

In the Matter of

[The Player]

(hereinafter the “**Player**” or “**Appellant**”)

vs.

Fédération Internationale de Volleyball

(hereinafter “**FIVB**” or the “**Respondent**”)

DECISION

of the FIVB APPEALS PANEL in the Case [case number]¹

This is an appeal brought by the [the Player’s country] Player against a decision (hereinafter the “**Decision**”) issued by the FIVB dated [date] by which the Respondent decided that the Federation of Origin of the Appellant is the Volleyball Federation of [the Player’s country] (hereinafter “**VFPC**”).

I. FACTUAL BACKGROUND

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.

- 1 The Appellant is a professional volleyball player from [the Player’s country]. She is [age] years old and currently plays for the [the Club’s country] club “[the Club’s name]” (hereinafter the “**Second Club**”).
- 2 The Appellant was born in [Player’s country of birth], on [date], has [the Player’s country] parents and lived in [the Player’s country] until [year].

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

- 3 From [date] to [date], the Appellant was enrolled in the “state budgetary institution Sports School of Olympic Reserve of [District’s name] of [name of city]” (hereinafter the “**School**”).
- 4 In [date], the Appellant took part in the selection process for the school of volleyball of [volleyball school’s name] in [City’s name], [the Player’s country]. She was not enrolled because her parents did not agree.
- 5 On [date], the [VFPC] invited the Appellant to a training camp of the women’s [age] National Team of [the Player’s country] (hereafter, the “**Training Camp**”) which was held in preparation of the [Continental competition] (hereinafter the “**[Continental competition]**”).
- 6 After [date], the [VFPC] never again invited the Appellant to any trainings. The Appellant continued to attend [School], practicing various sports, including volleyball, and never participated in any competitive activities organized by the [VFPC].
- 7 In [date], the [VFPC] submitted an “Application for Player License” to the [Continental federation] (“**CF**”) for the Appellant in relation to the [Continental competition].
- 8 On [date], the [VFPC] submitted the team registration for the [Continental competition] using the [CF] Form 05 (equivalent of the FIVB O-2 Form). The Appellant was included in such form.
- 9 On [date], the Player was booked on a flight from [name of city], [the Player’s country], to [a city from another country], [the country in question, hereafter “Country 1”].
- 10 From [date] to [date], the Player was on holiday, accommodated in a hotel in [Country 1].
- 11 On [date], the [VFPC]’s final team registration for the [Continental competition] was submitted through the [CF] Form 05 Bis (equivalent of the FIVB O-2bis Form). The Appellant was not included in such form.

- 12 From [date] to [date], the [Continental competition] took place in [two cities in the Country 1]. The Appellant did not participate at this championship. [The city of stay of the Player in the Country 1] where the Appellant stayed until [date], is more than 520 km away from [the Continental competition's cities].
- 13 By letter dated [date], the [VFPC] confirmed vis-à-vis the [the Second Club's country] Volleyball Federation ("**SCCVF**") that the Appellant had never been registered with the [VFPC].
- 14 In [date], the Appellant moved to [Second Club's country] and joined the [the Second club's country] club [club's name] (hereafter, the "**First Club**"). Before completing the first registration of the Appellant, the First Club asked the [VFPC] whether the Appellant had ever been registered in [the Player's country].
- 15 By letter dated [date], the [VFPC] confirmed vis-à-vis the First Club that the Appellant had never been registered with the [VFPC].
- 16 On [date], [SCCVF] registered the Appellant to play volleyball in [the Second Club's country]. Since then, the Appellant has been playing volleyball in [the Second Club's country], under the impression that her Federation of Origin was [SCCVF].
- 17 The Appellant participated in [the Second Club's country] in youth championships and, in recent years, in the top senior level championships.
- 18 For the season [year/year], the Appellant was registered to play with the Second Club.
- 19 In [date], the Second Club applied to register its players to participate in the [a Continental club competition].
- 20 On [date], the [CF] informed the Second Club that the Appellant was registered in the [CF] database as [the Player's country] and that she had obtained a player's license for the [Continental competition].

