



The
FIVB TRIBUNAL
hereby issues the following

DECISION
on the Request for Review of [case number]¹ filed by

[The Club] (Claimant)
represented by **[the Club's lawyer]**

vs.

[The Player] (Respondent)
represented by **[the Player's lawyer]**

¹ In the interest of the protection of privacy, this is a redacted version of the decision. Any redactions are marked with **[bold brackets]**.

1 The Parties

1. [The Club] is an [the Club's country's] volleyball club ("**Claimant**" or "**Club**").
2. [The Player] is a [the Player's country's] volleyball player ("**Respondent**" or "**Player**").

2 The FIVB Tribunal

3. Article 19.1.5 of the FIVB Sports Regulations dated 3 November 2020 ("**FIVB Sports Regulations**") provides as follows:

"Cases before the FIVB Tribunal shall be heard by the Chairperson, provided that the amount in dispute does not exceed CHF 200'000 (two hundred thousand Swiss Francs). [...] If the Chairperson is unavailable or ineligible due to reasons of conflict (see Article 20.4), he/she shall be replaced by the Vice-Chairperson. The Chairperson may appoint another member of the FIVB Tribunal to hear a case instead of the Chairperson."

4. The request for review is heard by a single judge because the amount in dispute does not exceed CHF 200,000. On [date], the FIVB Tribunal Chairperson, Dr. Karsten Hofmann from Germany, appointed the FIVB Tribunal Vice-Chairperson, Francisco A. Amallo from Argentina, to hear this case as a single judge ("**FIVB Tribunal Judge**").

3 Facts

5. Below is a summary of the main relevant facts based on the parties' written submissions and evidence, whose authenticity has not been questioned by the parties. Additional facts may be set out where relevant in connection with the legal discussion that follows. Although the FIVB Tribunal Judge has considered all the facts, this decision will refer only to those deemed necessary to explain his decision.
6. On [date], the parties signed an agreement entitled "Agreement Sport Season [year]/[year]" ("**Preliminary Agreement**").²
7. On [date], the parties signed an agreement entitled "Contract for Amateur Sports Performance" ("**Sports Agreement**").³
8. On [date], the parties signed an agreement entitled "Private Agreement" ("**Private Agreement**").⁴

² Player's submission dated [date], Exhibit 1.

³ Player's submission dated [date], Exhibit 2.

⁴ Player's submission dated [date], Exhibit 3.

9. On [date], the Player issued the invoice 1/[year] for an amount of EUR 17,250.⁵
10. On [date], the Club transferred EUR 17,250 (invoice 1/[year]) and EUR 5,000 (the first instalment of the Sports Agreement) to the Player.⁶
11. On [date], the Player issued the invoice 2/[year] for an amount of EUR 17,250.⁷
12. On [date], the Club transferred EUR 17,250 (invoice 2/[year]) to the Player.⁸
13. On [date], the Player was involved in a car accident. She was the passenger of a car driven by a person under the influence of alcohol.⁹
14. On [date], the Player issued the invoice 3/[year] for an amount of EUR 17,250.¹⁰
15. On [date], the Player was involved in a car accident. She was driving a car under the influence of alcohol.¹¹
16. On [date], as a result of the car accident dated [date of the car accident, where the Player was driving under the influence of alcohol], the Club adopted the following measures: (i) a 50% fine to the Player on all unmatured considerations under the Sports Agreement, which amounted to EUR 10,000, (ii) the Player was requested to pay for the damages incurred by the company car and potential damages incurred by other cars involved in the accident, and (iii) the Player was requested to pay for any legal fees related to the accident. The Player accepted the measures adopted by the Club.¹²
17. On an undefined date in December, also because of the car accident dated [date of the car accident, where the Player was driving under the influence of alcohol], the parties amended the Private Agreement, reducing by 50% the Player's outstanding compensation.¹³
18. On [date], the Player issued the invoice 1/[year] for an amount of EUR 8,625.¹⁴
19. On [date], the Club transferred EUR 17,250 to the Player.¹⁵

⁵ Club's submission dated [date], Exhibit 11.

⁶ Club's submission dated [date], Exhibits 10 and 11.

⁷ Club's submission dated [date], Exhibit 12.

⁸ Club's submission dated [date], Exhibit 12.

⁹ Club's submission dated [date], p. 2. Player's submission dated [date], p. 4.

¹⁰ Club's submission dated [date], Exhibit 13.

¹¹ Club's submission dated [date], Exhibits 2, 3 and 4.

¹² Player's submission dated [date], Exhibit 4.

¹³ Player's submission dated [date], p. 4 and Exhibit 4. Club's submission dated [date], p. 5.

¹⁴ Club's submission dated [date], Exhibit 14.

¹⁵ Club's submission dated [date], Exhibit 13.

20. On [date], after a game for the Club's team, the Player reported that she felt pain in her wrist.¹⁶
21. On [date], the Player was taken to [a hospital, hereafter "**the first Hospital**"] . The exams conducted (hand scan without contrast and x-ray) revealed irregularities and a suspected fracture of the distal pole of the left scaphoid.¹⁷
22. From [date]to [date], the Player continued training and playing for the Club's team.¹⁸
23. On [date], the Club transferred EUR 8,625 to the Player.¹⁹
24. On [date], the Player was taken to the [diagnostic center, hereafter "**the Diagnostic Center**"]. The exam conducted (MRI SC without contrast) revealed a[medical condition]. The performance of a complementary diagnostic with arthro-MR or arthroscopy was advised.²⁰
25. On [date], the Player played her last game for the Club's team.²¹
26. On [date], the Player was taken to [another hospital, hereafter "**the second Hospital**"]. The doctor reported the Player had suffered a sports trauma about a month ago and made the following statement: *"Steroid infiltration is suggested, the patient refuses. It is recommended to perform an ARTHRO-MRI of the wrist in surgical anticipation."*²²
27. On [date], the Player attended [a third hospital, hereafter "**the third Hospital**"]. The exam conducted (MRI with contrast), *inter alia*, confirmed a[medical condition], already known and reported in previous MRIs.²³
28. On [date], the Player attended the [doctor's office, hereafter "**the first Doctor's Office**"]. After noting that the Player had performed intensive physiotherapy during the last four weeks without results and that the pain prevented her from performing her sportive activity, the doctor advised surgery: *"arthroscopic revision to fix[medical condition]"*²⁴
29. On [date], the Player attended the [doctor's office, hereafter "**the second Doctor's Office**"]. After noting that the Player had been complaining of [medical condition]for about four weeks, the doctor advised: *"Joint rest with brace in autoposition for 7-8 days. Perform distal ulnar radius infiltration with arnica and collagen. Physical and antiphlogistic therapy and re-evaluate the*

¹⁶ Player's submission dated [date] p. 4. Club's submission dated [date], p. 3.

