



Arbitration CAS 2017/A/5200 FEMEXPADEL A.C. v. International Padel Federation (IPF), award of 10 July 2018

Panel: Mr José Juan Pintó (Spain), Sole Arbitrator

Padel

Application by national association for recognition as member of international sports organization

Swiss principles on the interpretation of laws

Right of non-member of a federation to resort to CAS arbitration clause inserted in the statutes of the federation

Appealable decision

1. According to Swiss Law, there are four coequal methods of interpretation: (a) the grammatical (seeking after the semantic meaning of the word or phrase), (b) the systematical (seeking after the systematic position of an article in the legal texture of the greater whole), (c) the historical (seeking after the original intention of the rule) and (d) the teleological (seeking after the spirit and purpose of the statute) methods of interpretation. While interpreting the statutes and rules of a sport association, the adjudicating body has to seek for an objectively right and satisfying decision, taking account of the normative context and the *ratio legis*. Thereby no interpretation method prevails over another. Rather, the adjudicating body has to choose those methodical arguments that allow approximating the *ratio legis* as close as possible.
2. The statutes of a sports organization which contain an arbitral clause stipulating that “*any dispute ... between the Federation and any other individual or organization*” shall be referred to the CAS do not only include the individuals and organizations which have a legal-sportive relationship with the international federation (such as players, officials, referees, etc.) as “*parties*” entitled to appeal the federation’s decisions before the CAS, but are sufficiently broad and ample to include non-member applicants.
3. In order to determine whether there exists an “appealable decision” or not, the following definitions and characteristics have been established, *inter alia*: (a) the form of the communication has no relevance; in particular, the fact that the communication is made in the form of a letter does not rule out the possibility that it constitutes a decision subject to appeal; (b) in principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties; (c) a decision is a unilateral act, sent to one or more determined recipients and is intended to produce legal effects; (d) an appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an ‘*animus decidendi*’, *i.e.* an intention of a body of the association to decide on a matter. A simple information, which does not contain any ‘ruling’, cannot be considered a decision.

I. PARTIES

1. FEMEXPADEL A.C. (hereinafter, the “FEMEXPADEL” or the “Appellant”) is a padel association incorporated according to Mexican law with its registered office in Metepec, Mexico.
2. The International Padel Federation (hereinafter, the “IPF” or the “Respondent”) is the international governing body of padel with its registered office in Lausanne, Switzerland.

II. FACTUAL BACKGROUND

3. A summary of the most relevant facts and the background giving rise to the present dispute will be developed based on the parties’ written submissions, the evidence filed with such submissions, and the statements made by the parties and the evidence taken at the hearing held in the present case. Additional facts may be set out, where relevant, in connection with the legal discussion which follows. In the present Award the Sole Arbitrator refers only to the submissions and evidence considered necessary to explain his reasoning. The Sole Arbitrator, however, has considered all the factual allegations, legal arguments, and evidence submitted by the parties during the present proceedings.
4. On 16 February 2016, the FEMEXPADEL was incorporated according to Mexican law.
5. Furthermore, in February 2016, the FEMEXPADEL applied for its registration before the Comisión Nacional de Cultura Física y del Deporte (hereinafter, the “CONADE”). The CONADE is a public entity depending of the Mexican Government in charge of the promotion, administration and public policy regulations linked to the physical activity of the Mexican population in general and of the amateur and professional sports.
6. On 22 February 2016, the CONADE responded to the FEMEXPADEL explaining that in order to proceed with its registration it was compulsory to be affiliated to the corresponding international federation (*i.e.* the IPF).
7. On 24 May 2016, the FEMEXPADEL filed its application for affiliation before the IPF.
8. One year later, on 25 May 2017, the Board of Directors of the IPF rejected the FEMEXPADEL’s application as it considered that Mexico was already represented by the Federación Mexicana de Pádel A.C. (hereinafter, the “FEMEPA”)¹. The relevant section of this decision (hereinafter, the “Appealed Decision”) reads as follows:

“LA JUNTA DIRECTIVA DE LA FEDERACIÓN INTERNACIONAL DE PADEL

Reunida en fecha 25 de Mayo de 2017 ha controlado y verificado que:

- *ha sido pagado el Derecho de Secretaría previsto por los Estatutos para el estudio de candidaturas a Miembros Asociados;*

¹ The FEMEPA was incorporated in 1992 and it is member of the IPF since 1993.

- *no se ha efectuado la visita de un dirigente de la Federación Internacional de Pádel porque no se ha considerado necesaria;*
- *México se encuentra ya representada en la FIP con un Miembro Asociado, denominado Federación Mexicana de Pádel (FEMEPA).*

POR LO TANTO RESUELVE QUE:

- *La petición de candidatura de la FEMEXPADEL A.C. a ser reconocida por la Federación Internacional de Pádel es rechazada con decisión definitiva;*
- *Se proceda al envío de las informaciones a las Secretarías de los Miembros Asociados, según lo dispuesto en el Art. 3.14.3 del Estatuto.*

(...)”.

Which can be freely translated into English as follows:

“THE BOARD OF THE INTERNATIONAL PADEL FEDERATION

In a meeting dated 25 May 2017 has controlled and verified that:

- *The Secretary fee provided in the Bylaws for the analysis of the applications to Membership has been paid;*
- *No visit of an official of the International Padel Federation has been conducted since it has been considered unnecessary;*
- *Mexico is already represented in the IPF by a Member Associate, named Federación Mexicana de Padel (FEMEPA).*

THEREFORE, IT IS DECIDED THAT:

- *The application for membership of the FEMEXPADEL A.C. to be recognized by the International Padel Federation is rejected with definitive decision (...).*
- *To proceed to inform the Secretaries of the Member Associates, in accordance to art. 3.14.3 of the Bylaws (...)*”.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

9. On 14 June 2017, pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (hereinafter, the “CAS Code”), the FEMEXPADEL filed a Statement of Appeal before the Court of Arbitration for Sport (hereinafter, the “CAS”) against the decision rendered by the Board of Directors of the IPF on 25 May 2017, requesting the following:

- “1. *The appeal is upheld.*
2. *The decision issued on 25 May 2017 by the IPF President is annulled.*

3. *To determine that the Appellant has complied with all the requirements to join the IPF”.*

The IPF and the FEMEPA were called as Respondents to this appeal. Moreover, the Appellant proposed to submit the case to a Sole Arbitrator and to conduct the present arbitration proceedings in Spanish.