- 21 On [date], the [VFPC] confirmed that the Appellant did not participate with the [the Player's country] national team and that she "*was never declared for the teams participating in the [the Player's country] championship*" due to her young age and that the [VFPC]'s regulations do not allow for the registration of player below 15 years old.
- 22 On [date], the [CF] noted that the Appellant held a registration with the [VFPC] since [year] and that an International Transfer Certificate (ITC) was required for her participation with the Second Club.
- 23 From [date] until [date], the Appellant did not participate in any sporting activities pending the FIVB's decision regarding her Federation of Origin.
- 24 On [date], [SCCVF] suspended the Appellant's license with the Second Club, in view of the [CF]'s communication. The Appellant objected to this suspension arguing that only the FIVB (and not the [CF]) is competent to establish the Federation of Origin of a player.
- 25 On [date], the [CF] and the Second Club requested the FIVB's intervention to determine the Federation of Origin of the Appellant.

II. THE DECISION UNDER DISPUTE

- 26 On [date], the FIVB, in the Decision, held that the Appellant's Federation of Origin was the [VFPC] and that the Appellant should have obtained an ITC before playing volleyball in [the Second Club's country].
- 27 In its relevant part, the Decision reads as follows:

*"Given [the Player's] registration in the national team training camp, [VFPC] filed an application for a licence for the Player in the [Continental competition]. That application was accepted, and the Player was registered on the [CF] Form 05 (equivalent of the FIVB O-2 Form) for the [Continental competition]. At that point in time, a licence in volleyball had been granted by a recognised entity, [CF], for the Player to participate with the [the Player's country] national team, **which means that the Player's Federation of Origin was [VFPC].**" (emphasis added)*

III. APPEAL BY THE PLAYER AGAINST THE DECISION

a) Proceedings before the FIVB Appeals Panel

- 28 On [date], the Appellant filed an appeal (hereinafter the “**Appeal**”) against the Decision.
- 29 On [date], the FIVB Appeals Panel Secretariat acknowledged receipt of the Appeal and of the proof of payment of the administrative fee, which were both received on [date], as well as the fully translated Exhibits, which were received on [date], and invited the Respondent to file its answer by no later than [date].
- 30 On [date], the Respondent filed a request for extension of the deadline to file its answer.
- 31 On the same day, the FIVB Appeals Panel Secretariat acknowledged receipt of the Respondent’s request and invited the Respondent to submit a signed Power of Attorney in favour of its counsel by no later than [date]. It further noted that the Respondent’s deadline to submit its Answer was suspended pending the Appeals Panel’s decision on the request for a deadline extension, and invited the Appellant to submit her position on the Respondent’s request by no later than [time] on [date]. Finally, the FIVB Appeals Panel Secretariat informed the parties that the Appeals Panel would be composed as follows to hear the present dispute: Ms. Damaris Young (PAN), chairperson, Mr. Gavin Dingley (RSA) and Ms. Katayoun Arabzadeh (IRI), members.
- 32 On [date], the FIVB Appeals Panel Secretariat acknowledged receipt of the Respondent’s Power of Attorney for its counsel, which was received on the same day.
- 33 Also on [date], the FIVB Appeals Panel Secretariat acknowledged receipt of the Appellant’s comments on the request for extension, and held that it would forward the Appellant’s comments to the FIVB Appeals Panel, which would deliberate on the request shortly.

- 34 On [date], the FIVB Appeals Panel Secretariat informed the parties that the FIVB Appeals Panel had granted the Respondent's request to extend the deadline to file its answer, considering that the Appellant had agreed to such request. Therefore, the Respondent was provided with a deadline to file its answer by no later than [date].
- 35 On [date], the Respondent filed its answer (hereinafter the "**Answer**").
- 36 On [date], the Appeals Panel Secretariat acknowledged receipt of the Answer and held that it would issue further instructions or a decision in due course based on the written submissions filed by the parties.

b) Positions of the Parties

- 37 The position of the Appellant can be summarised as follows:
- The Appellant disagrees with the Respondent's line of argument in its Decision as to the Appellant's Federation of Origin being the [VFPC] due to Article 2.4.1 lit. b) second alternative of the 2017 FIVB Sports Regulations (hereinafter the "**2017 FIVB SR**").
 - Specifically, in its Decision, the FIVB misinterpreted the role of the [School] in specifying the notion of "otherwise registered" within the meaning of Article 2.4.1 lit. b) of the 2017 FIVB SR.
 - The Decision is misleading when it finds that "*in various countries, such as the United States, players deal mostly with schools*", because the relationship between schools and sport in [the Player's country] is different from the one in the USA.
 - Schools in [the Player's country] today are not necessarily dependent from the central government or the [VFPC] with regard to sport and sporting activities. After the end of the [name of the country], sport in [the Player's country] was restructured. Since then, promotion of high level sport is reserved for sport federations that have become more independent from the central government regarding organization and financing.