¹⁷ Player's submission dated [date], Exhibit 5.

¹⁸ Player's submission dated [date], p. 5. Club's submission dated [date], p. 7 and Exhibit 15.

¹⁹ Club's submission dated [date], Exhibit 14.

²⁰ Player's submission dated [date], Exhibit 5.

²¹ Player's submission dated [date], p. 5. Club's submission dated [date], p. 7.

²² Player's submission dated [date], Exhibit 5.

²³ Player's submission dated [date], Exhibit 5.

²⁴ Player's submission dated [date], Exhibit 5.

*patient in 14 days.*²⁵

30. On [date], the Player attended the [hospital, hereafter “**the fourth Hospital**”] to consult the doctor that had operated on her wrist ten years ago, and the following happened:

a) At 8:44 the Player sent a voice message to the Club’s physiotherapist saying: “... *Good news are that I do not need surgery but it takes a bit of time, 1 month and half, but later I will explain you everything. Meanwhile, I want to ask you, because he suggests to eliminate inflammation with cortisone that we know that is doping; so I do not know, if I must do it or not, because he does it to me. I am preparing the brace, they are making it now, so, let me know if I must take the invoice for brace, for injection and all the medicines that they give me or it is enough that I have simply the receipt.*”²⁶

b) At 9:04 the Player called the Club’s physiotherapist and then sent him the following message: “*If you don’t answer I do it*”.²⁷

c) At 9:17 the Club’s physiotherapist replied: “*Wait I will write to [name of a Club’s employee]*”.²⁸

d) At 9:18 the Club’s physiotherapist called her. They talked over the phone for 58 seconds.²⁹

e) At 10:20 the Player took a picture of herself and her doctor while injecting her.³⁰

f) The doctor issued a certificate describing the Player’s condition and the treatment recommended and received: “... *injection of corticoid into the painful area, a local and general anti-inflammatory treatment for 15 days, associated with immobilisation of the wrist by a resting splint for 3 weeks. Training can be resumed after 1 month, and competitions after a month and a half, with strapping protection for 3 months. ... His state of health does not justify surgical intervention.*”³¹

31. On [date], the Club sent an e-mail to the Player’s agent terminating the contractual relationship with the Player on the following terms:

“... following the management of the athlete’s position, we communicate the decision to terminate the contractual relationship with the athlete.

Given the previous behaviours and the umpteenth refusal to follow the therapies suggested by the company, we take note of [the Player’s] decision to

²⁵ Player’s submission dated [date], Exhibit 5.

²⁶ Club’s submission dated [date], Exhibit 17.

²⁷ Club’s submission dated [date], Exhibit 18.

²⁸ Club’s submission dated [date], Exhibit 18.

²⁹ Player’s submission dated [date], Exhibit “Screenshot_WhatsApp”.

³⁰ Player’s submission dated [date], Exhibit “Screenshot_Gallery”.

³¹ Player’s submission dated [date], Exhibit 5.

comply with what was indicated by the specialist consulted by her (stop for a month and a half and infiltration of cortisone) and therefore to be in default to the contract stipulated and currently in place.

*Given the good working relationships between our company and [the Player's agent's agency, hereinafter "**the Agency**"] I hope to reach an agreement of mutual termination of the contract, otherwise our company reserves the right to take legal actions."³²*

32. On [date], the Club sent a termination letter to the Player's agent with the same wording.³³
33. On [date], the [year]/[year] Championship [in the Club's country] was suspended due to Covid-19.³⁴
34. On [date], the Club sent an e-mail to the Player's agent proposing a settlement in the following terms:

"... given the decision to follow the indications of her doctor and not those of the company and consequently the unilateral termination of the contract (as per my previous email sent), I formulate you a settlement agreement that consists in the payment of the invoice sent concerning the fifth tranche and nothing more."³⁵
35. On [date], the [Club's country's] government suspended training sessions due to Covid-19.³⁶
36. On [date], the [Club's country's] Volleyball Federation terminated the [year]-[year] season.³⁷
37. On [date], the Player's agent rejected the Club's offer by stating that the Player intended to receive all the money under the contract.³⁸
38. On [date], the Player filed a complaint against the Club before the [continental federation, hereinafter "**the Continental Federation**"].
39. On [date], the Club filed its response and a counterclaim before **the** [Continental Federation].
40. On [date], the [Continental Federation] ordered the Club to pay the Player EUR 30,075.76 as compensation and EUR 2,356.50 as legal expenses ("**Decision**").
41. On [date], the Decision was notified to the parties.

³² Club's submission dated [date], Exhibit 5.

³³ Player's submission dated [date], Exhibit 7.

³⁴ Player's submission dated [date], p. 4 and Exhibit 1. Club's submission dated [date], p. 3.

³⁵ Club's submission dated [date], Exhibit 7.

³⁶ Club's submission dated [date], p. 3 and Exhibit 1.

³⁷ Club's submission dated [date], p. 3 and Exhibit 2.

³⁸ Club's submission dated [date], Exhibit 9.

4 The Proceedings before the FIVB Tribunal

42. On [date], the Club filed a request for review of the Decision before the FIVB Tribunal (“**RFR**”) and requested to stay the Decision.
43. On [date], the FIVB Tribunal Secretariat acknowledged receipt of the RFR and invited the Player to file an answer to the RFR by [date] and to provide her position on the request for a stay by [date]. It also informed the parties that the dispute would be heard, in principle, by the FIVB Tribunal Chairperson, Dr. Karsten Hofmann.
44. On [date] and [date], the Player submitted her position regarding the Club’s request for a stay.
45. On [date], the FIVB Tribunal Chairperson rejected the Club’s request for a stay.
46. On [date], the Player filed her answer to the RFR (“**Answer**”).
47. On [date], the FIVB Tribunal Secretariat acknowledged receipt of the submission.
48. On [date], the FIVB Tribunal Chairperson requested the parties to confirm by [date] whether (i) the Player had received EUR 65,375 from the Club, and (ii) any additional payments had been made by the Club to the Player after the Decision.
49. On [date] and [date], the parties confirmed that the Player had received EUR 65,375 and EUR 32,432.26 after the Decision.
50. On [date], the FIVB Tribunal Secretariat informed the parties that, in accordance with article 19.1.5 *in fine* of the FIVB Sports Regulations, the FIVB Tribunal Chairperson had appointed the FIVB Tribunal Vice-Chairperson, Francisco A. Amallo from Argentina, to hear the case.
51. On [date], the FIVB Tribunal Judge informed the parties that he had reviewed all the submissions and would proceed to issue a decision. He also requested the parties to provide a detailed account of their respective costs as well as supporting documentation by [date].
52. On [date], the Club made its submission on costs.
53. On [date], the Player made her submission on costs.
54. On [date], the FIVB Tribunal Judge requested the parties, in accordance with Article 20.7.2 of the FIVB Sports Regulations, certain information regarding the Private Agreement by [date].
55. On [date], the Player made her submission.

