

In the Matter of  
**[THE APPELLANT'S COUNTRY]<sup>1</sup> VOLLEYBALL FEDERATION**  
(hereinafter: "the Appellant")

vs.

**FÉDÉRATION INTERNATIONALE DE VOLLEYBALL (FIVB)**  
(hereinafter: "the Respondent")

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DECISION  
of the FIVB APPEALS PANEL in the Case 2018-01  
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Date: **[date]**.

This is an appeal made by the **[the Appellant]** against the FIVB Disciplinary Panel decision DP n° 2017-08 (hereinafter: "the Decision") to sanction **[the Appellant]** for multiple rule violations, namely breach of Articles 6.7.2 and 6.7.3 FIVB Sports Regulations 2016; Article 1.4.4 FIVB Financial Regulations 2015 and Article 14.4.1 FIVB Disciplinary Regulations 2016.

## **I. FACTUAL BACKGROUND**

- 1 The following is an overview of the relevant facts of this case, listed in a summary manner for the sake of brevity. However, the FIVB Appeals Panel notes that it has considered every submission in the file thoroughly even if it has not been specifically addressed herein.
- 2 On **[date]**., **[the Player]** participated in a match between the **[Club in the Appellant's Country, hereafter "Club1"]** and **[another Club in the Appellant's Country, hereafter "Club 2"]**., two clubs located in the territory under the jurisdiction of the **[the Appellant]**, without having a valid International Transfer Certificate and despite the existence of an international transfer ban on the **[Club 1]** Additional information with regards to **[the Player]** and the **[Club 1]** are as follows:

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<sup>1</sup> In the interest of the protection of privacy, this is a redacted version of the decision. Any reductions are marked with bold brackets.

- [The Player] is a volleyball player having the Volleyball Federation of [the Player's Country] as her Federation of Origin. [The Player] represented the Volleyball Federation of [the Player's Country] in the [year-year].Senior [continental event] and in the [year] [another continental event] . During the [year-year].season, [the Player] played in [the Appellant's Country] without a valid International Transfer Certificate.
- [Club 1] is a volleyball club headquartered in [Place], [the Appellant's Country]. The [Club 1] is affiliated with [the Appellant] and participated in the highest division championship during the [year-year]. season. At the time of the match between the [Club 1] and [Club 2]., the FIVB and [Continental Federation] had imposed an international transfer ban at worldwide level upon the [Club 1] women's team for non-compliance with the [Continental Federation] decisions CC 027/[year]; CC 031//[year] and CC 059//[year] since [date].. This international transfer ban was later extended to the [Club 1] men's team on [date].<sup>2</sup>.

3 On [date], the FIVB Disciplinary Panel notified [the Player], the [Club 1] and the [the Appellant] of the opening of disciplinary proceedings. [The Player], the [Club 1] and the [the Appellant] were all provided with the opportunity to file a statement of defense.

4 On [date], the FIVB Disciplinary Panel issued the Decision.

## II. THE DECISION UNDER DISPUTE

5 The Decision is structured in six (6) sections: 1. Parties; 2. Factual Background; 3. Competence; 4. Applicable Law; 5. Procedure; and 6. Legal Considerations.

6 Having considered all relevant items under sections 1-6, the FIVB Disciplinary Panel concluded that [the Player], [Club 1] and the [the Appellant] committed multiple rule violations. Because of these rule violations, the FIVB Disciplinary Panel imposed a

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<sup>2</sup> The FIVB-[Continental Federation] Financial Disputes Sanction table ban shows the list of sanctions against clubs for non-compliance with decisions by the FIVB and/or [Continental Federation] with regards to Financial Disputes, time of entry into force of the sanction and is publicly available using: <http://www.fivb.org/EN/FIVB/Legal.asp>.

sanction upon [the Player], the [Club 1] and the [the Appellant]. The rule violations and sanctions were as follows:

- [The Player] violated Articles 6.7.2 and 6.7.3 of the FIVB Sport Regulations 2016 and Article 14.4.2 of the FIVB Disciplinary Regulations 2016. [The Player] was sanctioned with a suspension of three (3) months, starting the day following the notification of the Decision.
- [Club 1] violated Articles 6.7.2 and 6.7.3 of the FIVB Sport Regulations 2016 and Articles 9 and 14.4.2 of the FIVB Disciplinary Regulations 2016. The [Club 1] was sanctioned with a monetary fine in the amount of CHF 20'000.
- [The Appellant] violated Articles 6.7.2 and 6.7.3 of the FIVB Sports Regulations 2016, Article 1.4.4 of the FIVB Financial Regulations 2015 and Article 14.4.1 of the FIVB Disciplinary Regulations 2016. [The Appellant] was sanctioned with a monetary fine in the amount of CHF 20'000.

### **III. APPEAL BY [THE APPELLANT] AGAINST THE DECISION**

#### **a) Proceedings before the Appeals Panels**

- 7 On [date], the [the Appellant] filed an appeal against the Decision. On the same day, the [Club 1] also appealed the Decision. For the sake of completeness, [the Player] did not appeal the Decision.
- 8 On [date], the FIVB Appeals Panel Secretariat acknowledged receipt of the appeal by the Appellant and the Club [Club 1] respectively. In their response to the Appellant and the [Club 1], the FIVB Appeals Panel Secretariat informed the [Club 1] that the FIVB Finance Department had not been able to confirm receipt of the administration fee of CHF 2'000 and set as final deadline the [date] for the [Club 1] to pay the administration fee. The FIVB Appeals Panel Secretariat further informed the [Club 1] that failure to pay within the applicable deadline (i.e. [date]) will result in the appeal by the [Club 1] to be considered withdrawn (Article 31.2 FIVB Disciplinary 2017).
- 9 On [date], the FIVB Appeals Panel Secretariat informed the [Club 1] that the FIVB Finance Department had not been able to confirm receipt of the administration fee of CHF 2'000 within the applicable deadline (i.e. [date]) and, accordingly, that the appeal by the [Club 1] was deemed withdrawn (Article 31.2 FIVB Disciplinary 2017). On the

same day, the FIVB Appeals Panel Secretariat notified the Fédération Internationale de Volleyball (hereinafter: the “Respondent” or the “FIVB”) of the existence of the appeal submitted by the Appellant only and provided the Respondent with the opportunity to file an answer by no later than [date].

10 On [date], the Respondent requested the FIVB Appeals Panel to grant a one week extension from the date of the decision of the FIVB Appeals Panel to file its answer.

11 On [date], the FIVB Appeals Panel Secretariat informed the Respondent that the FIVB Appeals Panel Chairperson, Ms. Damaris Young, had granted such a request for an extension but only until [date].

12 On [date], the Respondent filed its answer with the FIVB Appeals Panel Secretariat.

13 On [date], the FIVB Appeals Panel Secretariat acknowledged receipt of the answer by the Respondent.

14 On [date], the FIVB Appeals Panel Secretariat informed the Appellant and the Respondent of the composition of the FIVB Appeals Panel in the Case AP [year] -01. The FIVB Appeals Panel was to sit in the following composition:

- Ms. Damaris Young (PAN), Chairperson;
- Ms. Emba Wu-Man Leung (CHN), Member; and
- Mr. Thomas Berend (LUX), Member.

The FIVB Appeals Panel Secretariat further informed the Appellant and the Respondent that the FIVB Appeals Panel will now review their respective submission(s) and was to deliberate on the Case AP [year] -01 shortly.

