearance bonuses pursuant to an established payment scheme, but also to enjoy other rights such as holidays, disability benefits for a limited time and payment of accommodations constitute advantages which clearly exceed the category of cost reimbursements provided by Art. 2 para. 2 of the FIFA Regulations describing the amateur status. The player benefiting from such advantages must be considered as a non-amateur, even if he agrees to perform services for a small wage.**
- 2. The status of amateur can be inferred from the fact that the Player did not sign any written employment agreement with his previous club and from the fact to be regarded as an amateur by his national association. The amateur status can also be corroborated by the fact that it is only because the Player was an amateur that he was able to leave his previous club to join another club, without being hindered from being engaged in other professional activities or occupations.**
- 3. The former club of a player is entitled to training compensation as provided by Chapter VII of the FIFA Regulations when the player has signed his first contract as a professional and has been transferred before his 23rd birthday.**
- 4. FIFA Circular Letter No 826 states the criteria to calculate a training compensation and indicate training compensation amounts depending on the age of the player, on the division as well as on the categories of the clubs the player is playing for. An average of the indicative amounts per season has to be calculated.**

The Appellant, Blackpool F.C., is a football club with its registered office in Blackpool, England. It is a member of the English Football Association (FA), which has been affiliated with the Fédération

Internationale de Football Association (FIFA) since 1905. Blackpool F.C. plays in the third league of professional football in England.

The Respondent, Topp Oss, is a football club with its registered office in Oss, the Netherlands. It is a member of the Royal Netherlands Soccer Federation (Koninklijke Nederlandse Voetbalbond - KNVB), which has been affiliated with FIFA since 1904. Topp Oss is playing in the second league of professional football in the Netherlands.

The player Zarko Grabovac (the "Player") is of Dutch nationality and was born on 16 June 1983. From age 6 to 16, he played as an amateur for JVC Cuijk, a football club in Holland.

During the 2000/2001 season, the Player was registered with the Respondent as an amateur player. He played in official matches and trained with this club on a regular basis. He was reimbursed for travel expenses and clothing for training and matches.

For the 2001/2002 season, the Player signed an amateur contract with KsK Ronse, a football club which plays in the second league in Belgium.

During the 2002/2003 season, the Player was again registered with the Respondent as an amateur player. He played in official matches and trained with this club on a regular basis. He received the same financial reimbursement he received during the 2000/2001 season.

During the 2003/2004 season, the Player was also registered with the Respondent. Allegedly, he trained during the summer, but then sustained a serious knee injury which prevented him from playing football for the rest of the season. He did not participate in any official match with the Respondent during this season and never returned to the Respondent.

It is undisputed that:

- while injured, the Player did not receive any form of financial contribution or reimbursement from the Respondent;
- at the beginning of May 2004, the Respondent confirmed to the Player its interest in registering him again as an amateur for the next season;
- on 28 May 2004, the Respondent informed the Player contrary to its earlier confirmation that he could not be selected for the 2004/2005 season due to the reorganisation of the club;
- in Holland, the transfer window for amateur players is shut after the 31 May;
- the Respondent has never offered a professional contract with the Player.

The Player played the last 6 months of year 2004 as an amateur for Geldrop/AEK, a third division football club in Holland, which has confirmed the following in a letter dated 22 February 2006:

"Geldrop/AEK is a football club with an amateur status. Because of this status we are not allowed, in conformity with the regulations of the Royal Netherlands Football Association (KNVB), to enter into labour

agreements with players. Payment of bonuses in case of win or draw is also not allowed. In the case at issue, Geldrop/AEK has never made such payments to Mr Garbovic (sic).

Mr Garbovic and Geldrop/AEK had only come to an oral agreement about payment of travelling costs from Mr Grabovic's place of residence to Geldrop. These kind of payments are allowed by the KNVB and the Dutch Tax authority.

A written agreement between Mr Garbovic and Geldrop/AEK has never been drawn up”.

In a written statement dated 18 March 2005, the Player confirmed that he received small bonuses from Geldrop/AEK. Allegedly, they were paid in cash in case of a win or draw.

On 14 January 2005, the Player signed a contract as a non-amateur with the Appellant.