56. On [date], the Club made its submission.

5 The Parties' Submissions

57. The following section provides a summary of the parties' submissions and does not purport to include every contention put forth by them. However, the FIVB Tribunal Judge has thoroughly considered all the evidence and arguments submitted, even if no specific or detailed reference is made to those arguments in this section.

5.1 The Claimant's Request for Relief and Position

58. The Club requests the FIVB Tribunal Judge that:

"3. ... the [Continental Federation's] decision dated [date] in the case [case number] shall be reviewed and fully overruled:

- declaring that the contracts between the Player and the Club have been terminated for just cause by the Club;

- ordering to [the Player] to pay the Club the amount of euro 5.000,00 or the other amount recognized reasonable and fair as compensation.

4. In case of not recognition of a just cause regarding the termination of the contracts the Appellant requests FIVB Tribunal a decision to be rendered per which the [Continental Federation's] decision dated [date] in the case [case number] shall be reviewed and partially overruled:

- declaring the right of the Player to receive from the Club the amount of Euro 10.168,28 that corresponds to 70% of the annual amount provided in the player's contracts deducted the amount recognized to the Appellant by [the Continental Federation];

- reducing however the sum recognized in the [Continental Federation's] decision based on the other arguments indicated in the request for review.

5. The Appellant requests FIVB Tribunal to order to [the Player] to pay all the costs and expenses related to this proceeding, including handling and legal fees and to reimburse the legal fees eventually paid to the Player as per [the Continental Federation's] decision.

6. The Appellant requests FIVB Tribunal to adopt any other necessary provision."³⁹

59. In support of its request for relief, the Club contends, *inter alia*, as follows:

60. The [Continental Federation] made an erroneous and excessively formalistic interpretation of the contracts, given that the Club had just cause for their termination. The Player behaved badly several times during the season and the Club was obliged to terminate the contracts after her

³⁹ Club's RfR, p. 23

unilateral decision to take cortisone. The Player committed four contractual violations in around five months and this is not tolerable in a professional activity and determined the Club's decision to terminate the contracts for just cause.⁴⁰

61. The contracts were not terminated because of the Player's decision not to implement the therapies suggested by the Club, but for the Player's lack of cooperation and respect. The Player should have taken into account the Club's interest and cooperated in finding the best solution to her health problems. Had the Player decided to follow the Club's indications, she would have started the treatment two weeks before and would have recovered faster in the interest of both parties.⁴¹
62. The cortisone injection constituted a violation of clause 4(e) of the Sports Agreement. The [Continental Federation's] interpretation of that clause is incorrect because the Player had to respect her commitment under clause 4(e) scrupulously and punctually. Doping rules not only aim at impeding performance-enhancing effects but also at protecting the athletes' health, and article 4.3 of the International Standard for Therapeutic Use Exceptions required the Player to obtain an exception before using the prohibited substance.⁴²
63. The compensation granted to the Player is incorrect because, had the contracts not been terminated, the Player would not have provided any services during [month], [month], and [month] [year] due to suspension of the [year]/[year] [the Club's country's] Championship, and, in any event, the Player's salary would have been reduced by 30% due to the Volleyball League and the [Club's country's] Volleyball Federation's intervention as a result of Covid-19.⁴³
64. The [Continental Federation's] decision on legal expenses is unjustified because the Player never tried to settle the dispute amicably and the Player did not assume a transparent behaviour during the proceeding.⁴⁴

5.2 The Respondent's Request for Relief and Position

65. The Player requests the FIVB Tribunal Judge that:

"... the Club's request for review be dismissed in its entirety.

... the Club pay the player the amount of CHF 2500 as legal fees"⁴⁵

⁴⁰ Club's RFR, p. 5.

⁴¹ Club's RFR, pp. 6-11.

⁴² Club's RFR, pp. 11-17.

⁴³ Club's RFR, pp. 17-20.

⁴⁴ Club's RFR, pp. 21-22.

⁴⁵ Player's Answer, p. 4

66. In support of her request for relief, the Player contends, *inter alia*, as follows:
67. The Club has not pleaded any new circumstances in its request for review and its assessment of the Decision is unfounded and misguided.⁴⁶
68. The Club cites the Player's previous behaviour for which the Player has already suffered financial consequences. The distance between the incidents and the termination is so great that it is implausible that the former inspired the latter.⁴⁷
69. The Club intends to portray the Player as if she had taken part in doping, which is not the case. The Player was injured and underwent treatment to heal the injury and resume playing for the Club. The absence of doping is proven by the fact that the treatment she took was analogous to the one recommended by the Club's appointed doctors.⁴⁸ Besides, she had the right to hold her health and well-being to the highest standards.⁴⁹
70. It is not true that the Club never gave the Player permission to take cortisone.⁵⁰
71. The Club breached the contracts by failing to afford the Player the stipulated 5-day period to answer the allegations against her before terminating the contractual relationship.⁵¹
72. Regarding the salary reduction due to Covid-19, the Club has not proven that the Player's remuneration would be affected. This is because it required acceptance on the Player's side, and the Club never requested it. Furthermore, the other players' statements affirming that they received 70% of their salaries are late evidence that the Club could have used in the proceeding before the [Continental Federation] and failed to do so. Finally, the Decision already took into account the Covid-19 situation and to that end reduced the Player's due compensation.⁵²

6 Jurisdiction

73. The FIVB Tribunal must first examine whether it has jurisdiction to hear the present dispute.
74. Article 19.2.1 of the FIVB Sports Regulations reads as follows:

"The FIVB Tribunal is competent to decide financial disputes of an international dimension between clubs, players, FIVB-licensed agents and coaches from within the world of volleyball. The FIVB Tribunal's jurisdiction

⁴⁶ Player's Answer, p. 1

⁴⁷ Player's Answer, p. 1

⁴⁸ Player's Answer, pp. 1-2

⁴⁹ Player's Answer, p. 2

⁵⁰ Player's Answer, pp. 2-3

⁵¹ Player's Answer, pp. 3-4

⁵² Player's Answer, p. 4

extends also to financial disputes of an international dimension between a coach and a National Federation.”

75. Article 19.2.2 of the FIVB Sports Regulations stipulates that the FIVB Tribunal can only resolve disputes:

“19.2.2.1 arising between the natural and legal persons/entities mentioned in Article 19.2.1; and

19.2.2.2 decided previously by the FIVB / a Confederation or referred by the FIVB/a Confederation to the FIVB Tribunal”

76. Article 19.2.3 of the FIVB Sports Regulations grants the FIVB Tribunal the power to rule on its own jurisdiction.

77. The FIVB Tribunal Judge finds that this dispute is a financial dispute of an international dimension under articles 19.2.1 and 19.2.2.1 of the FIVB Sports Regulations because it involves claims between an [the Player’s country’s] volleyball club and a [the Club’s country’s] volleyball player concerning the payment of compensation due to the early termination of contracts. The dispute also complies with article 19.2.2.2 of the FIVB Sports Regulations because it was decided previously by the [Continental Federation].