## **b) Positions of the Parties**

- 15 The position of [the Appellant] may be summarized as follows:
- The appeal is admissible because i) the appeal was filed in due time and ii) the applicable administration fee was paid.
  - [The Appellant] relied upon the 15135/2000 decision of the Minister of Sports in [the Appellant's Country] and a letter by the Volleyball Federation of [the Player's Country] to register [the Player] in their database. Thus, [the Player] was considered a domestic player by the [the Appellant] for transfer purposes.
  - [The Appellant] was never informed that , [the Player] reregistered with the Volleyball Federation of [the Player's Country].
  - [The Appellant] ought to have updated the personal status of [the Player] when the FIVB changed the FIVB Regulations with regards to international transfers.
  - The [Club 1] had no intention to breach the international transfer rules established by the FIVB.
- 16 The Prayer for reliefs of the [the Appellant] was as follows:
- "to set aside the Decision because of mistaken interpretation by the National Federation of the FIVB Regulations due to the existence of the above mentioned Ministerial Decision and to:"
  - "i. Release the National Federation, the Club and the Player from any responsibility for the registration of the Player to the Club and its participation on [date] in a match between [Club 1] and [Club 2] taking into consideration that it bears no fault or negligence, but wrong interpretation of the FIVB Regulations as well as its terrible financial situation due to the economic crisis in [the Appellant's Country]".
  - "ii. In any case not to impose to the Appellant to pay the costs of this appeal proceeding".
- 17 The position of the Fédération Internationale de Volleyball (FIVB) may be summarized as follows:
- The applicable FIVB regulations are those in force during the [year-year] season.

- The Appellant does not have standing to request the FIVB Appeals Panel to overturn the Decision insofar as the Decision concerns the [Club 1] and [the Player] respectively.
- The FIVB Disciplinary Panel properly interpreted the FIVB Regulations and did not abuse its discretion when issuing the sanction against the [the Appellant's Country].
- The FIVB Disciplinary Panel did not abuse its discretion in sanctioning the Appellant with a fine of CHF 20'000.
- The Respondent acknowledges the difficult economic situation in [the Appellant's Country] and does not oppose payment of the fine in instalments.

18 The Prayer for reliefs of the Fédération Internationale de Volleyball (FIVB) was as follows:

- “dismiss the Appellant’s appeal in its entirety”.
- “confirm the [date] decision of the FIVB insofar as it has been challenged within the present appeal”.
- “allow the Respondent to pay any sanction imposed in instalments as agreed upon by the Parties”.

#### **IV. ADMISSIBILITY OF THE APPEAL BY THE [THE APPELLANT]**

19 The FIVB Appeals Panel notes that two set of FIVB Disciplinary Regulations may apply to the admissibility of the appeal by the [the Appellant], namely:

- The FIVB Disciplinary Regulations 2017, which were approved by the FIVB Board of Administration on [date] and entered into force on [date]; and
- The FIVB Disciplinary Regulations 2018, which were approved by the FIVB Board of Administration on [date] and entered into force [date]<sup>3</sup>.

20 The FIVB Appeals Panel acknowledges that the appeal was filed with the FIVB Appeals Panel Secretariat on [date], i.e. when the FIVB Disciplinary Regulations 2017 were in force. Thus, the FIVB Appeals Panel finds that the admissibility of the appeal

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<sup>3</sup> Relevant changes to the FIVB Disciplinary Regulations 2018 with regards to the FIVB Appeals Panel related only to the composition of the FIVB Appeals Panel (creation of substitute members) and the authority to appoint a replacement in case a member is unavailable, resigns, has the same nationality as one of the parties or conflicted (see Articles 29.1 and 29.3.1 of the FIVB Disciplinary Regulations 2018).

by [the Appellant] is to be checked against the admissibility criteria set forth in the FIVB Disciplinary Regulations 2017<sup>4</sup>.

- 21 The FIVB Appeals Panel finds however that the FIVB Disciplinary Regulations 2018 will guide the FIVB Appeals Panel with regards to any other procedural issue related to the present proceedings (e.g. allocations of costs).

**a) FIVB Appeals Panel Competence: Prerequisites**

- 22 The FIVB Appeals Panel notes that certain admissibility requirements must be fulfilled for the FIVB Appeal Panel to consider an appeal. With regards to the foregoing, the Appellant must:

- i. file the appeal within fourteen (14) days of notification of the decision (Article 31.1 of the FIVB Disciplinary Regulations). The Appellant filed an appeal with the FIVB Appeals Panel on [date], namely fourteen (14) after receipt of the Decision; and
- ii. pay an administrative fee of CHF 2'000 (Article 31.2 of the FIVB Disciplinary Regulations 2017). The Appellant paid the administrative fee on [date]. The FIVB Appeals Panel Secretariat confirmed receipt of the administrative fee on [date].