On 10 March 2005, the Appellant wrote the following to the Player:

“The information you gave Blackpool Football Club regarding your status whilst playing your football in Holland was the reason Blackpool offered you a contract until the end of season 2004/2005.

It has since come to the attention of Blackpool Football Club that the information we received was false. As a result of this coming to light we have no alternative other than to terminate your contract with Blackpool Football Club.

Please accept this letter as Blackpool Football Club giving you 14 days notice of the termination of your contract”.

The Player ceased playing for the Appellant on 14 March 2005. He then returned to the Netherlands and has been registered as an amateur player with Fortuna Sittard since 1 July 2005.

On 19 May 2005, the Respondent initiated proceedings with the FIFA Dispute Resolution Chamber (the “FIFA Chamber”) to order the Appellant to pay to the Respondent an amount of EUR 135,000 as training compensation pursuant to Chapter VII of the FIFA Regulations for the Status and Transfer of Players (edition 2001).

The FIFA Chamber concluded that the Respondent was entitled to receive training compensation for the training it provided to the Player notably on the following grounds:

“Regarding the Respondent's position, the Chamber acknowledged that the Respondent maintains that it was not duly informed by either the player, the agent involved in the transfer, the Claimant, the Netherlands Football Association or the Football Association. The Chamber also took note of the Respondent's objection that it only requested the International Transfer Certificate for the player in order to assess the player's ability.

The Chamber duly considered all documentation and argumentation provided by both parties and unanimously concluded that the argumentation of the Respondent cannot be upheld since it is established in the relevant provisions in the Regulations that it is the sole responsibility of the new club to calculate the amount of the compensation for training and education. In this respect, the Chamber emphasized that the new club of the player shall find out the way the training compensation has to be distributed by taking into consideration the player's career history. For this purpose, the new club shall, if necessary, take the assistance of the player in order to discharge this obligation. In this respect, the Chamber pointed out, that the lack of information

provided by the parties involved in the transfer of the player does not release the club from its obligation under the terms of the regulations”.

The FIFA Chamber awarded training compensation based upon:

- the number of years it considered the Player to have been registered with the Respondent; and
- the parameters and indicative amounts laid out in FIFA Circular Letter No 826 dated 31 October 2002 according to which the Respondent falls into category 3 and the Appellant falls into category 2.

Consequently, on 23 November 2005, the FIFA Dispute Resolution Chamber decided that

- “1. [...]”
 2. *The Respondent, Blackpool FC, shall pay the total amount of EUR 135'000.00 to the Claimant, within 30 days following the date of the communication of the present decision.*
 3. *In the event that the above-mentioned amount is not paid within the stated deadline, an interest rate of 5% per year will apply and the present matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.*
- [...]”.

On 23 January 2006, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (CAS). It challenged the FIFA Chamber's Decision.

The Appellant's submission, in essence, may be summarized as follows:

- According to the applicable FIFA Regulations, *“the liability to pay training compensation crystallises upon the first registration of a player as a non-amateur or, when a non-amateur player moves at the end of his contract”.*
- In the case at hand, and even though the Player signed a non-amateur contract with the Appellant, he was actually an amateur at all times. The fact that the Player was registered as a non-amateur is not determining. The circumstances under which the Player is engaged establish his real status.
- In the case at hand, the Appellant guaranteed the Player only GBP 100 per week and assumed his costs of accommodations. The bonuses to which he would be entitled were similar to the ones paid by his former club, Geldrop/AEK. As a result, the Player cannot reasonably be considered as making a living from his engagement by the Appellant.
- For the above reasons, the Appellant submitted
“... that the Panel should conclude that training compensation is not payable to the Respondent as the Player was an amateur whilst with the Appellant given the sums he received from the Appellant. Alternatively, if the Panel does conclude that the Player was receiving more than his expenses at the Appellant and therefore that he was a non-amateur, then the Panel must also conclude that the playing bonuses received by the Player at Geldrop/AEK mean that he was a non-amateur at Geldrop/AEK

and as such, his transfer to the Appellant was a subsequent transfer so no training compensation is payable to the Respondent”.