78. The FIVB Tribunal’s jurisdiction is also undisputed by the parties. Therefore, the FIVB Tribunal has jurisdiction over the present dispute under the FIVB Sports Regulations.

7 Admissibility

79. Article 18.2 of the FIVB Sports Regulations reads as follows:

“Within fourteen (14) days from notification of the decision under Article 18.1 above, any affected party may request that the case be reviewed by the FIVB Tribunal.”

80. The Decision was notified to the parties on [date]. The Club filed its RFR on [date] (i.e., within the fourteen-day deadline). Thus, the RFR is admissible.

8 Applicable Law

81. Article 20.9 of the FIVB Sports Regulations reads as follows:

“Unless otherwise agreed by the parties, the Tribunal shall apply general considerations of justice and fairness without reference to any particular national or international law (ex aequo et bono).”

82. The parties have not made any submissions as to the applicable law. Therefore, in the absence of

an agreement to the contrary, the FIVB Tribunal Judge will decide the dispute *ex aequo et bono* (i.e., applying general considerations of justice and fairness without reference to any particular national or international law).

9 Findings

83. The [Continental Federation] concluded that the Club wrongly terminated the contracts and, consequently, ordered the Club to pay the Player EUR 30,075.76 as compensation and EUR 2,356.50 as legal expenses. The Club requested the FIVB Tribunal to review the Decision. Therefore, the FIVB Tribunal Judge will start by analysing the termination of the contracts and then the [Continental Federation's] decision on quantum and legal expenses.

9.1 The termination of the contracts

84. When terminating the contractual relationship with the Player, the Club referred to: (i) the Player's previous behaviour; (ii) the Player's umpteenth refusal to implement the therapies suggested by the Club; and (iii) the Player's decision to implement the therapy suggested by her doctor (stop of a month and a half and cortisone infiltration). The FIVB Tribunal Judge will analyse each of these issues separately.

9.1.1 The Player's previous behaviour

85. The [Continental Federation] concluded that the Player's previous behaviour did not constitute a just cause for termination because of two reasons:⁵³

a) The [Continental Federation] established that, after the car accident in which the Player was involved, the Club had chosen to continue its contractual relationship with the Player, imposing on the latter a fine and a decrease of her salary. Therefore, the [Continental Federation] concluded that the Club could not invoke twice the same reason to, on the one hand, impose a fine and a salary reduction, and, on the other hand, prematurely terminate the contracts.

b) The Club clarified in its submissions that the reason for the early termination was not the car accident, but the Player's refusal to follow the medical indications of the Club and her decision to unilaterally take the cortisone injection.

86. In the previous instance, the Club had indeed explained that:

"... the previous behaviours of the player were not the reason of the termination of the contract but the player's previous conducts were globally considered by the club in order to adopt the decision.

⁵³ Decision, p. 49.

Indeed, during the season, the club has gradually adopted measures against the Claimant, as also requested by CAS jurisprudence, providing a warning in [month] for the first offence, a fine and a renegotiation of the contracts in [month] for the second offence and the termination of the contract in [month] on the basis of the umptheent contractual violation.”⁵⁴

“Once more the Claimant referred that she cannot be punished twice for the same offence. In this regards, the Respondent reminds that it is sufficient to read the letter sent by the Sport director (doc. 5-6 Statement of reply) to realize that the just cause for the termination of the contract was the refusal of the Player to follow the medical indications of the club and her decision to take unilaterally the cortisone injection.”⁵⁵

87. In its RFR, the Club states that the termination letter does not refer to the car accident that occurred in [month] [year], but generally to the previous behaviour of the Player. The Club argues that the intention was to underline the fact that the Player behaved badly several times during the seasons and that the Club was obliged to terminate the contracts after her unilateral decision to take cortisone.⁵⁶

88. Up to this point of the RFR, the Club’s argument is consistent with what it argued in the previous instance and, therefore, it would not require a review of the Decision in this regard because the [Continental Federation] did nothing more than rule out the Player’s previous behaviour as a cause of termination, as expressly acknowledged by the Club. However, the Club then concludes:

“In this regard, the jurisprudence of CAS (cf. CAS 2019/A/6175) underlines that ‘... should many violations be cumulated over a certain period of time, then it is most probable that the breach of contract has reached such a level that the party suffering the breach is entitled to terminate the contract unilaterally’. This is what occurred in the case at hand in which, as we will refer, the Player was able to commit four contractual violations in around 5 months (from [month] [year] to [month] [year]) and this is not tolerable in a professional activity and determined the decision of the club to terminate the contract for just cause.”⁵⁷

89. It is unclear to the FIVB Tribunal Judge whether the Club is arguing that it terminated the contracts because of the alleged four contractual violations cumulated or if it is simply restating its position that the Player’s previous conduct was considered globally and that the only cause of termination was the Player’s refusal to follow the medical indication of the Club and her decision to take unilaterally the cortisone injection.

90. In any case, the FIVB Tribunal Judge finds no reason to depart from the Decision in this regard. If the Club intended to restate its position, there would be nothing to review as already noted; and if the

⁵⁴ Club’s submission dated [date], p. 17.

⁵⁵ Club’s submission dated [date]p. 6.

⁵⁶ Club’s RFR, p. 5.

⁵⁷ Club’s RFR, p. 5.

Club intended to argue in this instance that it terminated the contracts because of the alleged four contractual violations cumulated, the argument would not be compelling because that is not what the termination letter says, and it would contradict the Club's previous position as to the cause of termination.