10. On 26 June 2017, the IPF and the FEMEPA objected to Spanish being the language of the arbitration and proposed that the proceedings were conducted in English without the need to translate the evidence filed in Spanish.
11. On 29 June 2017, the Appellant requested an extension to file its Appeal Brief by 10 July 2017.
12. On 30 June 2017, the IPF and the FEMEPA agreed the case to be submitted to a Sole Arbitrator.
13. On 3 July 2017, the CAS Court Office granted the Appellant’s request to file its Appeal Brief by 10 July 2017.
14. On the same day, 3 July 2017, the Appellant filed before the CAS its Appeal Brief with the following requests for relief:
 - “1. *The decision dated 25 May 2017 of the Respondent’s board of directors regarding the rejection of the Appellant’s application to membership shall be annulled respectively set aside;*
 2. *The Respondent shall be ordered to grant the Appellant’s application to membership;*
 3. *All costs of arbitration as well as all legal expenses and other expenses incurred by the Respondent 4(sic) shall be borne by the Respondent”.*
15. On 4 July 2017, the CAS Court Office granted the IPF and the FEMEPA 20 days to file their respective answers to the Appeal Brief.
16. On 10 July 2017, the Appellant requested to exclude the FEMEPA from the arbitration proceedings.
17. On 11 July 2017, the Respondent requested the CAS Court Office that the time limit to file the answer be fixed after the Appellant’s payment of its share of the advance of costs. On the same date, the CAS Court Office informed the parties that the IPF’s deadline to file its answer would be fixed after the Appellant’s payment of its share of the advance of costs.
18. On 14 July 2017, the CAS Court Office acknowledged that FEMEPA was no longer a party of these arbitration proceedings.
19. On 20 July 2017, after the parties’ request to suspend the proceedings in order to reach a settlement agreement, the CAS Court Office suspended the proceedings until 31 July 2017.

20. On 28 July 2017, the Appellant informed the CAS that the parties were not able to settle the case. Furthermore, the Appellant wished to “clarify” its prayers for relief provided in its Appeal Brief as follows:
- “1. *The decision dated 25 May 2017 of the Respondent’s board of directors regarding the rejection of the Appellant’s application to membership shall be annulled respectively set aside;*
 2. *The Respondent shall be ordered to grant the Appellant’s application to membership, **respectively take the necessary steps in order to enable the Appellant to be admitted as a member;***
 3. *All costs of arbitration as well as all legal expenses and other expenses incurred by the **Appellant** shall be borne by the Respondent”.*
21. On 31 July 2017, the Respondent was invited to comment on the admissibility of the Appellant’s “clarification” to its requests for relief.
22. On 3 August 2017, the Respondent contested the admissibility of the Appellant’s “clarification” once it considered that the Appellant was looking to augment and supplement its prayers for relief in a clear violation to the CAS Code.
23. On the same day, the CAS Court Office informed the parties that it would be for the Sole Arbitrator, once appointed, to decide the issue regarding the admissibility of the Appellant’s “clarification” to its requests for relief.
24. On 14 August 2017, the Appellant filed a spontaneous communication explaining that its “clarifications” to its requests for relief were not a supplementation or modification.
25. On 15 August 2017, the CAS Court Office requested the parties to refrain from sending communications spontaneously and informed them that the Appellant’s letter of 14 August was not admitted to the file without any prejudice to any final decision of the Sole Arbitrator in this respect, once appointed.
26. On 25 August 2017, the CAS acknowledged receipt of the Appellant’s payment of the advance of costs and, consequently, the CAS Court Office granted the IPF 20 days to file its Answer to the Appeal Brief.
27. On 28 August 2017, pursuant to Article R54 of the CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the parties that Mr. José Juan Pintó Sala, attorney-at-law in Barcelona, Spain, had been appointed as the Sole Arbitrator to settle the present dispute.
28. On 31 August 2017, the CAS Court Office, on behalf of the Sole Arbitrator, invited the Respondent to file its comments on the admissibility of the Appellant’s letter of 14 August 2017. Furthermore, the CAS informed the parties that Mr. Roberto Nájera Reyes, attorney-at-law based in Barcelona, Spain, would assist the Sole Arbitrator as ad-hoc clerk.

29. On 6 September 2017, the Respondent stated that it had no comments on the admissibility of the Appellant's correspondence of 14 August 2017.
30. On 8 September 2017, the CAS Court Office advised the parties of the following:
 - (i) That given the position of the Respondent, the Sole Arbitrator had decided that an English translation of the documents filed in Spanish by the Appellant in its Appeal Brief was not necessary.
 - (ii) That with respect to the Appellant's letter of 14 August 2017, and considering that the Respondent did not object to its admission, the Sole Arbitrator had decided to admit it.
 - (iii) That irrespective of the admission of the Appellant's letter of 14 August 2017 and with respect to the Appellant's letter of 28 August 2017 through which it intended to "clarify" its prayers for relief provided in the Appeal Brief, the Sole Arbitrator had decided to reject such "clarification" in terms of Article R56 of the CAS Code since (i) it was considered a supplement to the requests for relief, (ii) the Respondent objected to such supplement, and (iii) the Appellant did not bring "exceptional circumstances" that could justify the admission of such supplementation.
 - (iv) That the aforementioned was decided without any prejudice of the "clerical mistake" on point 3 of the prayers for relief provided in the Appeal Brief, which stated that "*All costs of arbitration as well as all legal expenses and other expenses incurred by the Respondent 4 (sic) shall be borne by the Respondent*" since the Sole Arbitrator considered and understood that the Appellant meant that "*All costs of arbitration as well as all legal expenses and other expenses incurred by the Appellant shall be borne by the Respondent*".
31. On 11 September 2017, the Respondent requested from the CAS a five-day extension to submit its answer, which in turn was granted by the CAS Court Office on the same day.
32. On 19 September 2017, the Respondent requested from the CAS another five-day extension to submit its answer.
33. On 20 September 2017, the CAS Court Office invited the Appellant to state whether it agreed with the Respondent's request for extension or not.
34. On 21 September 2017, the Appellant objected to the Respondent's request for extension since it considered that the IPF had almost three months to prepare its answer.
35. On 22 September 2017, the CAS Court Office informed the parties that considering that the Appellant was granted a total extension of 8 additional days to file its Appeal Brief the Sole Arbitrator decided to grant the Respondent a last three-day extension to file its answer.
36. On 25 September 2017, the Respondent filed its Answer with the following requests for relief:

“(…)

i. Find that the CAS has no jurisdiction to resolve this dispute;

Subsidiarily,

ii. Entirely reject FEMEXPADEL’s appeal on the merits;

In all cases,

iii. Order the Appellant to pay the full amount of the CAS arbitration costs;

iv. Order the Appellant to pay a significant contribution towards the legal costs and other related expenses of the IPF, at least in the amount of EUR 50,000”.