- 23 In light of the above, the FIVB Appeals Panel is satisfied that the Appellant complied with both requirements.

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<sup>4</sup> For the sake of completeness and transparency, the FIVB Appeals Panel reiterates that there has been no changes to the admissibility requirements with regards to appeals against decisions by FIVB bodies or Confederations bodies between the FIVB Disciplinary Regulations 2017 and the FIVB Disciplinary Regulations 2018.

**b) FIVB Appeals Panel Competence: General principles**

- 24 The FIVB Appeals Panel is competent to hear appeals filed by an affected party against decisions of FIVB bodies or Confederation bodies (Article 30.1 of the FIVB Disciplinary Regulations 2017). In the present case, it is undisputed that:
- i. the Appellant is an affected party within the meaning of Article 30.1 of the FIVB Disciplinary Regulations 2017. The FIVB Disciplinary Panel held that [the Appellant] committed multiple rule violations and sanctioned [the Appellant] with a fine in the amount of CHF 20'000. The FIVB Appeals Panel makes however no determination at this point whether [the Appellant] has standing to appeal the Decision on behalf of [the Player] and the [Club 1] for their respective rule violations; and
  - ii. the Decision was issued by a FIVB body within the meaning of Article 30.1 of the FIVB Disciplinary Regulations 2017. The Respondent is the world governing body for the sport of Volleyball (Articles 1.1, 1.2.1 and 1.4 of the FIVB Constitution 2014) and the FIVB Disciplinary Panel is a body of the FIVB (Article 2.7.1 of the FIVB Constitution 2014).
- 25 In light of the above, the FIVB Appeals Panel appears to be, on a *prima facie* basis only, competent to hear the appeal filed by the Appellant insofar as the Decision concerns the Appellant.

**c) FIVB Appeals Panel Competence: Exclusion of certain appeals**

- 26 The FIVB Appeals Panel notes that not all decisions by FIVB bodies or Confederations bodies may be appealed.
- 27 The FIVB Appeals Panel is satisfied that the restriction set forth in Article 30.2 of the FIVB Disciplinary Regulations 2017 does not apply in the present case because the appeal does not concern a referee's decision (see Case 2017-03, para 24 ff.).
- 28 The FIVB Appeals Panel acknowledges that the fine imposed upon the Appellant by the FIVB Disciplinary Panel is higher than CHF 5'000 (see para 24i). Thus, the

restriction set forth in Article 28.6 of the FIVB Disciplinary Regulations 2017 does not apply as well to the case at hand.

- 29 In light of the above, the FIVB Appeals Panel is satisfied that the FIVB Appeals Panel is competent to hear the appeal filed by the Appellant insofar as the Decision concerns the Appellant.

## **V. THE APPEAL PANEL DECISION**

- 30 The FIVB Appeals Panel shall a) confirm the rules applicable to the merits of the case, b) discuss the standing of the [the Appellant] to appeal the Decision on behalf of [the Player] and [Club 1], c) decide on the existence of a rule violation and d) determine the amount of the sanction to be imposed if the rule violation is confirmed.

### **a) Rules applicable to the merits**

- 31 The FIVB Disciplinary Panel held that the FIVB Disciplinary Regulations 2016 applied to the merits of the case DP n° 2017-08 (see the Decision, *ad* para 17) because the rule violations by the [the Appellant] took place on [date] (see para 2), i.e. when the FIVB Disciplinary Regulations 2016 were in force.

- 32 The FIVB Appeals Panel also understands that the FIVB Disciplinary Panel held – albeit implicitly – that the FIVB Sports Regulations 2016 and the FIVB Financial Regulations 2015 applied as well to the present case whenever relevant (see the Decision, *ad* para 19 ff.).

- 33 The FIVB Appeals Panel concurs with the views of the FIVB Disciplinary Panel with regards to rules applicable to the merits of the case.

- 34 Based on the above, the FIVB Appeals Panel hereby confirms that the conduct of the [the Appellant] is to be reviewed against the FIVB Disciplinary Regulations 2016; the FIVB Sports Regulations 2016; and the FIVB Financial Regulations 2015.