The submissions of the Respondent may be summarized as follows:

- While he was registered with the Appellant, the Player was entitled to a basic salary, accommodations and appearance payments. This makes him a non-amateur player according to Art. 2 of the FIFA Regulations for the Status and Transfer of Players (edition 2001). Furthermore, the Player himself declared that he had signed his first professional contract with the Appellant.
- The Respondent asserted: *“It was always clear for everyone involved that the Player had the amateur status at Geldrop/AEK. In this respect, reference is being made to the request of the English FA for an International Transfer Certificate for the Player (...) and the International Transfer Certificates issued by the KNVB (...), both clearly identifying the Player as an amateur”.*

LAW

CAS Jurisdiction

1. The jurisdiction of CAS, which is not disputed, derives from Art. 59 ff. of the FIFA Statutes and Art. R47 of the Code of Sport-related Arbitration (the “Code”). It is further confirmed by the Order of Procedure duly signed by the parties.
2. It follows that the CAS has jurisdiction to decide the present dispute.
3. Under Art. R57 of the Code, the Panel has full power to review the facts and the law. The Panel has exercised its rights under this provision.

Applicable law

4. Art. R58 of the Code provides the following:
“The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.
5. Art. 59 para. 2 of the FIFA Statutes further provides for the application of the various regulations of FIFA or, if applicable, of the Confederations, Members, Leagues and Clubs, and, additionally, Swiss law.

6. In the present matter, the parties have not agreed on the application of any particular law. Therefore, the rules and regulations of FIFA shall govern primarily, whereby Swiss law shall apply in the event the interpretation or construction of the FIFA rules and regulations is required.

Admissibility

7. The appeal was filed within the deadline provided by Art. 60 of the FIFA Statutes and stated in the decision of the FIFA Chamber, i.e., within 10 days after notification of such decision. It complied with all other requirements of Art. R48 of the Code.
8. It follows that the appeal is admissible.

Main issues

9. The main issues to be resolved by the Panel in deciding this dispute are the following:
 - A. Has the Player acquired the non-amateur status once he joined the Appellant?
 - B. Was the Player a non-amateur before he joined the Appellant?
 - C. Is the Respondent entitled to training compensation?
 - D. If the answer is yes, what is the correct calculation of the training compensation?
 - E. Are there any reasons to adjust the training compensation?
- A. Has the Player acquired the non-amateur status once he joined the Appellant?*
10. The Appellant submits that the sole criterion to determine the status of a player is his remuneration. It states that, in consideration of the small wage it paid to the Player, the amount cannot be said to be enough to make a living.
11. The case at hand is governed by the FIFA Regulations. The case was submitted to the FIFA Chamber prior to 1 July 2005. Therefore, and in accordance with Art. 26 para. 1 of the revised Regulations for the Status and Transfer of Players (edition 2005) and the FIFA Circular Letter No 995 dated 23 September 2005, the previous Regulations for the Status and Transfer of Players (edition 2001) (the "FIFA Regulations") shall govern the decision of this dispute.
12. Art. 2 of the FIFA Regulations provides the following:

"1 Players who have never received any remuneration other than reimbursement of their actual expenses incurred during the course of their participation in any activity connected with association football are regarded as amateur."

2 Travel and hotel expenses incurred through involvement in a match and the costs of a player's equipment, insurance and training may be reimbursed without jeopardising a player's amateur status.

3 Any player who has ever received remuneration in excess of the expenses and costs described in para. 2 of this article in respect of participation in an activity connected with association football shall be regarded as non-amateur unless he has reacquired amateur status under the terms of Art. 26 par.1 below".