37. On 5 October 2017, considering that the Respondent contested the jurisdiction of the CAS to hear this matter, the CAS Court Office invited the Appellant to file its position pursuant to Article R55 of the Code.
38. On 13 October 2017, the Appellant filed its comments on the matter of CAS jurisdiction.
39. On 16 October 2017, the CAS Court Office advised the parties that, pursuant to Article R56 of the CAS Code, they were no longer authorized to supplement or amend their requests or their arguments, produce new exhibits, or specify further evidence on which they intended to rely. Furthermore, the parties were invited to inform the CAS Court Office whether they preferred a hearing to be held in this matter or for the Sole Arbitrator to issue an award based solely on the parties’ written submissions.
40. On 20 October 2017, the parties were advised that the Sole Arbitrator had decided that the CAS had jurisdiction to decide the matter and that the corresponding reasons would be given in the present award.
41. On 26 October 2017, after receiving the position of the parties, the Sole Arbitrator decided to hold a hearing in the present matter.
42. On the same day, the Respondent filed before the CAS a document through which it notified the Appellant that the IPF Council decided, at its annual meeting held on 12 October 2017, the rejection to the FEMEXPADEL’s affiliation request.
43. On 27 October 2017, the CAS Court Office invited the Appellant to comment on the Respondent’s communication of 26 October 2017.
44. On 30 October 2017, the Appellant informed the CAS (i) that it received the Respondent’s letter of 26 October 2017, (ii) that within the next few days it would file an Appeal against the IPF Council’s decision, and (iii) that, consequently, it requested to postpone the hearing until a date in December 2017 or January 2018.

45. On 31 October 2017, the CAS Court Office invited the Respondent to comment on the Appellant's letter of 30 October 2017.
46. On 3 November 2017, the Respondent answered the Appellant's letter of 30 October 2017 enclosing a new document to be admitted to the file.
47. On 6 November 2017, the CAS Court Office invited the Appellant to comment on the admissibility of the new document filed by the Respondent.
48. On 10 November 2017, the Appellant agreed on the admission of the new document filed by the Respondent on 3 November 2017.
49. On 15 November 2017, considering the new appeal of the FEMEXPADEL against the decision of the IFP Council of 12 October 2017 and the possibility of consolidation of the proceedings, the Sole Arbitrator decided to suspend the present arbitration.
50. On 19 December 2017, the Sole Arbitrator decided to lift the suspension of these proceedings once the CAS Court Office acknowledged that the parties agreed to suspend the second appeal filed by the FEMEXPADEL against the IPF until the present procedure was finalized.
51. On 3 January 2018, pursuant to Articles R28 and R57 of the CAS Code, the CAS Court Office informed the parties that the Sole Arbitrator had decided to hold a hearing on 13 February 2018 in Lausanne, Switzerland. Furthermore, the parties were provided with the Order of Procedure for their signature.
52. On 9 and 10 January 2018, the Appellant and the Respondent, respectively, returned a duly signed copy of the Order of Procedure.
53. The hearing of the present procedure took place in Lausanne, Switzerland, on 13 February 2018. The Appellant was represented by its legal representatives, Mr. Alexander Cica and Mr. Samuel Cortes Gaona (assisted by their legal trainees Messrs. Anna Mast and Tamara Maurer). The Respondent was represented by its President, Daniel Patti, and by its legal counsel, Mr. Bernardo Palmeiro. In addition, Mr. Antonio de Quesada, Counsel to the CAS, and Mr. Roberto Nájera Reyes, *Ad hoc* Clerk, assisted the Sole Arbitrator at the hearing.
54. At the outset of the hearing, the parties confirmed that they had no objection as to the appointment of the Sole Arbitrator or to the conduction of these proceedings.

After the respective opening statements, the following witnesses were examined by the parties and by the Sole Arbitrator:

- a) Mr. José Luis Frapolli (president of the FEMEPA); and,
- b) Mr. Bill Stamile (Vice-President of the IPF).

At the hearing, the parties had the opportunity to present their case, to submit their arguments and to comment on the issues and questions raised by the Sole Arbitrator. In this respect, the

counsel to the Appellant, after the relevant oral statements, produced his pleadings in a written document; in light of it, the Sole Arbitrator invited the counsel to the Respondent to comment on the admissibility of such document. The counsel to the Respondent did not object to it, and the Sole Arbitrator admitted the Appellant's written pleadings.

At the end of the hearing, the parties expressly declared that they did not have any objection with respect to the procedure and that their right to be heard had been fully respected.

IV. SUMMARY OF THE PARTIES' SUBMISSIONS

55. The following summary of the parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the parties. The Sole Arbitrator, however, has carefully considered, for the purposes of the legal analysis which follows, all the submissions made by the parties, even if there is no specific reference to those submissions in the following section.

IV.1. The Appellant (FEMEXPADEL)

56. The Appellant's submissions, in essence, may be summarized as follows:

A. *The jurisdiction of the CAS*

57. Article 31.1 of the IPF Bylaws clearly establishes that "*Any dispute (...) between the Federation and any other individual or organization shall be referred to the Court of Arbitration for Sport, Lausanne, Switzerland*". Therefore, taking into account (i) that the FEMEXPADEL is not a random party and entered the IPF's affiliation procedure, (ii) the intention of the parties and the principle of good faith, (iii) the "benevolence" to interpret arbitration clauses in sports-related disputes in favor of the CAS (as established by the Swiss Federal Tribunal in several decisions) and (iv) the legal principle "*in dubio contra stipulatorem*", the FEMEXPADEL shall be considered as an "individual or organization" in terms of Article 31.1 of the IPF Bylaws.
58. The FEMEXPADEL is not an unfamiliar organization without any relation to the IPF since it filed its application for affiliation and declared that it would observe the IPF Bylaws. Moreover, it is contradictory that the IPF intends to apply its Bylaws to all affiliation matters but at the same time denies the possibility to FEMEXPADEL to submit the Appealed Decision to the CAS.
59. Furthermore, the IPF has alleged that the Appealed Decision is not final because the Council is the ultimate body that accepts or rejects a membership application. Nevertheless, the Appealed Decision clearly stated that the application was "*rechazada con decisión definitiva*" and did not provide any indication that it would proceed to the Council's review.
60. It was on 25 July 2017, only after the Appellant filed its appeal, when the Respondent stated that the Appellant's request for affiliation would be referred to its Council. Despite this misleading behavior, the Sole Arbitrator shall understand that according to the clear wording of

the Appealed Decision, the Respondent never intended to refer the request for affiliation to its Council. Therefore, the IPF's objection to the jurisdiction of the CAS is inconsistent and shall be rejected.

B. *Invalidity of the Appealed Decision*

61. The IPF rejected the FEMEXPADEL's affiliation request arguing that a Mexican member already existed in the IPF (*i.e.* the FEMEPA) and, therefore, the affiliation of two federations of the same country was inadmissible.