### **b) Standing of [the Appellant] to appeal the Decision on behalf of [the Player] and [Club 1]**

- 35 The FIVB Appeals Panel will now address the request by [the Appellant] to release both [the Player] and [Club 1] from responsibility for their respective rule violations (see para 16 and 23).
- 36 The FIVB Appeals Panel notes that Article 30.1 of the FIVB Disciplinary Regulations 2017 authorized *an affected party* to appeal a decision by a FIVB Body. Thus, the question before the FIVB Appeals Panel lies with the meaning of “an affected party” under Article 30.1 of the FIVB Disciplinary Regulations 2017.
- 37 The FIVB Appeals Panel understands that the FIVB Disciplinary Panel considered the case of [the Player], [Club 1] and [the Appellant] individually throughout the entire disciplinary proceedings despite the case being recorded under the same case file, namely DP n° [year] -08, for procedural efficiency.
- 38 The above is evidenced by the fact that [the Player], [Club 1] and [the Appellant] were all charged with different rule violations (see the Decision, *ad* para 18) and were all provided with the opportunity to file a statement of defense with regards to their respective rule violations (see the Decision, *ad* para 25 ff.). In addition to the foregoing, the FIVB Appeals Panel notes that [the Player] alone was provided with a final opportunity to file a statement a defense because [the Player] alone had failed to file with the FIVB Disciplinary Panel on [date]. This also suggests an individual treatment of each case.
- 39 The FIVB Appeals Panel further notes that the FIVB Disciplinary Panel explained in great details which specific rule violation(s) had been committed by [the Player], [Club 1] and [the Appellant] respectively (see the Decision, *ad* para 28 ff.) and the sanction applicable for each one of them based on the degree of fault that [the Player], [Club 1] and the [the Appellant] bore individually (see the Decision, *ad* para 59 ff.).
- 40 In light of the above, there is no doubt in the mind of the FIVB Appeals Panel that the FIVB Disciplinary Panel sanctioned [the Player], [Club 1] and [the Appellant] for their own conduct. By the same, there is no doubt in the mind of the FIVB Appeals Panel that [the Player], [Club 1] and [the Appellant] had the right to appeal the Decision insofar as the Decision concerned them individually.

- 41 With regards to para 40 above, the FIVB Appeals Panel notes that the [Club 1] initially filed an appeal with the FIVB Appeals Panel Secretariat on [date] and that said appeal was deemed withdrawn when the [Club 1] failed to pay the administration fee within the applicable deadline (see para 8). In this respect, the FIVB Appeals Panel concurs with the views of the Respondent that should the FIVB Appeals Panel “address the merits related to the Club and the Player, it would allow the Club, a non-party to this appeal, to circumvent the payment of the administration fee” (see the Respondent Statement of Defense, *ad* para 15). The FIVB Appeals Panel understands that [Club 1] made a conscious choice when [Club 1] did not pay the administration fee and, as such, decided not to challenge the Decision insofar as the Decision concerned [Club 1]. This choice must be respected by the FIVB Appeals Panel and the [the Appellant].
- 42 The analysis above allows now for the FIVB Appeals Panel to clarify the concept of “an affected party” under the Article 30.1 of the FIVB Disciplinary Regulations 2017. The FIVB Appeals Panel finds that “an affected party” means an entity which was a party to the previous instance (i.e. disciplinary proceedings in the present case) and whose legal rights have been (and still are) directly affected by the decision under appeal.
- 43 Based on the clarification above, the FIVB Appeals Panel finds that [the Appellant] has no standing to appeal the Decision on behalf of [the Player] and the [Club 1] because the rights of the [the Appellant] were (and are) not directly affected by the Decision insofar as the Decision concerns [the Player] and [Club 1]. Consequently, the appeal shall be declared inadmissible insofar as it concerns the request by [the Appellant] to release both [the Player] and [Club 1] from responsibility for their respective rule violation.

**c) The existence of a rule violation by [the Appellant] ...**

- 44 [The Appellant] is challenging the existence of a rule violation based on the existence of the 15135/2000 decision of the Minister of Sports in [the Appellant’s Country] and a letter by the Volleyball Federation of [the Player’s Country].