13. According to Art. 3 para. 1 of the FIFA Regulations, *"A player's status shall be determined by the national association with which he is registered"*.
14. Pursuant to Art. 4 para. 1 of the FIFA Regulation, *"Every player designated as non-amateur by his national association shall have a written contract with the club employing him"*.
15. On 14 January 2005, the Player signed an employment contract with the Appellant and was registered as a non-amateur by the English FA. In accordance with this agreement, the Player undertook to observe certain defined obligations, in particular:
 - (a) to play football exclusively for the Appellant (Art. 4);
 - (b) not to participate professionally in any other sporting or athletic activity without the written consent of the Appellant (Art. 7a);
 - (c) to make himself available for community and public relations involvement as requested by the Appellant (Art. 7b);
 - (d) not to reside at any place which the Appellant deemed unsuitable (Art. 11a);
 - (e) not to be engaged either directly or indirectly in any trade, business or occupation other than his employment for the Appellant (Art. 11b);
 - (f) not to participate in professional football during his holiday (Art. 24).
16. Under the terms of the said contract, the Appellant agreed notably:
 - (a) to pay for the treatment as may be prescribed by the medical or dental advisers of the Appellant in order to restore the Player to fitness (Art. 8);
 - (b) to pay to the Player his basic wage for the first twenty-eight weeks of incapacity plus a sum equivalent to the amount of sickness benefit which the Appellant is able to recoup (Art. 9);
 - (c) to pay a minimum of four weeks holiday a year (Art. 24);
 - (d) to pay a weekly wage of GBP 100 (Art. 28c);
 - (e) depending on the amount of time spent on the field of play, to pay a *pro rata* payment of GBP 250 for each appearance made in first teams matches as well as a crowd bonus (Art. 28c);
 - (f) to provide accommodations for the Player.
17. In the view of the above contract obligations, it cannot be questioned in the view of the Panel that there was an employer-employee relationship between the Appellant and the Player.

From the moment he signed the contract, the Player agreed to perform services exclusively for the Appellant. A situation of directional control, on the part of the Appellant, and subordination, on the part of the Player, is clearly present. In consideration for his services, the Player was entitled not only to a weekly wage and appearance bonuses in the event he played, but also enjoyed other rights such as holidays, disability benefits for a limited time and payment of accommodations. All these advantages clearly exceed the category of cost reimbursements described in Art. 2 para. 2 of the FIFA Regulations.

18. The Appellant submits that the amount of remuneration which it paid to the Player was not sufficient for him to make a living. If this is the case, then the obligation placed on the Player not to be engaged either directly or indirectly in any trade, business or occupation other than his employment for the Appellant is nothing less than onerous. To be sure, the FIFA regulations do not stipulate a minimum wage. The player can still be considered as a non-amateur, even if he agrees to perform services for a meager wage (CAS 2005/A/838). In that case, the Panel observed that the Player did not receive any accommodation costs. Considered in their entirety, however, the weekly wage, the payment of accommodations, the appearance monies, even if only contingent upon playing, the health and disability coverage, all of these benefits indicate that the Player would have been able to subsist for a short term until a higher remuneration could have been negotiated. The package is definitely more than a mere reimbursement of costs.
 19. In light of the above, the Panel concludes that the Player must be considered as a non-amateur, while playing for the Appellant.
- B. *Was the Player a non-amateur before he joined the Appellant?*
20. According to the Appellant, the Player's remuneration was very similar to the benefits he received from Geldrop/AEK where he was licensed as an amateur. The Appellant infers herefrom that either the Player was an amateur while playing with the English club or he was already a non-amateur while playing with Geldrop/AEK. It is undisputed that the Player was an amateur until he began playing for Geldrop/AEK.
 21. It is also undisputed that the Player received from Geldrop/AEK a contribution towards his travel expenses, just as he had received from the Respondent. At the hearing, the Appellant stated that, on a few occasions, Geldrop/AEK also paid EUR 100 or EUR 50 bonuses in cash to the Player, which the latter contested.
 22. The Panel takes the position that the Player's position with the Appellant cannot be compared with his status at Geldrop/AEK.
 23. With regard to remuneration, the Appellant not only covered the Player's customary living costs such as accommodations and health insurance, it also paid a weekly wage in addition to appearance money if the Player played in a 1st team event. The Player was also eligible for

bonuses pursuant to an established payment scheme. In addition, while playing with the English club, he was entitled to holiday and to paid sick leave.