9.1.2 The Player's refusal to implement the therapies suggested by the Club

91. The [Continental Federation] concluded that the Player's refusal to implement the therapies suggested by the Club did not constitute just cause for termination because the Player was not contractually obliged to implement them. After considering the lack of a contractual obligation, that there were many different and contradictory medical reports, and the Player's right to health and life, the [Continental Federation] concluded that the Player's decision was justified and within the scope of her freedom of choice.⁵⁸
92. In its RFR, the Club acknowledges that the Player was not obliged to implement the therapies suggested by the Club. The Club argues that the contracts were not terminated because of that reason, but for the Player's lack of cooperation and respect. According to the Club, it is a basic principle of labour law that the Player should have taken into account the Club's interest and cooperated in finding the best solution to her health problems. The Club notes that, had the Player decided to follow the Club's indications, she would have started the treatment two weeks before and would have recovered faster in the interest of both parties.⁵⁹
93. The FIVB Tribunal Judge is not persuaded by the Club's argument. The Player implemented one of the therapies suggested by the Club: on [date], [the Player] took a corticoid injection, as was advised to her on [date] by one of the doctors appointed by the Club. The Club also acknowledged repeated times that it had suggested the Player treat her injury in that way.⁶⁰
94. The Club complains about the timing of the treatment. The Club argues that, had the Player decided to follow the Club's indications, she would have started the treatment two weeks earlier and would have recovered faster in the interest of both parties. However, the FIVB Tribunal Judge does not find the timing to be unreasonable or against the Club's interests.
95. Contrary to what the Club maintains, the FIVB Tribunal Judge considers that the Player had the Club's interests in mind to the point of continuing to provide services for the Club [date], even though the medical exams conducted on [date] revealed irregularities and a suspected fracture of

⁵⁸ Decision, pp. 49-50.

⁵⁹ Club's RFR, pp. 6-11.

⁶⁰ Club's RFR, p. 10: "*deciding finally to make, by her own, after almost two weeks, the same therapy suggested by the Club*". Similar statements were made on pp. 8 and 9 of the RFR, as well as on p. 14 of Club's submission dated [date] and p. 7 of the Club's submission dated [date].

the distal pole of the left scaphoid, and then, when she could no longer continue providing services because of the pain (as noted by the medical reports dated [date] and [date]), visited different doctors to treat the injury in the best way.

96. The Player visited five doctors between [date] and [date] (12 days). The Player's conduct was reasonable because the doctors suggested different treatments and she was looking to solve her health problem definitively. The Club does not explain why a difference of 12 days in starting the treatment would have been decisive for its interests, nor why its interest would have to prevail over the Player's interest.
97. According to the evidence in the record, the timing would not have had a real impact on the Club because the [year]/[year] Championship [in the Club's country] was suspended on [date] and terminated on [date] due to Covid-19. Thus, had the Player started the treatment on [date], the Player would have been able to compete at the end of [month] (according to the medical report dated [date], competition was only possible after one month and a half from the injection), when the championship was already suspended and about to be terminated. If time had been so relevant, it could have been expected that the Club asks the Player to treat her injury on [date], after the first medical exam revealed a suspected fracture, instead of allowing her to play injured until [date].
98. The Club's argument is also inconsistent with its previous conduct:
- a) The termination letter contains no reference to the alleged lack of cooperation and respect. The termination letter refers to the Player being "*in default of the contract*". The Club acknowledged in the previous instance that the termination of the contracts was because of a contractual violation.⁶¹ However, as noted by the [Continental Federation] and now recognized by the Club, the Player was under no contractual obligation to implement the therapies suggested by the Club.
 - b) There is no evidence in the record of the Club ever questioning the Player's conduct or expressing its alleged lack of cooperation or respect during the period in which she underwent medical examinations. The Club directly terminated the contracts without ever warning the Player about the consequences of not implementing the therapies suggested by the Club within a specific period. Moreover, the evidence in the record shows that the Club consented to the alleged delays because it allowed the Player to continue providing services despite being injured and then set several medical visits to doctors and authorized the Player to visit other doctors to treat her injury.

⁶¹ See, for example, Club's submission dated [date], p. 8: "... the termination of the contract in [month] on the basis of the umpheent contractual violation."

9.1.3 The Player's decision to implement the therapy suggested by her doctor

99. The [Continental Federation] concluded that, although there was no evidence in the record of the Club authorizing the Player to take the cortisone injection, the Player did not breach clause 4 of the Sports Agreement because the rationale behind that provision was to prevent the Player from taking prohibited substances to enhance her performance, and not to prevent [her from recovering from an injury as advised by a doctor. In making that decision, the [Continental Federation] established that the Club was right in asserting that the procedure under clause 12 of the Sports Agreement did not apply to the Preliminary Agreement and the Private Agreement because they did not contain such a provision.⁶²
100. In its RFR, the Club contends that (i) the injection of cortisone constituted a violation of clause 4(e) of the Sports Agreement; (ii) the [Continental Federation's] interpretation of that clause is incorrect because the Player had to respect her commitment under clause 4(e) scrupulously and punctually; (iii) doping rules not only aim at impeding performance-enhancing effects but also at protecting the athletes' health; and (iv) article 4.3 of the International Standard for Therapeutic Use Exceptions required the Player to obtain the exception before using the prohibited substance.⁶³
101. The Player claims that (i) the use of cortisone was not pharmacological doping because it was justified by the medical treatment; (ii) the Club authorized her to take cortisone, as the Club had also suggested the use of cortisone to her, she asked for permission, the Club knew why she had gone to [country, where the Player's doctor was located] and let her alone in that situation; and (iii) the Club breached the contracts because it had never sent the termination letter to [the Player] nor allowed her to respond to its allegations.⁶⁴
102. Some of the parties' arguments are focused on the Sports Agreement. However, the Club did not terminate the Sports Agreement only, but also the Preliminary Agreement and the Private Agreement. Therefore, the parties' conduct will be analysed under the different contracts separately, as they contain different provisions regulating their termination.

a) Sports Agreement

103. Clause 4 of the Sports Agreement sets forth:

"For the best performance of the above active, the athlete unilaterally commits: ...

(e) not to take substances prohibited by existing anti-doping regulations; ...

⁶² Decision, pp. 50-52.

⁶³ Club's RFR, pp. 11-17.

⁶⁴ Player's Answer.

The athlete undertakes to respect the above commitments scrupulously and punctuality. Failure to comply with the above obligations may constitute a breach of contract and may give rise to measures proportional to the seriousness of the individual failures, which must, however, from time to time be punctually challenged by registered letter with return receipt to be sent within twenty days of receipt of the information, under penalty of nullity and ineffectiveness of the complaint itself.

The following measures, graduated according to the seriousness of the breach, are applicable to the athlete who has failed to comply with his contractual obligations to the company:

- *Written warning; fine;*
- *Termination of the contract. ...”⁶⁵*

104. Clause 12 of the Sports Agreement reads as follows:

“If the society intends to apply the provisions of Article 4, it must inform the athlete within 20 days from the date of receipt of the complaint in writing of the specific facts or circumstances that are attributed to him/her that may give rise to the aforementioned measures, inviting him/her to counterclaim within a period of not less than 5 days from receipt of the aforementioned complaint.

If he or she does not choose to submit his or her counter-arguments in writing within the time limit set in his or her favour, the adept may request, within this time limit, to be heard orally, also with the assistance of his or her representative.

A company may deliberate the measure within 5 days after hearing the adept or receiving his/her written defence; or, in the absence of any defence, within 5 days after the expiry of the period granted to the defence, communicating within 20 days the decision to the adept.

