



Llinks Corporate and M&A Bulletin
June 2019

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Eligibility Rules Under the FIFA Regulations – Eligibility and Change of Association

By Tomas Pereda | Giandonato Marino

I. Introduction

Although club competitions at both national and international level are important, it is perhaps still the greatest ambition for a football player to participate in an international competition for their national team, such as the FIFA World Cup or the AFC Asian Cup.

In order to be eligible to represent a national team, players are required to comply with certain requirements set out in Articles 5 to 8 of the FIFA Regulations Governing the Application of the Statutes (“FIFA Application of the Statutes”)¹.

This article will briefly address some general concepts and put forward practical examples on the eligibility of players for participation in competitions with the representative team of a national association.

II. Legal Analysis

1. General principles

The general principles of eligibility are established in Article 5 of the FIFA Application of the Statutes, which states that:

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- Any player holding a permanent nationality not based on residence in the country is eligible to play for that association (Article 5.1);
- In case a player has played an official match² for a national association, youth categories included, he may not be able to play for a different national association. (E.g. a player who has played the qualifiers of the U-20 FIFA World Cup cannot play for a different representative team) (Article 5.2).

Despite that, Article 8 sets out some exceptions to this rule, which would allow the change of association if some conditions are met, as explained below.

2.1 Nationalities entitling players to represent more than one association

There are some nationalities allowing a player to play for more than one representative team (The most common case perhaps is the British citizenship).³ Those players, as well as players with dual nationality by birth, may elect to represent the national association of their choice if complying with the conditions listed in Article 6.1.

Essentially, the player shall cumulatively:

- (a) have the relevant permanent nationality not depending on residence in the country;
- (b) not have participated in official matches with a different representative team;
- (c) fulfill one of the following requirements:
 - The player was born in the territory of the relevant association;
 - The player's parents or grandparents were born in the territory of the relevant association; or;
 - The player has lived continuously in the territory of the relevant association for at least two years.⁴

2.2 Acquisition of a new nationality

Moreover, it is a fact that players may acquire a new nationality by several means. According to Article 7, any player who acquires a new permanent nationality not dependent on residence in that

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country and who has not played international football as per Article 5.2, will be eligible to play for the new representative team if they comply with one of the criteria set out at Article 7.

Article 7 provides the same conditions listed at Article 6.1, with the only difference being item (d), which requires a player to have “...lived continuously for at least five years after the age of 18 on the territory of the relevant association”.⁵

In the case of acquisition of a new nationality, the conditions set in Article 7 are not cumulative and are considered as “extra requirements” in case a player acquires a new nationality.

Once a player successfully acquires a new nationality and satisfies the criteria listed in Article 7, he may be able to participate in official matches for the representative team of the relevant national association.

3. Change of Association

In the case a player has previously participated in an official match with a youth category representative team of his previous association (e.g. FIFA World Cup U20 or UEFA Euro Cup U23), he may make a request to FIFA, only once, to change his association in order to be eligible to play for the representative team of his new nationality.

The change of association is regulated under Article 8, which states that a player⁶ may request to change association subject to the following conditions:

- a) He has not played an official match with the “A”/senior representative team of his current association; and that
- b) When he participated in an official match with a youth category representative team of his previous association, he already had the nationality of the representative team for which he wishes to play.

To start the procedure, the player shall submit a written request to the FIFA Players’ Status Committee. While this request is being processed the player is not eligible to play for any representative team.

In light of this, as the Nationality Law of the PRC does not recognize dual-nationality, it is clear that players who acquire Chinese nationality will only be able to play for the Chinese national team if they have not participated in an official game with any of the categories of their previous national association and comply with the requisites set in Article 7.

Eligibility Rules Under the FIFA Regulations – Eligibility and Change of Association**III. FIFA Eligibility Rules: Practical Examples**

While many people believe that the representative team of a country should only be composed of home-grown players, football stakeholders have repeatedly pointed out how some high-profile players have represented two different countries in their careers, on occasion generating controversial debates.

Among the most renowned cases, we could mention those of Diego Costa (Brazil – Spain), Lukas Podolski (Poland – Germany), Pepe (Brazil – Portugal), Kevin Prince Boateng (Germany – Ghana) or Thiago Motta (Brazil – Italy).

The change of association of a player shall be treated on a case-by-case basis, since each scenario presents its own peculiarities.

The Diego Costa case

Diego Costa was born in Brazil in 1988, he participated in two friendly games with the “A” team/senior team of Brazil in 2013. In July 2013, he acquired the Spanish citizenship after spending over five years in Spain, thus having the dual nationality (Brazil – Spain).

After that, he was called-up by the representative team of Spain for the 2014 FIFA World Cup, since:

- a) He had acquired a permanent nationality (i.e. Spanish), which was not dependent on residence;
- b) He had not played an official match with any category of the Brazilian representative team.

Therefore, Diego Costa became eligible to represent the Spanish national team during the 2014 FIFA World Cup in Brazil.

It is worth mentioning that, if he had been fielded in any official competition with the representative team of Brazil (e.g. U-23 qualifiers of the FIFA World Cup or CONMEBOL competitions) before having acquired the Spanish nationality, Diego Costa could not have been able to play with Spain.