45 The FIVB Appeals Panel would like to emphasize first the mandatory nature of the international transfers system established by the FIVB. Relevant provisions of the FIVB Sports Regulations 2016 in this regard were as follows:

*“6.1.2 Rights of the National Federations*

*National Federations have the right to protect the integrity of their affiliated players and clubs and determine the procedure for the national transfer of players. They may establish national regulations for the transfer of players to foreign clubs, provided that such rules are supplementary to and not against the provisions of the FIVB Sports Regulations. In the event of discrepancy, the FIVB Sports Regulations shall prevail.*

*[...]*

*6.1.4 Players subject to transfer procedure*

*These Regulations apply to all international transfers of players who are either licensed by or members of a National Federation affiliated to the FIVB.*

*6.1.5 Compulsory transfer formalities*

*The transfer procedure laid down in this Chapter is compulsory and applicable to all international transfers” (emphasis added).*

46 Primacy of the international transfers system established by the FIVB over domestic legislation and other regulations was further emphasized in Article 6.8.1 of the FIVB Sports Regulations 2016, which read as follows:

*“Decisions concerning international transfers of players based on domestic laws or regulations and against the rights of a (foreign or local) National Federation or against the FIVB Constitution or Regulations are not binding on the FIVB” (emphasis added).*

47 The combination of the provisions referenced above calls for the immediate dismissal of the defense by [the Appellant] that the 15135/2000 decision of the Minister of Sports in [the Appellant’s Country] allowed for the registration of foreign players (i.e. players not having [the Appellant] as their Federation of Origin), such as [the Player], as players [from the Appellant’s Country] for transfer purposes.

- 48 In light of the above, the FIVB Appeals Panel finds that the existence (or non-existence) of a decision by the Minister of Sports in [the Appellant's Country] is simply irrelevant with regards to the rights and obligations of the [the Appellant] under the international transfer system established by the FIVB. In other words, the 15135/2000 decision of the Minister of Sports in [the Appellant's Country] cannot shield [the Appellant] from sanctions in case the FIVB Appeals Panel confirms that the [the Appellant] did not comply with their obligations under the international transfer system established by the FIVB.
- 49 With regards to international transfer system established by the FIVB, the FIVB Appeals Panel understands that the national status of players lies exclusively with the concept of Federation of Origin (Article 6.1.1 let. c and d of the FIVB Sports Regulations 2016). Accordingly, the national status of players implies the following:
- Players seeking to participate in the sport of Volleyball outside of their Federation of Origin are required to be in possession of a valid International Transfer Certificate in order to do so (Articles 6.7.2 and 6.7.3 of the FIVB Sports Regulations 2016; Article 1.4.4 of the FIVB Financial Regulations 2015; and Article 14.4.1 of the FIVB Disciplinary Regulations 2016); and
  - National Federations failing to enforce the aforementioned requirement may be subject to sanctions by the FIVB (Articles 6.7.2 and 6.7.3 of the FIVB Sports Regulations 2016; Article 1.4.4 of the FIVB Financial Regulations 2015; and Article 14.4.1 of the FIVB Disciplinary Regulations 2016).
- 50 It is undisputed that [the Player] did not have a valid International Transfer Certificate on [date], i.e. when [the Player] participated in the match between [Club 1] and [Club 2]. The question before the FIVB Appeals Panel is whether [the Player] was required to have a valid International Certificate to participate in this match and, if so, whether [the Appellant] failed to discharge their duties by allowing the [Club 1] to line-up [the Player].
- 51 With regards to the above, the FIVB Disciplinary Panel held that the Federation of Origin of [the Player] is the Volleyball Federation of [the Player's Country]. This was evidenced by the fact that [the Player] started her volleyball career in [the Player's Country] and had represented the Volleyball Federation [the Player's Country] in

international competitions before moving to [the Appellant's Country] (see the Decision, *ad* para 1).