Against the measure adopted, the athlete can appeal to the League Conciliation Chamber. The appeal does not suspend the execution of the measure.”⁶⁶

105. The FIVB Tribunal Judge agrees with the [Continental Federation’s] interpretation regarding the rationale underlying clause 4 of the Sports Agreement. The first paragraph of that clause states that the commitments contained therein are *“For the best performance of the above active”*. The FIVB Tribunal Judge interprets that the *“above active”* means the activity mentioned in clause 2: *“The athlete undertakes to perform his activity as volleyball player”*. The other commitments contained in clause 4 (e.g., participating in training sessions, collaborating with the coach, wearing competition clothing, etc.) also relate to her activity as a volleyball player.

106. Therefore, it is reasonable to assume that the parties’ intention was to prevent the Player from taking prohibited substances to enhance her performance as a volleyball player, and not to prevent

⁶⁵ Player’s submission dated [date], Exhibit 2.

⁶⁶ Player’s submission dated [date], Exhibit 2.

her from recovering from an injury as advised by a doctor. The fact that she agreed to comply with those obligations scrupulously and punctually does not change the result because clause 4 does not refer to medical treatments.

107. Medical treatments are regulated in clauses 6 and 7 of the Sports Agreement. Neither of those clauses nor other clauses of the Sports Agreement required the Player to obtain the Club's approval for medical treatment. Clause 7 only required the Player "to undergo a complete medical examination by the company's trustee doctors, even in the event of any contradictory examination with the athlete's trusted doctors", and it is undisputed that the Player complied with that obligation. Moreover, clause 7 states that the Player "will be able to benefit" (not obliged) from the medical assistance provided by the Club. The Club has also acknowledged that she was under no obligation to implement the therapies suggested by the Club.
108. Therefore, all the discussion between the parties about whether or not the Player obtained permission from the Club seems irrelevant to the FIVB Tribunal Judge because she was entitled under the Sports Agreement to treat her injury in the way and with the doctor of her choice, and her choice was not unreasonable nor inconsiderate to the Club. As already determined, [she opted for a treatment that had been already suggested by a doctor appointed by the Club and by the Club itself. The Club cannot in good faith argue that the Player violated the Sports Agreement by doing what the Club suggested she do. As noted by the [Continental Federation], the Player acted in good faith by not hiding what she was doing and requesting a certificate from her doctor.
109. The Club's arguments about article 4.3 of the International Standard for Therapeutic Use Exceptions is not compelling. Although the FIVB Tribunal Judge agrees with the Club that professional athletes like the Player are expected, as a general rule, to obtain a Therapeutic Use Exception ("TUE") prior to using the substance in question, there is no evidence in the record of the Club's alleged intention for the Player to comply with the TUE procedure. Conversely, the evidence in the record shows the opposite:
 - a) On [date], the doctor appointed by the Club reported: "Steroid infiltration is suggested, the patient refuses." In the FIVB Tribunal Judge's view, on that date, the doctor wanted to administer the injection and the Player refused, as argued by the Player.⁶⁷ The Club portrays this fact as if the Player had refused a medical advice only, instead of the actual administration of the injection. However, had the doctor only limited himself to provide advice, there would have been no need to for the Player to externalize a refusal to the doctor. None of the other medical reports have references to the acceptance or refusal of the proposed treatment by the Player.

⁶⁷ Player's submission dated [date], p. 7.

- b) The above is confirmed by the fact that the Club complains about the timing of the injection: *“if the player had decided to follow the clubs indications she would have started the treatment two weeks before”*.⁶⁸ The Player received the injection on [date] (i.e., 12 days after her refusing to receive the injection from the doctor appointed by the Club). The fact that the Club complains about this delay shows that it wanted the Player to receive the injection on [date], without following the TUE procedure, since the TUE is not obtained automatically.
- c) Until the termination of the contractual relationship, the Club said nothing about the TUE. The termination letter also contains no reference to the TUE or the alleged lack of cooperation to decide on the treatment and proceed accordingly with the TUE procedure. It simply states that the Player’s decision to take the injection was in breach of the contract. All the arguments about the TUE appeared for the first time in the [Continental Federation’s] proceedings.

110. The FIVB Tribunal decides financial disputes (article 19.1 of the FIVB Sports Regulations). Therefore, it is also not for the FIVB Tribunal Judge to determine whether or not the Player’s conduct was in accordance with International Standard for Therapeutic Use Exceptions, and it would also be speculative to determine whether or not she would have been granted a retroactive TUE. The FIVB Tribunal Judge only needs to determine whether the Player materially breached the Sports Agreement and, as already determined, that did not occur.

111. In any case, the Player is right when she asserts that the Club did not comply with the procedure agreed upon in clause 12 of the Sports Agreement. Thus, even if it were interpreted that the Player breached the Sports Agreement by not asking permission and taking the cortisone injection, the conclusion that the Club wrongly terminated the Sports Agreement would stand. Under clause 12 of the Sports Agreement, the Club should have informed the Player of the specific facts or circumstances attributed to her and allowed her to defend herself *before* deciding to terminate the contract under clause 4. The Club did not do so. It directly terminated the Sports Agreement.

b) Private Agreement

112. Clause 4 of the Private Agreement sets forth:

“[The Club] has the right to terminate the Agreement from time to time in writing shall any of the following occur:

a) [The Player] decides to cease her activity as volleyball player;

b) [The Club] is disqualified or penalized as a result of defamation, civil or criminal case, sports related causes, or becomes involved in a political or financial scandal or publicly resounding grave matter, as a result of improper behavior of [the Player].

⁶⁸ Club’s RFR, p. 10.

c) In order to protect their respective images, the parties are reciprocally committed to abstain from making statements and from behaving in a manner injuring the reputation of the other party; ...”⁶⁹

113. The Private Agreement contains no specific provision regarding the use of substances prohibited by anti-doping authorities. Although taking those substances could in certain circumstances constitute just cause for terminating an agreement, the FIVB Tribunal Judge has already determined that the Player did not take a cortisone injection for enhancing her performance as a volleyball player, but to treat her injury, following the recommendation of her doctor, one of the doctors appointed by the Club, and the Club itself. In that scenario, the Player’s conduct cannot and does not constitute a material violation of the agreement, and is also not listed as a cause for termination under clause 4. Therefore, the Club was not entitled to terminate the Private Agreement.

c) Preliminary Agreement

114. Clause 2 of the Preliminary Agreement sets forth:

“Early termination without right or reason is prohibited during the course of this contract. If this contract is terminated without a clear reason, both sides can ask for a compensation.”⁷⁰

115. The Preliminary Agreement contains no provision listing causes or regulating the use of substances prohibited by anti-doping authorities. Although taking those substances could in certain circumstances constitute just cause for terminating an agreement, the FIVB Tribunal Judge has already determined that the Player did not take a cortisone injection for enhancing her performance as a volleyball player, but to treat her injury, following the recommendation of her doctor, one of the doctors appointed by the Club, and the Club itself. In that scenario, the Player’s decision to take a cortisone injection to treat her injury cannot and does not constitute a material violation of the agreement. Therefore, the Club was not entitled to terminate the Preliminary Agreement.