Nevertheless, Article 3.12 of the Bylaws states that “[t]here shall be only one member per country or territory unless otherwise decided by a two thirds majority Resolution of the Council”. That is to say, the IPF Bylaws do not automatically exclude two members of the same country being affiliated, but the Council must decide such possibility.

62. Nevertheless, the Appealed Decision was taken by the Board of Directors when the competent body to take that decision was the Council and, consequently, the IPF violated its own regulations and therefore the Appealed Decision shall be annulled.

C. *The eligibility of the FEMEXPADEL to become a member of the IPF*

63. According to Article 2.1 of the IPF Bylaws, the affiliation to the international federation “*is open to all national padel associations and/ or federations or corresponding organizations, from a state or sport country, who manage the control and disciplinary of padel sport in the own territory, and could be elected as FIP member*”.

64. The FEMEXPADEL has fulfilled all the requirements established in the Bylaws to become a member of the IPF, meaning that:

- a) It manages and controls the padel sport in Mexico.
- b) It has recognized the IPF as the sole governing body of padel worldwide and has accepted its Bylaws and other regulations.
- c) The FEMEXPADEL's rules of association are fully compatible with those of the IPF.
- d) The FEMEXPADEL has presented its Annual Program for the year 2016 and the lists of its padel associations and clubs.
- e) The FEMEXPADEL has paid the Secretary fee for accessing the analysis of the affiliation request by the IPF.

65. Moreover, it is obvious that the FEMEXPADEL is the only association that can represent the padel sport in Mexico since this is the only recognized association by the CONADE, which, in turn, is an indispensable requirement under the Mexican laws to perform and organize sport-related activities. Taking into account the aforementioned and considering that the FEMEPA is no longer recognized by the CONADE (and, consequently, does not fulfill the requirements

established in the IPF Bylaws), the IPF should expel the FEMEPA and grant the FEMEXPADEL's request for affiliation.

66. In summary, it has been proven that the FEMEXPADEL fulfills all the necessary requirements to become a member of the IPF and is the only association that can manage and control the padel sport in Mexico.

D. Appellant's right of affiliation to the Respondent

67. It is true that according to the principle of "freedom of association", the associations have the right to decide whether an applicant shall be accepted as a member or not. Nevertheless, according to the Swiss Federal Tribunal, this scope of discretion is limited by the Swiss law, and considering that the IPF is the monopolist body that controls the padel in the world and holds a dominant position, the unfounded Appealed Decision is provoking a significant disadvantage because (i) the Mexican players cannot participate in international tournaments, (ii) the FEMEXPADEL cannot be registered before the CONADE and (iii) this is an obstruction for organizing tournaments in Mexico. In short, the IPF is impeding the FEMEXPADEL's activities and this behavior it is evidently abusive, moreover when the FEMEXPADEL is the only Mexican padel association which fulfills all the membership requirements.
68. Furthermore, the Swiss Federal Tribunal, based on the principle of personality rights, has also determined that the rejection of an affiliation request by a "monopoly association" (such as the IPF) is unlawful if, as a result of such rejection, results a hindrance to general development. If the Appealed Decision is confirmed, the FEMEXPADEL cannot be registered in the CONADE and therefore it cannot have access to governmental funds, the Mexican players would be out of all national or international tournaments and the padel development in Mexico would be at risk. It is therefore evident that the personality rights of the FEMEXPADEL are being heavily infringed despite the fact that it fulfils all the requirements established in the IPF Bylaws to become a member.
69. The Swiss Federal Tribunal has also established that the articles of an association shall not impose excessive obstacles to the affiliation or make an affiliation impossible. It is true that the IPF Bylaws do not impose excessive obstacles for an affiliation but, in the case at hand, the IPF is making impossible the Appellant's request for affiliation because (i) it did not consider the possibility to accept two member associations of the same country (such as it is established in the Bylaws), (ii) it did not handle the case properly in order to asses all the circumstances and possibilities and (iii) did not pass the affiliation request for the vote of the Council as provided in Article 3.12 of the IPF Bylaws.
70. The FEMEXPADEL has the utmost interest to manage and control padel in Mexico because there is no Mexican federation validly organized and registered in accordance with the applicable laws. For this reason, the FEMEXPADEL cannot understand the IPF's reasons to reject its affiliation.
71. The Appealed Decision shall be considered as an abuse of power and a contradiction to what is established in Article 2 of the Swiss Civil Code and, considering that the Appellant's interest

in being admitted as a member of the IPF obviously outweighs the Respondent's interest in the rejection of the application, the appeal shall be upheld.

IV.2. The Respondent (International Padel Federation)

72. The Respondent's submissions, in essence, may be summarized as follows:

A. *Lack of jurisdiction of the CAS*

73. The CAS has no jurisdiction for deciding the case for two reasons:

- (i) Considering that the FEMEXPADEL is not a member of the IPF, the FEMEXPADEL is not bound to the IPF Bylaws and therefore the arbitral provision contained therein cannot be triggered. In this sense, Article 31.1 of the IPF Bylaws establishes that “[a]ny dispute or difference not bound by the relevant handbooks or regulations of the various circuits and competitions of the Federation between a Member and the Federation or between the Federation and any other individual or organization shall be referred to the Court of Arbitration for Sport (...)”. When the IPF included the phrase “all other individual and organizations” it referred to the individual and organizations that have in fact a legal-sportive relationship with the IPF; such as players, coaches, referees, representatives, officials or any other person mentioned in the Bylaws. Interpreting this provision on the contrary would provoke the absurd situation that any person, even those who have no relation with the IPF, could file an action against the IPF before the CAS.
- (ii) The Appealed Decision was not final and binding and therefore, in accordance with Article R47 of the CAS Code, is not appealable. The Appealed Decision was issued by the Board of Directors which has no power to accept or reject an affiliation request. As it is provided in Article 12.2 of the IPF Bylaws, the Council is the body which reviews the applications for membership.

Furthermore, according to the IPF Bylaws the affiliation process is the following:

- a) The affiliation request is received by the President of the IPF, who redirects it to the Board of Directors.
- b) The Board of Directors reviews the request and, depending of the information presented by the applicant, categorizes the affiliation (Class A, B or C).
- c) Then, the Board of Directors issues a decision (more a kind of a report) that recommends the Council the acceptance or the rejection of the applicant.
- d) The whole file and the report are further submitted to the IPF Council at its next annual meeting for its analysis and decision. The members analyse the file and the recommendation of the Board of Directors and they finally decide if the applicant is accepted or rejected.

- e) Moreover, if the applicant is an association of a country already represented by another member in the IPF, such application shall be approved at least by 2/3 of the Council.

74. In conclusion, according to the Bylaws, the Appealed Decision was not final and binding and cannot be appealable because it was only a report with a recommendation directed to the Council.