- The [School] is a school that depends on the Education Committee of the [District's name] of [name of city] and certainly not on the [the Player's country] Ministry of Sports or on the [VFPC].
 - The statutes of the [School] demonstrate that the [School] pursues a generic approach to sport, meaning that it offers to everyone the possibility to practice sport on a non-competitive level, including students with health problems and disabilities.
 - The Appellant played volleyball matches during her time in the [School], but never participated in any official matches or competitions on behalf of the [School].
 - [The Player's country] sports schools, such as the [School], cannot issue licenses for sports activities, i. e. register their students for specific sports disciplines.
 - Federations and sports leagues are in charge of managing and organizing competitive sporting activity, whereas [the Player's country] schools, such as the [School], provide for recreational sporting activity carried out without participating in competitions and without registration.
 - Given that the Appellant did not participate in any competitive activities at the [School], her attending the [School] may not serve to establish the [VFPC] as her Federation of Origin.
- In addition, the invitation of the Appellant to and her participation at the Training Camp that was held in preparation of the [Continental competition] may not be taken into account when establishing [the Player's country] as the Appellants alleged Federation of Origin.
 - At the time of the invitation, the Appellant was a very tall and slender girl who had not yet learned to play volleyball, but had only been reported to the staff of the [VFPC] for her measurements. Therefore, it is no wonder that the Appellant was never again invited to any training camp by the [VFPC] after that time.
 - Ever since her first contact with the [VFPC], the Appellant, respectively her mother, made clear that the Appellant would only participate in the Training Camp for a few days, would not participate in the [Continental competition] and would move to [the Second club's country] in the near future. The staff of

the [VFPC] took note of these circumstances and guaranteed that they only wanted to see the Appellant.

- Although the Training Camp was to last from [date] until [date], the Appellant only participated from [date] to [date], as demonstrated by the train tickets from her then home town to the location of the Training Camp.
- The [VFPC] filled out the [CF] Form 05 for the [Continental competition], despite knowing that the Appellant would not be able to participate and without informing the Appellant and/or her mother.
- The [VFPC] registered the Appellant although she was only [age] years old and therefore not of the minimum age for registration according to the regulations of the [VFPC]. It should not be possible for a registration contrary to the regulations of the [VFPC] to determine a player's Federation of Origin.
- Apart from that, the registration by the [VFPC] without the Appellant's or her parents' consent constitutes a serious violation of the Appellant's right to practice sport freely. Both the Olympic Charter and the [Continental] ([Continental] Council) Sports Charter recognize such right.
- The registration by the [VFPC] caused serious damage to the Appellant's aspiration to have a sports career in [the Second club's country]. Given that a change of the Federation of Origin would mean pecuniary damage for the Appellant, such option cannot be regarded as valid alternative to establishing [the Second club's country] as the Appellant's Federation of Origin.
- Establishing the [VFPC] as the Appellant's Federation of Origin also limits the Appellant's ability to play for the Second Club, because the regulations of the [SCCVF] provide that a maximum of six foreigners may be registered on the scoresheet and at least three [the Second club's country] players always have to be fielded.
- Given that the Appellant participated in a [VFPC] training camp only once and only for seven days, the [VFPC] did not contribute to the development of the Appellant. However, such alleged development was relied upon by the Respondent in its Decision when establishing the [VFPC] as the Appellant's Federation of Origin. Instead, the Appellant made use of the structure and organization of [SCCVF] after having moved to [the Second club's country]. [The Second club's country] is where the Appellant developed into a player feared by her opponents.

- It seems unfair that the [VFPC] should benefit from all the work the First and Second Club as well as [SCCVF] have invested in order to allow the Appellant to become the player she is today.

38 The Request for Relief of the Appellant was as follows:

“[...] [The Appellant] requests that the Very Excellent FIVB Appeal Panel modify the decision communicated by the FIVB with an email of [date] and establish that the Federation of Origin of the Player is the [SCCVF].”