116. Based on the above, the FIVB Tribunal Judge shares the [Continental Federation’s] conclusion that the Club wrongly terminated the contracts. Therefore, the Player is entitled to compensation and the Club’s request for compensation is rejected.

9.2 Quantum

117. The Club requested the FIVB Tribunal, for the case it concluded that the Club wrongfully terminated the contracts, to partially overrule the Decision, declaring the right of the Player to receive from the Club the amount of EUR 10.168,28 that corresponds to 70% of the annual amount provided in the Player’s contracts minus the amount granted to the Club by the [Continental Federation] with regard

⁶⁹ Player’s submission dated [date], Exhibit 3.

⁷⁰ Player’s submission dated [date], Exhibit 1.

to the car accident of [month] [year], and reducing the sum recognized in the [Continental Federation's] decision based on the other arguments indicated in the request for review.

118. Given that the [Continental Federation] granted to the Player different amounts under the Sports Agreement, Private Agreement, and Preliminary Agreement, the FIVB Tribunal Judge will analyse the [Continental Federation's] decision on quantum under the different contracts separately.
119. The FIVB Tribunal Judge notes that the parties have not provided in the contracts how compensation for unjustified termination shall be calculated. As this case relates to the compensation for the unjustified termination of valid contracts, the FIVB Tribunal Judge shall put the injured party in the position that it would have held if the contract had been performed properly, as if no breach had occurred.

9.2.1 Sports Agreement

120. According to clause 5 of the Sports Agreement, as amended by the parties in [month] [year], the Club had to pay EUR 15,000 to the Player as follows: (i) EUR 5,000 by [date], (ii) EUR 5,000 by [date], and (iii) EUR 5,000 by [date].⁷¹
121. It is undisputed that the Club paid the first instalment to the Player. The remaining two instalments were due after the Club terminated the Sports Agreement on [date] and the [year]/[year] [Championship [in the Club's country]] was suspended and terminated due to the Covid-19 pandemic.
122. The [Continental Federation] ordered the Club to pay EUR 5,000 to the Player. When making that determination, the [Continental Federation] considered that, had the Sports Agreement not been terminated, the Covid-19 pandemic would have freed both parties from liability and obligations since [date]. After considering that the pandemic was no one's fault, the [Continental Federation] concluded that it was fair and reasonable to deduct half of the Player's salary from [month] [year] (i.e., it reduced the last two instalments by 50%).⁷²
123. The Club argues that the compensation granted to the Player is incorrect because, had the contracts not been terminated, the Player would not have provided any services during [month], [month] and [month] [year] due to the Covid-19 pandemic, and, in any event, the Player's annual salary would have been reduced by 30% due to the Volleyball League and the [Club's country's] Volleyball

⁷¹ Player's submission dated [date], Exhibits 2 and 4.

⁷² Decision, pp. 54-55.

Federation's intervention as a result of Covid-19.⁷³

124. The Player has not requested a review of the Decision and finds that it is fair and reasonable. The Player also contends that the Club failed to meet its burden of proof and that she never agreed to a salary reduction.⁷⁴
125. Had the Sports Agreement not been terminated, the Player would have been entitled to receive, in principle, EUR 5,000 by [date] and EUR 5,000 by [date].⁷⁵ The FIVB Tribunal Judge is not persuaded by the Club's argument that the [Continental Federation] should have not granted any compensation because it contradicts the Club's arguments in the previous instance, where the Club acknowledged that clubs were entitled to a reduction rather than to the non-payment of the player's salaries.⁷⁶
126. The FIVB Tribunal Judge finds that the Club's argument about a 30% reduction on the Player's annual salary due to the Volleyball League and the [the Club's country's] Volleyball Federation's intervention is also not compelling for two reasons.⁷⁷
127. First, the Club has not provided any reasonable explanation as to why the Club would be entitled to a retroactive reduction of the amounts paid before [date], date on which it unilaterally terminated the contract and the [year]/[year] Championship [in the Club's country] was still being played and not affected by the Covid-19 pandemic.
128. Second, with regard to the payments due in [month] and [month] [year], after the [year]/[year] Championship [in the Club's country] was suspended and terminated due to the Covid-19 pandemic, the Club benefitted from a 50% reduction (equivalent to EUR 5,000) that it did not request, which is higher than the 30% requested over the annual salary under the Sports Agreement (equivalent to EUR 4,500).
129. Therefore, considering that the Club benefitted from a reduction that it did not request and is higher than the one requested, and that the Player has not requested a review of the Decision and finds that the 50% deduction was fair and reasonable, the FIVB Tribunal Judge finds no reason to depart from the Decision in this regard. Consequently, the Club shall pay EUR 5,000 to the Player as compensation for the termination of the Sports Agreement.

⁷³ Club's RFR, pp. 17-20.

⁷⁴ Player's Answer, p. 4.

⁷⁵ Player's submission dated [date], Exhibits 2 and 4.

⁷⁶ Club's submission dated [date], p. 12.

⁷⁷ Club's submission dated [date], p. 11.

9.2.2 Private Agreement

130. According to clause 3 of the Private Agreement, as amended by the parties in [month] [year], the Club had to pay EUR 94.875 to the Player as follows: (i) EUR 17,250 by [date], (ii) EUR 17,250 by [date], (iii) EUR 17,250 by [date], (iv) EUR 8,625 by [date], (v) EUR 8,625 by [date], (vi) EUR 8,625 by [date], (vii) EUR 8,625 by [date], and (viii) EUR 8,625 by [date].⁷⁸
131. It is undisputed that the Club paid the first four instalments to the Player. With regard to the remaining instalments, the [Continental Federation] granted the Player the full amount of the first two (i.e., those due in [month] and [month] [year]), and half of the last two (i.e., those due in [month] and [month] [year]) because, as already stated, the [Continental Federation] considered that the Covid-19 was no one's fault and considered fair and reasonable to deduct half of the Player's salary from [month] [year].
132. Had the Private Agreement not been terminated, the Player would have been entitled to receive, in principle, the instalments due in [month], [month], [month], and [month] [year]. The Club and the Player made the same arguments mentioned before when analysing the compensation under the Sports Agreement. The FIVB Tribunal Judge is not persuaded by the Club's arguments for similar reasons.
133. The Club's argument that the [Continental Federation] should have not granted any compensation in [month], [month] and [month] [year] is not compelling, as it contradicts the Club's arguments in the previous instance, where the Club acknowledged that clubs were entitled to a reduction rather than to the non-payment of the amounts due to the players. Besides, this argument has no impact on the instalment due in [month] [year].
134. The Club's argument about a 30% reduction on the Player's annual salary due to the Volleyball League and the [the Club's country's] Volleyball Federation's intervention is also not compelling because the Club has failed to explain why it would be entitled to a retroactive reduction of the amounts paid before [date], date on which it unilaterally terminated the contract and the [year]/[year] Championship [in the Club's country] was still being played and not affected by the Covid-19 pandemic. There is no evidence in the record of the reduction being mandatory and the fact that other players consented to such a reduction does not mean that the Player would have accepted it under the Private Agreement.