B. *Regarding the merits of the FEMEXPADDEL's application*

75. According to the IPF Bylaws, to be admitted as a member an applicant has to control and manage the padel sport in its territory. The Board of Directors considered that the FEMEXPADDEL does not control or manage the padel sport in Mexico, which would be reason enough to reject its affiliation request.

76. Furthermore, the truth is that the majority of national federations start their activities and then, only after several years of work and results, they acquire the recognition of national and international authorities. In the case at hand, the FEMEXPADDEL requested its affiliation to the IPF barely being incorporated, with a few months of activity, and with a simple annual program for 2016. Additionally, the IPF and some of its officials were repeatedly pressured by the FEMEXPADDEL to accept its affiliation request.

77. Contrary to the FEMEXPADDEL's fledgling activity, the FEMEPA has been an IPF Member since 1993. It has been working extremely hard since that date with tremendous results (they have successfully organized several tournaments and worldwide competitions) and the relationship with FEMEPA has always been exceptional.

78. In this regard, the FEMEXPADDEL informed the IPF that the FEMEPA (with more than 20 years of activity and never having had any problem with the IPF) was dissolved by the CONADE and stopped its activities. However, the IPF is hesitant about this allegation because one issue is that the CONADE stopped recognizing the FEMEPA (canceling governmental funds) and another one is that the CONADE could dissolve a private association duly incorporated by Mexican law. In fact, the IPF acknowledges that the FEMEPA exists and is fully organizing its tournaments and activities for all its members without any issue.

79. Without prejudice of the aforementioned and contrary to what it is alleged by the Appellant, the IPF is not against the FEMEXPADDEL and the Appealed Decision does not hinder the execution of its goals or activities. This is clear because the FEMEXPADDEL has been organizing its activities for a year and a half without any problem. Furthermore, the Mexican players are not hindered to participate in international tournaments or in tournaments organized by the IPF because, if they are affiliated to the FEMEPA, they can have access to these tournaments.

80. In any case, the Sole Arbitrator cannot grant the request of FEMEXPADDEL (*i.e.* grant its affiliation) because the powers of the CAS cannot exceed the powers of the body that issued the Appealed Decision. Therefore, taking into account that the Board of Directors does not have the power to directly affiliate the FEMEXPADDEL, it follows that CAS does not have this power

either.

C. Political problems between the FEMEPA and the Mexican authorities

81. The IPF has been aware that the FEMEPA was having some issues with the CONADE and in particular with its new director Alfredo Castillo, who was pressuring the FEMEPA members, the IPF members, the IPF President and other officials, to expel the president of the FEMEPA, José Luis Frapolli, with the aim of taking control of padel in Mexico. The reasons for this intervention are not clear, but the FEMEPA never had any issues with the CONADE until Alfredo Castillo became president of this governmental institution in 2015.
82. Furthermore, the FEMEPA was not the only federation attacked by the CONADE. Several Mexican federations sent a formal letter to the Olympic Mexican Committee where they informed that Alfredo Castillo was hampering the autonomy of the Mexican sports federations and they requested the intervention of the International Olympic Committee in order to stop CONADE and Castillo's actions. For example, the Mexican press reported that "[e]l director de CONADE, Alfredo Castillo, pretende descalificar la actual Ley del Deporte y lanzarse contra las federaciones nacionales, e incluso los comités olímpicos nacional e internacional". This matter escalated up to the point that the International Olympic Committee warned the Mexican government to stop such intervention or the Mexican Olympic delegation would be expelled from the Olympic Games of Rio 2016.
83. As it has been duly established by the United Nations and the International Olympic Committee, the autonomy and independence of the sports federations is of utmost importance and any governmental intervention to the sports federations is unacceptable. Even in recent years there have been cases where international sport federations had to suspend national federations due to governmental intervention (*e.g.* both the IOC and FIFA suspended their affiliated members of Kuwait when the Kuwait Government interfered with its new national sports laws).
84. The IPF has tried to mediate in the conflict between the FEMEXPADEL and the FEMEPA and has advised both parties to reach an agreement because this, in reality, is a national conflict and the IPF is a small federation with limited resources that cannot assume proceedings such as this one. Unfortunately, the FEMEPA and FEMEXPADEL have not reached any agreement.

V. JURISDICTION

85. The jurisdiction of the CAS has been disputed by the Respondent since, summarizing, it considers that (i) the arbitration clause contained in the IPF's Bylaws does not apply herein as the Appellant is not a member of the IPF and (ii) the Appealed Decision is not final and binding.
86. On 20 October 2017, the parties were informed that the Sole Arbitrator had decided that the CAS had jurisdiction to decide the present dispute. The grounds for this decision are given in the following paragraphs of this Section V of the award.

87. Article R27 of the CAS Code reads as follows (emphasis added):

*“These Procedural Rules apply whenever the parties have agreed to refer a sports related dispute to CAS. Such reference may arise out of an **arbitration clause contained in a contract or regulations** or by reason of a later arbitration agreement (ordinary arbitration proceedings) or may involve an appeal against a decision rendered by a federation, association or sports-related body where the statutes or regulations of such bodies, or a specific agreement provide for an appeal to CAS (appeal arbitration proceedings). Such disputes may involve matters of principle relating to sport or matters of pecuniary or other interests relating to the practice or the development of sport and may include, more generally, any activity or matter related or connected to sport”.*

88. In turn, Article R47 of the CAS Code stipulates that (emphasis added):

*“**An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide** or if the parties have concluded a specific arbitration agreement and **if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.**”*

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned”.

89. This being said, the Sole Arbitrator notes that the IPF Bylaws indeed provide an arbitration clause in Article 31.1 which reads as follows (emphasis added):

*“Any dispute or difference not bound by the relevant handbooks or regulations of the various circuits and competitions of the Federation between a Member and the Federation or **between the Federation and any other individual or organization** shall be referred to the Court of Arbitration for Sport, Lausanne, Switzerland”.*

90. In the Respondent’s opinion, the arbitral clause provided in the Bylaws does not include non-members applicants (such as the FEMEXPADEL) as “parties” entitled to appeal IPF’s decisions before the CAS, and states that when the IPF included the phrase “*any other individual or organization*” in the arbitration clause, it meant the individuals and organizations which in fact have a legal-sportive relationship with the international federation (such as players, officials, referees, etc.).