24. In contrast to Geldrop/AEK, the Player entered into a written employment agreement with the Appellant, a factor which speaks for the fact that the Appellant was paying economic value to the Player in consideration for the obligations which the Player assumed under the employment contract. A comparable situation cannot be found in the relationship which the Player enjoyed with Geldrop/AEK, where no written contract was required. As far as the bonuses are concerned, the Appellant's payment scheme was an established and documented plan.
25. Nothing of the sort to which the Player was entitled from the Appellant was agreed upon with Geldrop/AEK. This is particularly true regarding the alleged payment of cash bonuses. On what basis were these bonuses paid? Were they regularly paid or revocable at will? How would the Player have enforced his claim to such a bonus? Did the payment of the bonus constitute consideration for services performed or did the bonus have more the character of a one-time, non-binding reward for "winning the game"? In the view of the Panel, the facts submitted by the Appellant with regard to the bonus are not sufficient to place the amateur status of the Player during his short sojourn with Geldrop/AEK in question.
26. While the Player was playing with Geldrop/AEK, his amateur status is also corroborated by other evidence:
 - (a) There existed only oral agreements with the Respondent and Geldrop/AEK, which is inconsistent with the requirement of a written contract for non-amateur players (Art. 4 of the FIFA Regulations).
 - (b) It is only because the Player was an amateur that he was able to leave Geldrop/AEK to join the Appellant in January 2005.
 - (c) Nothing hindered the Player from being engaged in other professional activities or occupations.
 - (d) The Player was regarded as an amateur by his national association, in accordance with Art. 3 para. 1 of the FIFA Regulations and by FIFA.
27. The Panel, after careful analysis of the facts and evidence submitted to it by the parties, must conclude that the Player remained an amateur player while registered with Geldrop/AEK and a non-amateur player while he was registered with the Appellant.

C. *Is the Respondent entitled to training compensation?*

28. Art. 13 of the FIFA Regulations provides the following:

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

be due until the player reaches the age of 23, but the calculation of the amount of compensation shall be based on the years between 12 and the age when it is established that the player actually completed his training”.

29. Pursuant to Art. 14 of the FIFA Regulations,
“When a player signs his first contract as a non-amateur, a sum of compensation shall be paid to the club(s) involved in the training and education of the player”.
30. Pursuant to Art. 15 of the FIFA Regulations,
“Compensation shall be paid each time a player changes from one club to another up to the time his training and education is complete, which, as a general rule, occurs when the player reaches 23 years of age”.
31. It has been established that the Player signed his first non-amateur contract with the Appellant on 14 January 2005. He was less than 21 years old when he was training and playing with the Respondent and was less than 23 years old when the latter club lodged a formal claim in front of FIFA for the training compensation.
32. The Panel concludes, on the basis of the above, that the Respondent is entitled to training compensation as provided by Chapter VII of the FIFA Regulations.
- D. *If the answer is yes, what is the correct calculation of the training compensation?*
33. The relevant provisions and guidelines for the calculation of the training compensation are the following:

Art. 5 of the Application Regulations

“1 For the purposes of calculating compensation, the training period starts at the beginning of the season of the player’s 12th birthday, or at a later age, as the case may be, and finishes at the end of the season of his 21st birthday.

(...) The amount to be paid is for the benefit of every club which has contributed to the training of the player in question, starting from the age of 12. The money shall be distributed on a pro-rata basis depending on the full years of proper and proven training, and in relation to the category to which the training clubs belong”.

FIFA Circular Letter No 826 dated 31 October 2002 (the “FIFA Circular Letter No 826”):

“Until a more definitive calculation system is put into place, FIFA has established the following indicative amounts on the basis of information received for all national associations on a confederation basis, also keeping in mind the many requests from interested parties for simplicity:

(...)

- Europe:*
- | | |
|---------------------|--------------------|
| <i>1. Category:</i> | <i>EURO 90,000</i> |
| <i>2. Category:</i> | <i>EURO 60,000</i> |
| <i>3. Category:</i> | <i>EURO 30,000</i> |

4. *Category:* EURO 10,000

(...)

These amounts will be used when applying the provisions contained in Chapter VII of the FIFA Regulations for the Status and Transfer of Players (hereafter "Basic Regulations"), as well as Chapter III of the Regulations governing the Application of the Regulations for the Status and Transfer of Players (hereafter "Application Regulations"), together with circular letters nos. 769 and 799, subject to the simplifications outlined below.

Art. 7 of the Application Regulations:

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

(...)