39 The position of the Respondent may be summarised as follows:

- The Appeal has to be rejected because the Decision correctly determined the [VFPC] as the Appellant’s Federation of Origin in accordance with Article 2.4.1 lit. b) of the 2017 FIVB SR. Both the wording and the rationale of Article 2.4.1 lit. b) of the 2017 FIVB SR support the Decision.
- By way of including the Appellant in both the [CF] Form 04 and the [CF] Form 05, the [VFPC] “*otherwise registered*” the Appellant within the meaning of Article 2.4.1 lit. b) of the 2017 FIVB SR. A player may only be included in the [CF] Form 05, if he or she is already registered with the federation submitting the [CF] Form 05. Such prior registration is done via the [CF] Form 04.
- It was determined in the [CF] Form 04, which the [VFPC] submitted for the Appellant for the [Continental competition], that the [VFPC] is the Appellant’s Federation of Origin.
- By being included into the [CF] Form 05 by the [VFPC], the Player became a “*registered player*” within the meaning of Article 21.4.2 § 1 of the 2017 [CF] Volleyball Competitions Regulations.
- Therefore, it is irrelevant that the Appellant neither participated in the [Continental competition] nor stayed until the end of the Training Camp.
- Furthermore, the [VFPC] was the first federation to register the Appellant, as it is undisputed that she had not been registered with any other federation before.
- The rationale behind Article 2.4.1 lit. b) of the 2017 FIVB SR is to determine the federation in which a player first started playing the sport of volleyball. The

Respondent has constantly applied the concept of Federation of Origin based on such rationale.

- Given that it is uncontested that the Appellant attended the [School], a [the Player's country] school, from [year] to [year] and that she played and trained the sport of volleyball at such school, it was within that school, i. e. within [the Player's country], where the Appellant started playing and training volleyball.
- In addition, considering the sporting structure in [the Player's country] and that the [School] is a state institution (cf. Articles 1.1 to 1.4 of the Statutes of the [School]), it must be concluded that the Appellant's volleyball career started with the [School] in [the Player's country].
- With regard to the Appellant holding that it was rather the First and Second Club as well as the [SCCVF] that have contributed to the Appellant's development of volleyball skills, the Respondent stresses that the rationale of Article 2.4.1 of the 2017 FIVB SR is to determine the first that made a contribution. The Appellant's first and initial volleyball-specific training and development happened in [the Player's country].
- It seems implausible that the Appellant never received any volleyball-specific training while attending [School] and the [VFPC] took note of the Appellant only because of her measurements. This is corroborated by the fact that the Appellant joined the First Club shortly after her move to [the Second club's country] in [date] and instantly participated in multiple competitions for said club (U16, U18 and Senior Team in Serie C at that time). Furthermore, this is also corroborated by the fact that the Appellant's trip to [the Second club's country] in [year] was used to make contacts for the Appellant's future transfer to [the Second club's country].
- The Appellant's registration within the [VFPC] was not barred because of the Appellant being aged [age] at that time. The Respondent has to apply its regulations vis-à-vis its member confederations and federations in accordance with the principle of equality. Only the elements of the relevant regulation of the Respondent – and not of the [VFPC] – are therefore under scrutiny. Consequently, it is immaterial whether the Appellant's registration was in line with [VFPC] regulations.
- The Decision did not infringe the Appellant's rights. First, the Decision neither contravenes the contract between the Appellant and the Second Club nor affects the Appellant's ability to play volleyball in [the Second club's country]. The

Appellant merely has to obtain an ITC. Secondly, assessing whether or not a federation has registered a player has to be done on the basis of objective criteria. Subjective elements, such as whether the Appellant's parents have consented or not, are irrelevant.

40 The Request for Relief of the Respondent was as follows:

- I. dismiss the Appellant's Appeal in its entirety;*
- II. confirm the decision of the FIVB dated [date];*
- III. order the Appellant to pay the entire costs of the present proceedings;*
- IV. order the Appellant to pay a contribution to the Respondent's legal fees."*

IV. ADMISSIBILITY OF THE APPEAL BY THE APPELLANT

41 In accordance with general procedural principles, the relevant regulations applicable for procedural purposes are those in force at the time that the action was commenced.