91. Considering the Respondent’s position and in order to interpret Article 31.1 of the IPF Bylaws, the Sole Arbitrator resorts to the Swiss principles on the interpretation of laws, which have been repeatedly analysed in the CAS jurisprudence; *ad exemplum*, in the award CAS 2010/A/2071, which its relevant section reads as follows (emphasis added):

“The interpretation of the statutes and rules of a sport association has to be rather objective and always to start with the wording of the rule, which falls to be interpreted. The adjudicating body -in this instance the Panel- will have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the

association which drafted the rule, and such body may also take account of any relevant historical background which illuminates its derivation, as well as the entirely regulatory context in which the particular rule is located (CAS 2008/A/1673, par. 33, p. 7; CAS 2009/A/1810 & 1811, par. 73, p. 15; see also ATF 87 II 95 consid. 3; ATF 114 II 193, p. 197, consid. 5.a; decision of the Swiss Federal Court of 3 May 2005, 7B.10/2005, consid. 2.3; decision of the Swiss Federal of 25 February 2003, consid. 3.2; and Piermarco Zen-Ruffinen, Droit du Sport, 2002, par. 168, p. 63)”.

Or in the award CAS 2013/A/3047, which relevant section reads as follows (emphasis added):

*“(…) According to Swiss Law, there are four coequal methods of interpretation. **They are the grammatical** (seeks after the semantic meaning of the word or phrase), the systematical (seeks after the systematic position of an article in the legal texture of the greater whole), the historical (seeks after the original intention of the rule) and the teleological method (seeks after the spirit and purpose of the statute) of interpretation (KRAMER Ernst A., Juristische Methodenlehre, p. 57 ff., p. 85 ff.; 116 ff.; BGE 135 III 112 E. 3.3.2). **While interpreting a statute, the judge has to seek for an objectively right and satisfying decision, taking account of the normative context and the ratio legis** (BGE 135 III 112 E. 3.3.2). Thereby no interpretation method prevails over another. Rather, **the judge has to choose those methodical arguments that allow approximating the ratio legis as close as possible** (KRAMER Ernst A., Juristische Methodenlehre, p. 122)”.*

92. Taking all the aforementioned into account, the Sole Arbitrator cannot share the Respondent’s objection to the CAS jurisdiction based on the fact that the Appellant is not an IPF member for the following reasons:

- a) The wording of Article 31.1 of the IPF Statutes is, in the Sole Arbitrator’s view, clear. The phrase “*any other individual or organization*” is sufficiently broad and ample to include non-member applicants and the Respondent has not brought any convincing reason to believe that the Appellant shall be excluded from the scope of such article.
- b) The Respondent bore the burden of demonstrating that its intention when including such provision in its Bylaws was different from its clear wording (Article 8 of the Swiss Civil Code, ATF 130 III 417 consid. 3.1), and failed to do so in these proceedings.
- c) *Ad abundantiam*, the Sole Arbitrator considers that the Appellant is not a totally unrelated party to the IPF: from the moment it decided to request for its affiliation before the IPF, some kind of legal relationship was created between the parties, at least to the point of enabling its inclusion within the wide scope of Article 31.1 of the IPF Bylaws.
- d) Lastly, the Sole Arbitrator supports his position with the recent jurisprudence of the Swiss Federal Tribunal (SFT Decision 4A_314/2017 of 28 May 2018) which confirmed that a non-member of a federation may resort on the arbitration clause inserted in the statutes of the international federation to access the CAS for solving a dispute:

“(…) ”

2.3.2.4. Encore qu’il ne soit pas expressément énoncé, le but poursuivi par la FIM au moyen de la

clause arbitrale incluse dans ses Statuts est aisément perceptible. Il s'agit, dans toute la mesure du possible, de soustraire aux tribunaux ordinaires le règlement des différends pouvant résulter de l'organisation au sens large de l'ensemble des activités sportives motocyclistes internationales mises en oeuvre sous son égide, afin d'en confier le soin à une juridiction arbitrale internationale spécialisée en matière de sport qui présente des garanties d'indépendance suffisantes pour pouvoir être assimilée à un tribunal étatique, condition remplie par le TAS (sur ce dernier point, cf. le récent arrêt, destiné à la publication, rendu le 20 février 2018 dans la cause 4A_260/2017, X. c. FIFA, consid. 3.4). (...)

2.3.2.5. L'interprétation de l'art. 5 des Statuts, telle qu'elle a été faite ci-dessus, démontre que la FIM, contrairement à ce qu'elle soutient aujourd'hui, a bel et bien eu l'intention de donner à la clause arbitrale litigieuse la portée la plus large qui fût et qu'elle a entendu y inclure les différends liés à la procédure de candidature. Ce faisant, l'association faïtière s'est laissé guider par le souci d'écarter la compétence des tribunaux ordinaires dans toute la mesure du possible au profit de celle d'un tribunal spécialisé en matière de sport ayant pignon sur rue. Aussi bien, qu'on le veuille ou non, le recours au TAS paraît s'être imposé comme la voie juridictionnelle incontournable dans le domaine du droit du sport. De ce fait, l'interprétation restrictive de la clause arbitrale, telle que préconisée par la recourante, ne se justifie pas. Elle est d'autant moins de mise que, s'il subsistait un léger doute quant à l'interprétation de la clause arbitrale examinée, quod non, c'est la recourante qui devrait en assumer les conséquences en sa qualité de rédactrice des Statuts incluant ladite clause (in dubio contra proferentem).

En définitive, l'art. 5 des Statuts constitue une offre unilatérale de la FIM de soumettre les litiges qu'elle mentionne à l'arbitrage du TAS, offre de portée générale n'étant pas limitée aux membres de l'association quant à ses destinataires. En saisissant le TAS, le KMSC a accepté l'offre de la pollicitante par un acte concluant (cf. MAVROMATI/REEB, The Code of the Court of Arbitration for Sport, 2015, n° 4 ad art. R27 du Code; pour un mécanisme comparable dans l'arbitrage relatif au contentieux des investissements, cf. ATF 141 III 495 consid. 3.4.2 p. 502)" (Arrêt 4A_314/2017 du 28 mai 2018).

Which can be freely translated as follows:

"2.3.2.4. Even though it is not expressly stated, the aim pursued by the FIM by means of the arbitration clause included in its Statutes is easily perceptible. It is, as far as possible, to remove from the ordinary courts the settlement of disputes that may result from the organization in the broad sense of all international motorcycling sports activities implemented under its aegis, in order to entrust the care to an international arbitration court specialized in sport which presents guarantees of independence sufficient to be assimilated to a state court, condition fulfilled by the CAS (on the latter point, see the recent judgment, intended for the published on February 20, 2018 in 4A_260/2017, X. v. FIFA, at 3.4). (...)

2.3.2.5. The interpretation of art. 5 of the Statutes, as it has been made above, demonstrates that the FIM, contrary to what it claims today, did indeed intend to give the arbitration clause at issue the widest scope to include disputes related to the application process. In doing so, the umbrella association was guided by the desire to exclude the jurisdiction of the ordinary courts as far as possible in favor of that of a specialized sports court. As much as we like it or not, recourse to the CAS appears to have established itself as the unavoidable jurisdictional path in the field of sports law. As a result, the restrictive interpretation of the arbitration clause, as advocated by the Appellant, is not justified. It is

all the less appropriate that, if there were still a slight doubt as to the interpretation of the arbitration clause under consideration, quod non, it is the Appellant who should bear the consequences in its capacity as drafter of the Statutes including said clause (in dubio contra proferentem).