- 52 [The Appellant] purports however that the letter by the Volleyball Federation of [the Player's Country] had the effect to "de-register" [the Player] from the record of the Volleyball Federation of [the Player's Country] and allow for her registration as a player [from the Appellant's Country]. In other words, [the Appellant] seems to suggest that a Change of Federation of Origin may occur without the formal approval of the FIVB, i.e. when two National Federations affiliated to the FIVB have "de-registered" and "re-registered" a player in their own records respectively.
- 53 The FIVB Appeals Panel strongly opposes the views of [the Appellant] with regards to the above. The FIVB Appeals Panel would like to take this opportunity to remind the entire volleyball community and [the Appellant] specifically that the concept of Federation of Origin is of paramount importance to the sport of Volleyball. This concept applies indeed both in the context of eligibility in national team (i.e. participation to FIVB, World and Official Competitions) and international transfers. Accordingly, the concept of Federation of Origin is heavily regulated and monitored by the FIVB.
- 54 In their submission, the Respondent made a compelling argumentation with regards to the above (see the Respondent Statement of Defense, *ad* para 22 ff. and Exhibit 2). The Respondent notably submitted excerpts of the Minutes of the FIVB Board of Administration and a presentation by the then Volleyball Director during the [year] FIVB World Congress. The FIVB Appeals Panel would like to stress that these documents allowed for the Respondent to walk the FIVB Appeals Panel through the set of rules in force during [year-year] period and to evidence that all National Federations were not only informed of the existence of the rules in force at that time but also of any changes to the FIVB regulatory framework over that period of time. In the view of the FIVB Appeals Panel, these documents have the consequence to moot any defense by [the Appellant] that a change in the rules occurred and created confusion within the volleyball community. In sum, a Change of Federation of Origin could only have occurred with the express approval of the FIVB, even at that time, and [the Appellant] ought to have known that.

55 In light of the above, the FIVB Appeals Panel finds that [the Appellant] did not discharge their burden to prove that the FIVB had approved a Change of Federation of Origin for [the Player]. By the same, this also means that the FIVB Appeals Panel finds that [the Player] was required to have a valid International Transfer Certificate in order to play for a club headquartered in the territory under the jurisdiction of [the Appellant] and that the [the Appellant] failed to enforce this requirement upon [the Player].

56 Based on the above, the FIVB Appeals Panel hereby confirms the violation of Articles 6.7.2 and 6.7.3 of the FIVB Sports Regulations 2016; Article 1.4.4 of the FIVB Financial Regulations 2015; and Article 14.4.1 of the FIVB Disciplinary Regulations 2016 by [the Player].

**d) ...and the amount of the sanction to be imposed for said rule violation**

57 Having confirmed the existence of multiple rule violations by [the Appellant], the FIVB Appeals Panel must now decide on the appropriate sanction to be imposed upon [the Appellant]. The relevant provision in this regard is Article 14.4.1 of the FIVB Disciplinary Regulations 2016, which read as follows:

*“NFs that permit their leagues and/or clubs to register or line up players of a different Federation of Origin without the official authorization established by the FIVB Sports Regulations for the transfer of players between NFs, shall be fined up to CHF 30,000 for each player illegally registered or lined up” (emphasis added).*

58 In application of the relevant provision, the FIVB Disciplinary Panel held that [the Appellant] was to be sanctioned with a fine in the amount of CHF 20'000 because “the National Federation i) decided not to apply the international transfer procedure by the FIVB and ii) failed to assume the responsibility to ensure that the Club [i.e. [Club 1]] did not field a player who did not have a valid ITC during the Match [i.e. the match between the [Club 1] and [Club 2] which took place on [date]]” (see the Decision, *ad* para 59).

59 The FIVB Appeals Panel finds no reason to depart from the findings of the FIVB Disciplinary Panel in the case DP [year]-08. The reasons are as follows:

- Article 14.4.1 of the FIVB Disciplinary Regulations 2016 provided for a maximum fine of CHF 30'000, to be applied for each player illegally registered or lined up. In the present case, only [The Player] was illegally registered or lined up by [Club 1]. Accordingly, the maximum fine to be applied to [the Appellant] was CHF 30'000 and the FIVB Disciplinary Panel decided to impose a fine in a lesser amount than the maximum to [the Appellant].
- The FIVB Disciplinary Panel relied upon previous case law (i.e. DP 2015-02) to highlight the need for a strict adherence to the international transfer system established by the FIVB and to sanction severely breaches to the applicable rules. The FIVB Disciplinary Panel distinguished however the conduct of [the Appellant] from that of the Volleyball Federation of Russia in order to justify a fine in a higher amount than in the case DP n° 2015-02, i.e. corresponding to the degree of fault of [the Appellant]. The FIVB Disciplinary Panel held that the violation was not the result of an omission but rather the result of a decision by [the Appellant].