42 The FIVB Appeals Panel notes that the Appeal was filed with the FIVB Appeals Panel Secretariat on [date], i.e. when the 2020 FIVB Disciplinary Regulations (the "2020 FIVB DR") were still in force. Consequently, the FIVB Appeals Panel finds that the admissibility of the Appeal (and other procedural issues such as, for example, allocation of costs) shall be examined based on the criteria set forth in the 2020 FIVB DR².

a) FIVB Appeals Panel Competence: Pre-requisites

43 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 19.1 of the 2020 FIVB DR); and

² For the sake of completeness and transparency, the FIVB Appeals Panel notes that there have been no changes to the admissibility requirements with regard to appeals against decisions by FIVB bodies or Confederations bodies between the 2020 FIVB DR and the 2022 FIVB DR.

ii. pay an administrative fee of CHF 2,000 (Article 19.2 of the 2020 FIVB DR).

44 The Appellant filed an appeal with the FIVB Appeals Panel on [date], i.e. thirteen (13) days after receipt of the Decision on [date]. Moreover, the Appellant paid the administrative fee, whose receipt on [date] was confirmed by the FIVB Appeals Panel Secretariat on [date].

45 In light of the above, the FIVB Appeals Panel is satisfied that the Appellant complied with the requirements of Article 19.1 and 19.2 of the 2020 FIVB DR.

b) FIVB Appeals Panel Competence: General principles

46 The FIVB Appeals Panel is competent to hear appeals filed by an affected party against decisions of FIVB bodies or Confederation bodies (Article 18.1 of the 2020 FIVB DR). In the present case, it is undisputed that:

- i. the Appellant, whose Federation of Origin has been established as the [VFPC] and not the [SCCVF], is an affected party within the meaning of Article 18.1 of the 2020 FIVB DR; and
- ii. the Decision was issued by an FIVB body within the meaning of Article 18.1 of the 2020 FIVB DR.

47 In addition, neither of the parties has challenged the jurisdiction of the FIVB Appeals Panel.

48 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 against the Decision.

c) FIVB Appeals Panel Competence: Exclusion of certain appeals

49 The FIVB Appeals Panel notes that not all decisions by FIVB bodies or Confederations bodies may be appealed.

50 However, the FIVB Appeals Panel is satisfied that the restrictions set forth in Articles 16.6 and 18.2 of the 2020 FIVB DR do not apply in the present case because the

appeal neither concerns a reprimand nor a warning nor a fine in an amount of less than CHF 5,000 nor a referee's decision.

- 51 In light of the above, the FIVB Appeals Panel is satisfied that it is competent to hear the appeal filed by the Appellant against the Decision.

V. THE FIVB APPEALS PANEL DECISION

- 52 The FIVB Appeals Panel shall (a) decide on the law applicable to the present dispute before (b) examining the merits of the decision.

a) The Law applicable to the merits of the Appeal

- 53 The FIVB Appeals Panel finds that FIVB Regulations shall apply primarily and Swiss law subsidiarily.

- 54 The subsidiary applicability of Swiss law ensures that there is consistency in the applicable law throughout the entire appeals procedure defined in the FIVB Disciplinary Regulations, i.e. an appeal before the CAS. It is clear from Article R58 of the Code of Sports-related Arbitration that Swiss law would be applied. The CAS confirmed this approach in a previous appeal against a FIVB Appeals Panel decision and found that Swiss law applied subsidiarily (CAS 2015/A/4095, para. 58). Plus, the FIVB Appeals Panel observes that Article 1.2 of the 2020 FIVB DR explicitly states that Swiss law shall be applicable to the merits.³

- 55 The FIVB Appeals Panel notes that the Decision was issued based on the FIVB Regulations in the edition in force at the time of its issuance, i.e. the 2020 edition of the FIVB SR. However, the FIVB Appeals Panel finds that the Decision should have been based on the regulations in force at the time of the occurrence of the contentious facts. Accordingly, the FIVB would have had to apply the 2017 edition of the FIVB SR.

³ For the sake of completeness and transparency, the FIVB Appeals Panel informs that there have been no changes to the FIVB Disciplinary Regulations between 2020 and 2022 with regard to Article 1.2.