In short, art. 5 of the Statutes constitutes a unilateral offer by the FIM to submit the disputes it mentions to arbitration of the CAS, a general offer not limited to the members of the association as to its addressees. By entering the CAS, the KMSC accepted the offer of the offeror by a conclusive act (see MAVROMATI / REEB, The Code of the Court of Arbitration for Sport, 2015, No. 4 ad art R27 of the Code; comparable mechanism in investment dispute arbitration, see ATF 141 III 495 at 3.4.2 at 502)” (Decision 4A_314/2017 of 28 May 2018).

93. Secondly, the Sole Arbitrator considers that the decision rendered by the Board of Directors on 25 May 2017 is a final and binding decision and as such, appealable in accordance with the CAS Code.
94. In this respect, the Sole Arbitrator shall firstly endorse the definitions and the characteristics that an “appealable decision” have according to the CAS precedents, *inter alia*:
- *“the form of the communication has no relevance to determine whether there exists a decision or not. In particular, the fact that the communication is made in the form of a letter does not rule out the possibility that it constitute a decision subject to appeal” (CAS 2005/A/899 para. 63; CAS 2007/A/1251 para. 30; CAS 2008/A/1633 para. 31; CAS 2015/A/4213 para. 49).*
 - *“In principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties” (CAS 2004/A/748 para. 89; CAS 2005/A/899 para. 61; CAS 2008/A/1633 para. 31; CAS 2007/A/1251 para. 30; CAS 2015/A/4213 para. 49).*
 - *“A decision is thus a unilateral act, sent to one or more determined recipients and is intended to produce legal effects” (CAS 2004/A/659 para. 36; CAS 2004/A/748 para. 89; CAS 2008/A/1633 para. 31; CAS 2015/A/4213 para. 49).*
 - *“an appealable decision of a sport association or federation “is normally a communication of the association directed to a party and based on an ‘animus decidendi’, i.e. an intention of a body of the association to decide on a matter [...]. A simple information, which does not contain any ‘ruling’, cannot be considered a decision” (BERNASCONI M., “When is a ‘decision’ an appealable decision?” in: The Proceedings before the CAS, ed. by RIGOZZI/BERNASCONI, Bern 2007, p. 273)” (CAS 2008/A/1633 para. 32; CAS 2015/A/4213 para. 49).*
95. Thereafter, the Sole Arbitrator wants to emphasize that the Appealed Decision expressly determines that the Appellant’s request for affiliation in the IPF “**es rechazada con decisión definitiva;**”, which is in clear contradiction with the Respondent’s contention that it was a mere “report”.
96. Bearing the aforementioned into account, the Sole Arbitrator concludes that the Appealed Decision is indeed a decision appealable to the CAS as:

- a) The Appealed Decision is a unilateral act from the IPF Board of Directors sent to the FEMEXPADEL intended to produce legal effects: FEMEXPADEL's request for application not being accepted. The form or alleged name to be given to the Appealed Decision is irrelevant in determining if this is an appealable decision or not.
- b) The "*animus decidendi*" of IPF's Board of Directors is evident when it established that it "*decided*" to reject the affiliation request. It contains a ruling, *i.e.* that the FEMEXPADEL's application to membership was rejected by the Board of Directors.
- c) The request for affiliation is rejected "*con decisión definitiva*", as the Board of Directors expressly wrote in the Appealed Decision. It is thus clear that such Board wanted to attribute final and binding nature to its decision, in light of which the Sole Arbitrator cannot share the Respondent's statements that the Appealed Decision was not final because, according to the Bylaws and the constant practice of the IPF, the application would pass in any case to the Council for a definitive decision. Without prejudice that the existence of the aforementioned practice could be true or not, the Appealed Decision (i) clearly established that the rejection of FEMEXPADEL was definitive, (ii) did not state that a final decision on the admission or rejection would be taken by the Council, and (iii) the Bylaws do not provide any internal remedy to appeal the decisions of the Board of Directors.

97. For all the above, the Sole Arbitrator considers that the Appealed Decision is a decision that complies with the prerequisites foreseen in Articles R27 and R47 of the CAS Code and thus, that the CAS has jurisdiction to rule on this case.

VI. ADMISSIBILITY

98. According to Article R49 of the CAS Code, "[i]n the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against (...)".
99. The IPF Bylaws do not establish a time limit for the filing of an appeal to the CAS.
100. The Appealed Decision was acknowledged by the Appellant on 26 May 2017², and its Statement of Appeal was filed on 14 June 2017, *i.e.* within the time limit required by Article R49 of the CAS Code.
101. Consequently, the appeal filed by the Appellant is admissible.

VII. APPLICABLE LAW

102. Article R58 of the CAS Code reads as follows (emphasis added):

² This has not been disputed by the Respondent.

“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

103. Furthermore, Article 31.3 of the IPF Bylaws state that “[a]ny such Arbitration shall be governed by Switzerland Law”.
104. Based on the aforementioned provisions, the Sole Arbitrator considers that the present dispute shall be resolved according to the IPF Bylaws and, subsidiarily, the Swiss law, as it has also been sustained by both parties in the present proceedings.

VIII. MERITS

105. The Sole Arbitrator shall start its approach to the matter at hand by analysing the contents of the Appellant’s requests for relief, which read as follows:

1. *The decision dated 25 May 2017 of the Respondent’s board of directors regarding the rejection of the Appellant’s application to membership shall be annulled respectively set aside;*
2. *The Respondent shall be ordered to grant the Appellant’s application to membership;*
3. *All costs of arbitration as well as all legal expenses and other expenses incurred by the [Appellant] shall be borne by the Respondent”.*

106. Thereafter, the Sole Arbitrator shall examine the content of the articles of the IPF Bylaws that, in his view, are relevant in the resolution of this dispute (emphasis added):

“2.1. Membership to IPF is open to all national padel associations and/or federations or corresponding organisations, from a state or sport country, who manage the control and disciplinary of padel sport in the own territory, and could be elected as affiliated FIP member.

(...)

3. APPLICATIONS FOR MEMBERSHIP

(...)

3.3. Applications for Class C Membership from new applicants, and applications for Class B Membership from Class C Members, shall be considered at an Annual General Meeting of the Federation. Each application for membership, to be successful, must receive at least a two-thirds majority Resolution of the Council recorded at the Annual General Meeting in respect of the application.

(...)