60 In light of the above, the FIVB Appeals Panel finds that the financial sanction imposed upon [the Appellant] by the FIVB Disciplinary Panel is in compliance with the applicable regulatory framework and matches the degree of fault of [the Appellant] in the present case.

61 Based on the above, the FIVB Appeals Panel hereby confirms the decision of the FIVB Disciplinary Panel to impose a fine upon [the Appellant] in the amount of CHF 20'000.

62 The FIVB Appeals Panel acknowledges however the difficult economic situation in [the Appellant's Country]. In application of Article 17.3 *in fine* of the FIVB Disciplinary Regulations 2018, the FIVB Appeals Panel hereby authorizes the FIVB and [the Appellant] to conclude a payment plan. In the event that the FIVB and [the Appellant] do not come to an agreement within one (1) months after receipt of the notification of the present decision, [the Appellant] shall pay the fine by no later than three (3) months after receipt of the notification of the present decision.

## VI. COSTS

- 63 The FIVB Appeals Panel notes that Article 31.2 *in fine* of the FIVB Disciplinary Regulations 2018 provides that the administrative fee can be reimbursed if a party prevails. In the present case, the Appellant did not prevail on its appeal. Consequently, the FIVB Appeals Panel finds that it cannot reimburse the administrative fee paid by the Appellant.
- 64 The FIVB notes that there is no provision in the FIVB Disciplinary Regulations 2018 with regards to legal costs which allows for the FIVB Appeals Panel to attribute said costs to a specific party. Consequently, the FIVB Appeals Panel finds that the Appellant and the Respondent shall bear their own costs.

## **VII. FIVB APPEALS PANEL DECISION**

For the reasons set forth above, the FIVB Appeals Panel decides as follows:

- 1. The appeal filed by [the Appellant] is dismissed insofar as it is admissible;**
- 2. The decision of the FIVB Disciplinary Panel DP [year]-08 dated [date] is confirmed insofar as it concerns [the Appellant];**
- 3. Notwithstanding para. 2 above, [the Appellant] and the Fédération Internationale de Volleyball are authorized to conclude a payment plan with regards to the payment of the fine imposed upon [the Appellant] by the FIVB Disciplinary Panel. The Parties shall have one (1) month following notification of the present decision to conclude a payment plan. In the event that the Parties do not reach an agreement, [the Appellant] shall pay the fine by no later than three (3) months following receipt of the notification of the present decision;**
- 4. Any other requests for relief are dismissed.**

Lausanne, [date]

Ms. Damaris Young  
Chairperson

Ms. Emba Wun Man Leung  
Member

Mr. Thomas Berend  
Member

## NOTICE OF APPEALS

An appeal may be filed against this decision exclusively before the Court of Arbitration for Sport (CAS), in accordance with

- Article 32 of the FIVB Disciplinary Regulations 2018 which provides as follows:

*“A further appeal against the decision by the Appeals Panel can only be lodged with the Court of Arbitration for Sport in Lausanne, Switzerland, within twenty-one (21) days following receipt of the decision”.*

- The CAS Code of Sport-related Arbitration, which is available under [www.tas-cas.org](http://www.tas-cas.org)

The address and contact details of the CAS are the following:

Court of Arbitration for Sport  
Avenue de Beaumont 2  
1012 Lausanne, Switzerland  
Tel: +41 21 613 50 00  
Fax: +41 21 613 50 01  
e-mail: [info@tas-cas.org](mailto:info@tas-cas.org)

In the event of an appeal, this decision shall remain in effect while under appeal unless the CAS orders otherwise.