Therefore, it is the 2017 edition of the FIVB SR that shall apply to the merits of the Appeal.⁴

b) Merits

56 With regard to the merits, the FIVB Appeals Panel must determine whether i) the Respondent rightly assumed that the requirements of Article 2.4.1 lit. b. of the 2017 FIVB SR were met and ii) the Decision infringed any rights of the Appellant.

i. Requirements of Article 2.4.1 lit. b. of the 2017 FIVB SR

57 Article 2.4.1 lit. b. of the 2017 FIVB SR reads as follows:

“2.4.1 The Federation which is the first to:

a. register the player in its national team for an FIVB, World or Official Competition through the final FIVB O-2bis Form, with the player’s presence being certified by the Control Committee; or

*b. issue a national license for the player or **otherwise register the player within its Federation**;*

is considered to be the player’s Federation of Origin regardless of the player’s nationality.” (emphasis added)

58 In its Decision, the FIVB, in particular, held as follows:

“Regarding Article 2.4.1 letter b of the FIVB Sports Regulations, the FIVB highlights that the spirit of this rule [...] is to capture where the player began his/her volleyball career. One understands from the foregoing that the registration of a player, within the meaning of Article 2.4.1 let. b, is a term of art and does not require any action from the National Federation in question. This holds particularly true when considering the sport structure in various countries, such as the United States of America, in which players deal mostly with schools.

⁴ The FIVB Appeals Panel notes that the 2017 and 2020 editions of the FIVB SR are largely identical with regard to the provisions relevant for the outcome of the case at hand. The only difference in the relevant provisions (see para. 63 et seq. below) does not change the FIVB Appeals Panel’s legal assessment of the case at hand.

The [School] is a sports training school with the purpose of providing students with the opportunity to develop in the sport of their choice by receiving advanced sports training. The Player confirmed that she originally trained in gymnastics before focusing on volleyball.

The Player's participation in school is particularly relevant when considering the sporting structure in [the Player's country], which uses these school as a starting point for training future athletes in sport. In this case, it is clear that the Player's development started at the [School]. Through her participation in the [School], the Player got to a level where she participated in the selection process of a volleyball specific school although she did not enroll in that school and also got noticed by the [the Player's country] underage national teams.

It is uncontested that the Player accepted an invitation and was registered to attend a training camp for the [the Player's country] [underage] national team. As the governing body of the sport of volleyball in [the Player's country], the [VFPC] is directly responsible for the [the Player's country] national teams. Thus, a player who is invited to attend and does attend is no doubt registered with the [VFPC] at that time. In this sense, even if one argued that there was no direct registration of the Player during her time at [School] (quod non), such questions disappeared the moment that the Player accepted to participate in training camp of the [the Player's country] national team run by [VFPC] directly.

Given her registration in the national team training camp, [VFPC] filed an application for a licence for the Player in the [Continental competition]. That application was accepted, and the Player was registered on the [CF] Form 05 (equivalent of the FIVB O-2 Form) for the [Continental competition]. At that point in time, a licence in volleyball had been granted by a recognised entity, [CF], for the Player to participate with the [the Player's country] national team, which means that the Player's Federation of Origin was [VFPC].”

- 59 The FIVB Appeals Panel considers this line of reasoning to be only partially convincing.

60 With regard to the Appellant attending [School], she essentially argues that the [School] depends on the Education Committee of the [District's name] of [name of city] and not on the [the Player's country] Ministry of Sports or on the [VFPC]. In addition, the Appellant did not participate in any competitive activities at the [School], which is why her attending the [School] may not serve to establish the [VFPC] as her Federation of Origin.

61 According to the Respondent, the Appellant, in this respect, failed to consider the rationale behind Article 2.4.1 lit. b) of the 2020 FIVB SR, which is to determine the federation in which a player first started playing the sport of volleyball. Given that it is uncontested that the Appellant attended the [School], a [the Player's country] school, from [year] to [year] and that she played and trained volleyball at such school, it was supposedly within that school, i. e. within [the Player's country], where the Appellant started playing and training volleyball. In view of the above-mentioned rationale, the Respondent states that it is not decisive which public [the Player's country] entity controls the school or whether the school team participated in any official competitions.

62 The FIVB Appeals Panel is not persuaded by the Respondent's line of argument as the Respondent failed to establish the alleged rationale behind Article 2.4.1 lit. b) of the 2017 FIVB SR.

63 In this regard, the FIVB merely makes reference to the fact that said article was amended as follows in 2020, i.e. after the [VFPC] had invited the Player to the Training Camp:

"For purposes of this provision, the act of registering a player shall mean that the player has been registered to play in a volleyball competition for a club, team, school or other volleyball entity that is affiliated either directly or indirectly with the Federation."