⁷⁸ Player's submission dated [date], Exhibits 3 and 4.

135. With regard to the payments from [month] [year], the FIVB Tribunal Judge notes the following:

- a) The [Continental Federation] ordered the Club to pay the full amount of the instalment due in [month] [year]. Although the [Continental Federation] has not explicitly stated so, the underlying reason seems to be that the Covid-19 pandemic had no real impact on that instalment because the instalment was due on [date] and the [year]/[year] Championship [in the Club's country] was suspended only [date]. Besides, training sessions were suspended only on [date]. The Club has also failed to prove how the Covid-19 pandemic had an impact on the Club's use of the Player's "sports rights" under the Private Agreement. Therefore, the FIVB Tribunal Judge considers that it is fair that the Club pay the full amount of the instalment due in [month] [year].
- b) The [Continental Federation] ordered the Club to pay half of the instalments due in [month] and [month] [year] because it considered that Covid-19 was no one's fault. Although the Club had requested a higher discount in the previous instance (i.e., 30% over the annual amounts due to the Player), the FIVB Tribunal Judge has already determined that it is not fair to apply such a discount to payments due prior to the Covid-19 pandemic. Regarding the instalments due in [month] and [month] [year] (i.e., during the pandemic), the Club received a discount greater than 30% and has not explained why a 50% discount would be inappropriate in a case where neither party was responsible for the pandemic. Considering the above and the fact that the Player has not requested a review of the Decision and finds that the 50% deduction was fair and reasonable, the FIVB Tribunal Judge finds no reason to depart from the Decision in this regard. Therefore, the Club must pay half of the instalments due in [month] and [month] [year] to the Player.

9.2.3 Preliminary Agreement

136. The [Continental Federation] ordered the Club to pay EUR 333.80 and EUR 236.18 as reimbursement of travel expenses and medical treatment costs. Neither the Club nor the Player has requested a review of this decision. Therefore, the Decision is confirmed.

9.3 **Legal expenses**

137. The [Continental Federation] ordered the Club to pay EUR 2,356.50 to the Player as a contribution to her legal expenses. In making that decision, the [Continental Federation] considered that the

Player had apparently attempted to settle the dispute amicably before filing her complaint.⁷⁹

138. The Club claims that the Decision on legal expenses is unjustified because the Player never tried to settle the dispute amicably. The Club also states that the Player did not assume a transparent behaviour in the first instance proceeding because she allegedly hid facts and the [Continental Federation] based its decision on documents filed by the Club.⁸⁰

139. Article 18.1(e) of the FIVB Sports Regulations sets forth:

“The FIVB may award a contribution of up to CHF 2,500 towards the prevailing party’s reasonable legal fees and other expenses incurred in connection with the proceedings (including the applicable handling fee and the costs of witnesses and interpreters). When deciding on this contribution, the FIVB shall take into account the outcome of the proceedings as well as the conduct and financial resources of the parties.”

140. According to that article, the [Continental Federation] had to decide on the contribution considering the outcome of the proceedings as well as the conduct and financial resources of the parties. The parties made no submissions as to their financial resources. The FIVB Tribunal Judge considers that the Player did not hide relevant information, that the parties were not obliged to enter into settlement negotiations, and that both parties behaved properly in the previous instance. As to the outcome, the Player has succeeded with her complaint, and most of the Club’s defences and claims were rejected. Therefore, the FIVB Tribunal Judge agrees with the [Continental Federation] that it is fair and reasonable that the Club bears the legal expenses.

10 Costs

141. Each party requested the FIVB Tribunal to order the other pay the costs and expenses of these proceedings.⁸¹

142. The Club paid the handling fee of this proceeding (CHF 2,000) on [date]. On [date], the Club submitted an invoice from its counsel for EUR 3,000 plus VAT and anticipated that it would further pay EUR 1,500 to its counsel for the examination of the Player’s defence, the exchange of correspondence with the [Continental Federation] and with the FIVB Tribunal and the meetings and contacts with the Club.

143. The Player quantified her legal expenses at CHF 2,500. On [date], the Player submitted an agreement

⁷⁹ Decision, p. 56.

⁸⁰ Club’s RFR, pp. 21-22.

⁸¹ Club’s RFR, p. 23. Player’s Answer, p. 4.

with her counsel for that amount.

144. Article 20.11.2 of the FIVB Sports Regulations allows the prevailing party to be granted a contribution towards legal fees and expenses, including the applicable handling fee. When deciding on this contribution, the FIVB Tribunal Judge shall consider the outcome of the proceedings, as well as the conduct and the financial resources of the parties. In the case at hand, the parties have not made any submissions concerning their financial resources and have behaved appropriately during the proceedings. Thus, the FIVB Tribunal Judge will decide upon the distribution of the costs according to the outcome of the proceedings.

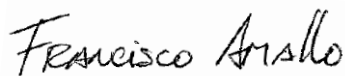
145. Considering that the Club's request for relief was dismissed and the Decision was upheld in full, the FIVB Tribunal Judge determines, in accordance with article 20.11.2 of the FIVB Sports Regulations, the reasonable contribution to be CHF 2,500. Thus, the Club shall pay the Player's legal costs in the amount of CHF 2,500 and bear its own legal costs as well as the handling fee.

DECISION

For the reasons set forth above, the FIVB Tribunal Judge decides as follows:

1. The Request for Review filed by [the Club] is dismissed.
2. The decision rendered by the [Continental Federation] dated [date] is upheld.
3. [The Club] shall pay [the Player] CHF 2,500 as a contribution towards legal fees and expenses.
[The Club] shall bear its own legal costs and the handling fee.
4. Any other requests for relief are dismissed.

[Date of the decision] Lausanne, Switzerland



Francisco A. Amallo

NOTICE OF APPEALS

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

- a) Article 20.12 of the FIVB Sports Regulations:

“Decisions of the FIVB Tribunal can only be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland and any such appeal must be lodged with CAS within twenty-one (21) days from the receipt of the decision. The CAS shall decide the appeal ex aequo et bono and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure.”

- b) The CAS Code of Sport-related Arbitration, which is available under www.tas-cas.org.

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

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