3.7. Each new application for Class C Membership shall include full details of the development of the game of padel in the applicant's country and shall be accompanied by a certified copy of the applicant's Constitution and a sum equivalent to the Secretary fee for documents analyse of new candidates, and to the current subscription payable by a Class C Member. **If the application is approved at an Annual General Meeting, such payment will be applied towards the subscription amount due from the applicant; if the application is not approved, the subscription fee shall be returned to the applicant.**

3.8. The Board of Directors, on receiving a new application for Class C Membership, will analyse it during their meeting and in case it will be considered convenient, shall appoint a representative to visit the applicant's country and the representative shall submit a report of his visit to the Board of Directors. The costs of and incidental to the visit shall be borne by the applicant for Class C Membership.

(...)

3.11. **If approved for membership at the Annual General Meeting of the Company, new applicants shall initially be offered Class C Membership.** (...)

3.12. **There shall be only one member per country or territory unless otherwise decided by a two thirds majority Resolution of the Council.**

(...)

3.14. **Requests for affiliation by the National Padel Associations and Federations or Organisations will follow the following procedure:**

3.14.1. The requests for affiliation for a National Padel Association and Federation or corresponding Organisation should be made on the appropriate form (see Annex 1) and sent to the President of the IPF. The request will include information referring to the country/territory to be represented and specify the number of affiliated clubs and players. A copy of the articles of Association, the By-Laws will be included in the language of the country applicant as well as a direct translation in either Spanish or English as well as the names and addresses of the main directors shall be included.

For admittance and recognise of an Associate Member of Class B, an application will not be accepted unless the organisation has an official certification from it's state/territory sports council or similar body with sport jurisdiction, where the Association or Federation has the own registered office. The certification will show the authenticity of the applicant and demonstrate the support by the recognised authorities in the country of origin. Their Bye-Laws must be wholly compatible with those of the IPF.

3.14.2. The President of the IPF will transmit the request along with the received information to the members of the Board of Directors.

3.14.3. **The Board of Directors will have the right to name the applicant Associated Member, as indicated in article 2.2. The other Associated Members will be informed of the acceptance as soon as possible.**

3.14.4. **The acceptance of a new Associate Member from the Board of Directors should**

be presented to the next Annual General Meeting with request of confirmation.

3.15. Each Associated Member or Affiliated Organisation shall provide the General Secretary of the IPF with all the information that may be required for administrative and informative purposes whenever is requested and not later than the 31st of May each year. This information will include the address of the headquarters, e-mail address, telephone and fax numbers of the entity, names and addresses of the main directors, the number of affiliated clubs or sport associations and players, the official competitions held.

(...)

12.2. **The business of an Annual General Meeting shall be:**

(...)

(iv) **To consider and deal with:**

(1) **Applications for membership:**”.

107. The Appellant considers that the Appealed Decision violates the IPF Bylaws because the Board of Directors, when “definitely rejected” the FEMEXPADEL’s application on the reason that a Mexican member already existed, impeded the application of Article 3.12 of the Bylaws (“*There shall be only one member per country or territory **unless otherwise decided by a two thirds majority Resolution of the Council***”) and the effects that could be derived from it.
108. From the examination of the parties’ submissions and the evidence brought to the proceedings, the Sole Arbitrator notes that (i) it is undisputed that the IPF can admit two members of the same country if the Council (provided that the relevant vote majorities take place) so decides and (ii) the Respondent has stated that the IPF’s Board of Directors does not have the power to finally reject or accept the affiliation request of an applicant, being the Council the one entitled to do it.
109. This being said, the Sole Arbitrator has gone through the Appealed Decision and notes that its construction and content reveal that the Appellant’s affiliation request was “definitively rejected” by the Board of Directors based on the sole reason that there was already a Mexican member in the IPF:

“Reunida en fecha 25 de Mayo de 2017 ha controlado y verificado que:

- [...];
- [...];
- México se encuentra ya representada en la FIP con un Miembro Asociado, denominado Federación Mexicana de Pádel (FEMEPA).

POR LO TANTO RESUELVE QUE:

- *La petición de candidatura de la FEMEXPADEL A.C. a ser reconocida por la Federación Internacional de Pádel es rechazada con decisión definitiva”.*
110. This decision, in the Sole Arbitrator’s view, contravenes the Bylaws as it wrongly states that the FEMEXPADEL’s affiliation process comes to an end in a definitive manner (“*rechazada con decisión definitiva*”) with a decision of the Board of Directors, which should not be the case in accordance with, *inter alia*, Articles 3.3, 3.7, 3.11, 3.12, 3.14.4 and 12.2 of the Bylaws, and gives a reason for rejection (the existence of another Mexican member) which is not *per se* impeditive for the acceptance of new members, as the Council, with a majority of 2/3, can admit the affiliation of more than one member per country (Article 3.12 of the IPF Bylaws).
 111. The fact that the IPF has acknowledged in these proceedings that it is indeed the Council the one with faculties to accept or reject the admission of new members, or the fact that apparently, on 12 October 2017 the Council had rejected FEMEXPADEL’s request for affiliation does not make a difference for the purposes of resolving the specific dispute which is the object of this appeal, as at the time the Appealed Decision was issued, the message launched by the IPF to the Appellant was that the request for affiliation was definitively rejected by the Board of Directors based on the previous existence of another Mexican member, which is proven to be contrary to the Bylaws as explained above. The subsequent IPF’s statements and events were unknown by FEMEXPADEL at the time of filing its appeal, and do not cure in the Sole Arbitrator’s view, the incorrectness of the Appealed Decision taken months before.
 112. In light of this contravention of the IPF Bylaws, the Sole Arbitrator decides to annul the Appealed Decision and, in use of the power granted by Article R57 of the CAS Code, to refer the case back to the previous instance. The Sole Arbitrator considers that this is the most appropriate decision given all the circumstances of the case at stake, in particular, that (i) he cannot grant the application to membership (such as has it been requested by the Appellant) since this decision, as stated above, is a faculty of the Council and the scope of this procedure is limited to the decision taken by the Board of Directors; and (ii) in this case is preferable that the two levels of jurisdiction are respected.
 113. Since the case will return to the previous instance for a new decision, no decision is taken by the Sole Arbitrator on the remaining requests and arguments raised by the parties.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. It has jurisdiction to decide on the appeal filed by the FEMEXPADEL, A.C., against the decision rendered by the IPF Board of Directors on 25 May 2017.
2. The appeal filed by the FEMEXPADEL, A.C., against the decision rendered by the IPF Board of Directors on 25 May 2017 is partially upheld.
3. The decision rendered by the IPF Board of Directors on 25 May 2017 on the request for affiliation of FEMEXPADEL, A.C. is annulled.
4. The case is referred back to the International Padel Federation.
- (...)
7. All other or further motions or prayers for relief are dismissed.