64 The FIVB Appeals Panel has some doubts as to whether this amendment in 2020 can, in and of itself, shed light on what had been the rationale behind the provision in 2017, i. e. prior to its amendment in 2020. However, even if this were the case – as alleged by the Respondent –, the wording of the 2020 edition of Article 2.4.1 lit. b) is clear in that the act of registering a player requires that said player has been registered to play

in a volleyball competition. Therefore, contrary to the FIVB's submission, it is decisive whether the registration was made with a view to the relevant player participating in any volleyball competition. The Appellant, however, according to her uncontested submission, did not participate in any competitions on behalf of the [School].

65 That said, irrespective of the above, the FIVB Appeals Panel agrees with the Respondent's overall reasoning and finds that the Appellant has not succeeded in demonstrating that the FIVB erred in finding that her Federation of Origin is the [VFPC]. Rather, the FIVB Appeals Panel finds that the Appellant was in any case "*otherwise registered*" within the meaning of Article 2.4.1 lit. b) of the 2017 FIVB SR by way of the [VFPC] including the Appellant in both the [CF] Form 04 and the [CF] Form 05.

66 The Appellant does not deny that the [VFPC] included her in both the [CF] Form 04 and the [CF] Form 05 in view of the [Continental competition]. Whether or not the [VFPC] filled out the [CF] Form 05 without the Appellant's consent and/or despite knowing that the Appellant would not be able or willing to participate in it is not relevant for the purposes of Article 2.4.1 lit. b. The said article merely requires that objectively there was a registration, which there was. Should the [VFPC] in fact have filled out the forms without or even against the Appellant's will, this is most regrettable and could potentially result in liability of the [VFPC] vis-à-vis the Appellant for any damages that this entailed for her. However, it cannot affect the application of Article 2.4.1 lit. b, not least because introducing such subjective element would subject the very important question of a player's federation of origin to significant uncertainty.

67 Similarly whether or not the [VFPC] registered the Appellant although she was only [age] years old and therefore not of the minimum age for registration according to the regulations of the [VFPC] is immaterial to the application of Article 2.4.1 lit. b. The Respondent only applies its own regulations, not the regulations of any national federation. If there was in fact a violation of the [VFPC]'s own regulations, this may again result in liability of the [VFPC] towards the Appellant, but this is not for the FIVB Appeals Panel to decide in the framework of the present proceedings.

ii. Decision did not infringe the Appellant's rights

68 The FIVB Appeals Panel is convinced that the Decision did not infringe any of the Appellant's rights. First, as noted above, the Decision is in line with Article 2.4.1 lit. b of the 2017 FIVB SR, whose lawfulness has not been challenged by the Appellant. Secondly, the Decision neither contravenes the employment contract between the Appellant and the Second Club nor does it affect the Appellant's ability to play volleyball in [the Second club's country].

69 In order to do the latter, the Appellant merely has to obtain an ITC. While the quota for foreigners may mean that the Appellant plays less frequently or is nominated for the squad for a match less often, this does not affect her current employment contract. Insofar as the Appellant refers to possible difficulties in finding future (other) clubs in [the Second Club's country], it should be noted that the ultimate cause for such potential difficulties would not be the Decision, which is in line with the Respondent's regulations, but rather the [VFPC]'s submission of [CF] Forms 4 and 5 that included the Appellant.

70 Furthermore, the FIVB Appeals Panel notes that the Appellant has the option of applying for a change of her Federation of Origin.

VI. COSTS

71 The FIVB Appeals Panel notes that Article 19.2 *in fine* of the 2020 FIVB DR provides that the administrative fee can be reimbursed if a party prevails. In the present case, the Appellant did not prevail on his appeal. Consequently, the FIVB Appeals Panel finds that it cannot reimburse the administrative fee paid by the Appellant.

72 The FIVB notes that there is no provision in the 2020 FIVB DR with regard 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 legal 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 Player] is dismissed.**
- 2. The FIVB decision dated [date] is confirmed.**
- 3. No reimbursement of the administrative fee shall be granted.**
- 4. Each party shall bear their own legal costs.**
- 5. Any other requests for relief are dismissed.**

Lausanne, [date of the decision]

Ms. Damaris Young
Chairperson

Mr. Gavin Dingley
Member

Ms. Katayoun Arabzadeh
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 20 of the 2020 FIVB Disciplinary Regulations that 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

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

Court of Arbitration for Sport
Avenue Bergières 10
1004 Lausanne, Switzerland
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
email: info@tas-cas.org

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