4 However, in the EU/EEA area, compensation for training is based on the training and education costs of the country in which the training club was located. The following rules apply:

(a) the player moves from a lower to a higher category: calculation is the average of the training costs for the two categories".

34. The Panel holds that the Respondent has established that it provided proper training and education to the Player during two full years, that is, during the 2000/2001 and 2002/2003 seasons.
25. Regarding the 2003/2004 season, it is undisputed that the Player was registered with the Respondent. Nevertheless, the Respondent has not substantiated, much less proven, when the Player was injured and to what degree he actually and effectively trained until then, if at all. In a letter dated 24 February 2006, Mr Marcel Holthuis, Youth Coordinator of the Respondent, confirmed the fact that
"Zarko Grabovac has played during the whole summer preparation towards the start of the new season. At the end of this preparation Zarko Grabovac got injured".
26. It is not clear whether the Player was injured before or after the 2003/2004 season commenced. Due to the lack of evidence, the Panel has concluded that the Respondent has not borne its burden of proof regarding the degree of the Player's training in the 2003/2004 season. Therefore, it cannot be taken into account in the calculation of the training compensation.
27. In conclusion, the Panel holds that the Player could have been properly and effectively trained by the Respondent only during two full year seasons, 2000/2001 and 2002/2003.
28. It is undisputed that the Appellant falls into category 2 under the terms of the FIFA Circular Letter No 826 for which the indicative amount of training compensation is EUR 60,000 per year. At the same time, the Respondent falls into category 3 for which the indicative amount of training compensation is EUR 30,000. The average of both amounts is EUR 45,000.

29. The calculation of the training compensation is the following:

Season 2000/2001	- average between cat. 2 and 3	EUR 45,000
Season 2002/2003	- average between cat. 2 and 3	<u>EUR 45,000</u>
Training compensation		EUR 90,000

E Are there any reasons to adjust the training compensation?

30. The Appellant submits that, in accordance with Art. 5 para. 5 of the Application Regulations and with FIFA Circular letter No 769 dated 24 August 2001, the Respondent was compelled to offer the Player a professional contract, failing which it cannot claim for any training compensation. Alternatively, the absence of contract offered to the Player is a mitigating circumstance that should lead to a reduction of the training compensation.

31. Art. 5 para. 5 of the Application Regulations provides that

“In the EU/EEA, if the training club does not offer the player a contract, this shall be taken into account in determining the training compensation payable by the new club, without prejudice to the rights to compensation of the previous training clubs”.

32. This provision is clear in the situation at hand and must be read as follows: If Geldrop/AEK, being a club residing in the EU, does not offer the Player a contract, this shall be “taken into account” in determining the training compensation payable by the Appellant, without prejudice to the rights to compensation of the previous training clubs, such as the Respondent.

33. The Appellant did not provide any explanation to the Panel as to why the Respondent should not be among “the previous training clubs”. To be sure, the Player was playing with the Respondent before he joined Geldrop/AEK. The Player left Geldrop/AEK six months after joining to sign a non-amateur contract with the Appellant. It is undisputed that Geldrop/AEK did not offer a contract to the Player. Art. 5 para. 5 of the Application Regulations does not require from any former club that they offer a player a contract in order to be entitled to training compensation. This would clearly go against the wording and the spirit of the said provision.

34. FIFA Circular Letter No 769 dated 24 August 2001 states that

“Furthermore, within the EU/EEA, in case a player younger than 23 years does not receive a contract from the club where he has trained, and this player moves to another non-amateur club, this factor must be taken into account when deciding whether any training compensation shall be due, and what the amount of this compensation should be. As a matter of principle, the player’s training club will not be entitled to receive training compensation unless this training club can demonstrate to the Dispute Resolution Chamber that it is entitled to training compensation in derogation of this principle. This possibility to derogate is not applicable where national collective bargaining agreements do not envisage it”.

35. The Panel has no reason to question the amateur status of Geldrop/AEK, which has been confirmed by the KNVB. As a result, in the light of the foregoing in conjunction with Art. 5 para. 5 of the Application Regulations and with regard to the fact that the Respondent did not offer a contract to the Player, the FIFA Circular Letter No 769 cannot be considered as relevant in the case at hand.
36. Pursuant to Art. 42 para. 1(b)(iv) of the the FIFA Regulations, the Dispute Resolution Chamber “shall have discretion to adjust the training fee, if it is clearly disproportionate to the case under review”. However, the general principle of equal treatment of the member federations requires that such adjustments must be based only on criteria established by the applicable rules and regulations (CAS 2003/O/527).
37. The FIFA Circular Letter No 826, page 2, last paragraph, provides the following:
“Any party that objects to the result of a calculation based on the rules on training compensation is entitled to refer the matter to the Dispute Resolution Chamber. The Chamber will then review whether the training compensation fee calculated on the basis of the indicative amounts and the principles of the revised regulations, as simplified below, is clearly disproportionate to the case under review in accordance with Art. 42.1.b.(iv) of the Basic Regulations, while taking into account the indicative nature of these amounts. Whenever particular circumstances are given, the Dispute Resolution Chamber can adjust the amounts for the training compensation so as to reflect the specific situation of a case. For this task the Dispute Resolution Chamber can ask for all documents and/or information it deems necessary, such as invoices, training centres, budgets, etc”.
38. It follows that the club objecting to a training compensation calculated on the basis of the indicative amounts mentioned in the FIFA Circular Letter No 826 is entitled to prove that such compensation is disproportionate on the basis of concrete documents, such as invoices, costs of training centers, budgets, etc. In the absence of sufficient evidence, the indicative amount would apply (CAS 2003/O/527; CAS 2004/A/560).
39. The Panel holds that the Appellant has not proven that the effective costs incurred by the Respondent for the training and education of the Player were lower than the costs calculated on the basis of the indicative amounts mentioned in the FIFA Circular Letter No 826.
40. The Appellant argued that it was in a difficult financial position, that it had to register the Player in order to assess his real ability, that the contractual period was only 5 ½ months long and that it was provided with misleading information as to the Player's registration history. The Appellant's submissions are a distinct issue and therefore irrelevant to the extent they relate to the real and effective training costs incurred by the Respondent for the development of the Player concerned. They do not constitute suitable criteria to evaluate the training costs of the Respondent. The latter cannot be held responsible nor suffer from the consequences of the Appellant's failure to act with the prudence that a reasonable professional club would exercise when hiring a less than 23 years old amateur player.

41. Lastly, with respect to the Appellant's arguments on freedom of movement, the Panel is of the opinion that such arguments would have been available to the individual Player, not to the Appellant (CAS 2004/A/794).

Conclusion

42. Based on the foregoing, the Panel concludes that the training compensation to be awarded to the Respondent shall be an amount of EUR 90,000.
43. With regard to the interest claimed by the Respondent, in the absence of a specific contractual clause, the Panel can only apply the legal interest due pursuant to Art. 104 of the Swiss Code of Obligations. That article provides that the debtor, on notice to pay an amount of money, owes an interest at the rate of 5 % per annum (CAS 2003/O/486).
44. Regarding the *dies a quo* for the interest, it must correspond to the due date of the training compensation. Art. 9 para. 1 of the FIFA Application Regulations provides the following:
“The new club shall pay the training club the amount due as compensation for training and education pursuant to the above provisions at the latest within 30 days of the signature of the first contract under the terms of Art. 4 of the FIFA Regulations for the Status and Transfer of Players or for any subsequent transfer, within 30 days of the player's new registration”.
45. It follows that the due date of the training compensation is 30 days after the signature of the contract by the Player with the new club. As a consequence, the interest of 5% shall be incurred as of 14 February 2005, i.e., 30 days after 14 January 2005, which is the date of entering the agreement between the Player and the Appellant.
46. This solution complies with the CAS jurisprudence (CAS 2003/O/500, CAS 2004/A/560).

The Court of Arbitration for Sport rules:

1. The appeal of Blackpool F.C. against the decision issued on 23 November 2005 by the FIFA Dispute Resolution Chamber is partially upheld.
 2. Blackpool F.C. is ordered to pay to Top Oss the amount of EUR 90,000 (ninety thousands Euros), plus interest at 5% (five percent) as from 14 February 2005.
 3. All other claims and counterclaims are dismissed.
- (...)