The Munir case

A similar case with a different outcome is the one of Munir El Haddadi, to whom FIFA, and then CAS rejected his request to participate with Morocco in the 2018 FIFA World Cup. The reason was simple, he had already been fielded with the Spanish national team - for 17 minutes - in the 2016 UEFA Euro

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Qualifiers.

The Spanish-born player had acquired the Moroccan nationality due to the fact that his parents are Moroccan nationals. However, since he had already been fielded in an official competition with the “A”/senior representative team of a national association (i.e. Spain), he did not fulfil the criteria established by FIFA.

From this case we can observe how FIFA strictly applies its regulations when it comes to eligibility, even though Munir was only called-up once by the “A”/senior team of Spain, played 17 minutes and was never called-up again.

The Taulant Xhaka case

Taulant Xhaka was born in Switzerland, to parents who were both Albanian. After having played official competitions with the U-17 and U-19 Swiss national team since 2008, he formally applied for and acquired the Albanian citizenship in 2013. He was granted by FIFA the change of association and became eligible to play for the Albanian national team.

Even though the player only formally applied for the Albanian citizenship in 2013, according to Albanian nationality law, a person automatically acquires Albanian citizenship by birth when *“both parents, at the moment of birth of child, are Albanian nationals”*. Since Albanian law is silent on the concept of “nationality”, it can be understood that both citizenship and nationality are acquired under the same abovementioned condition, i.e. both parents are Albanian nationals.

FIFA approved his change of association in 2014. We assume⁷ that Xhaka could change his association and join the Albanian national team because FIFA has interpreted that he has always held Albanian citizenship (and nationality), as he was born from Albanian parents (so called nationality *iure sanguinis*).

Due to the fact he already had Albanian nationality at the time he played his first official competition with the Swiss youth categories, he was eligible to change association as this situation complies with the criteria set out in Article 8.1.

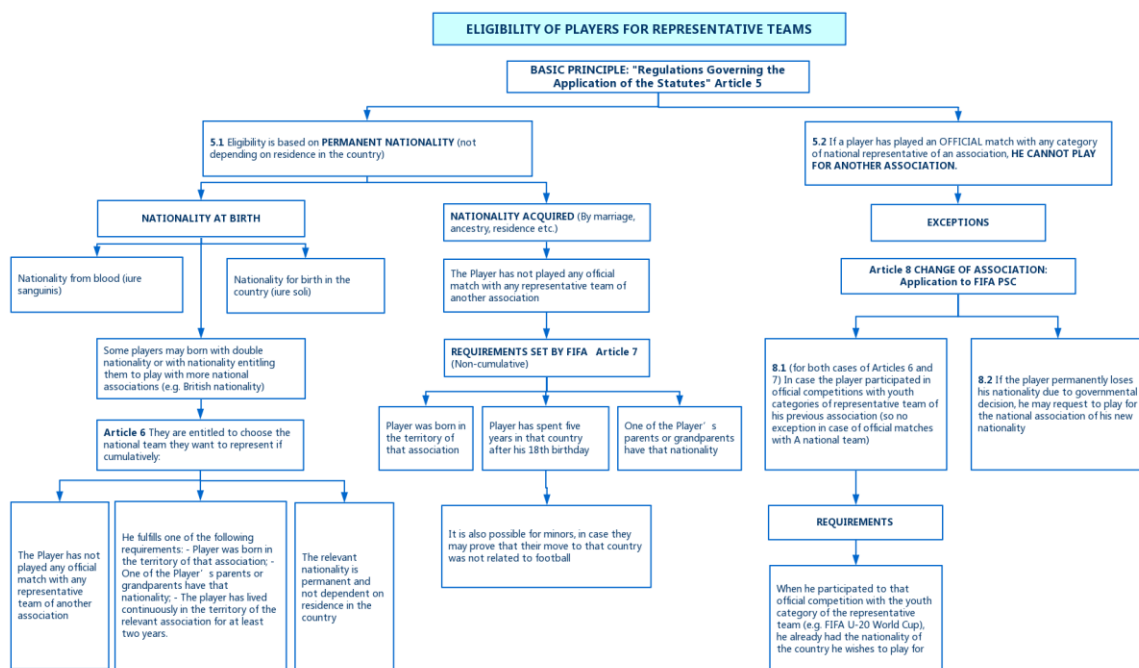
IV. Conclusion

It is clear that the eligibility of players and change of nationality is a complex field and each case shall be individually analyzed. For this reason, players and national associations are required to pay special attention to different factors, prior to filing any application to the FIFA PSC.

Due to changing geopolitical situations and growing migration between countries, eligibility of players is going to be one of the trending topics in football for the next several years.

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At the Football Law Annual Review 2019 held in the FIFA headquarters in Zurich, it was said that during the year 2018 more than 80 decisions have been passed in relation to eligibility cases. We expect that the number of these decisions will increase in the near future and perhaps FIFA may change its approach on the matter, with further amendments of the legal framework.



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¹ The last edition of such regulations was published in June 2018. For the sake of clarity, all provisions mentioned in this section are from the FIFA Regulations Governing the Application of the Statutes. The Regulations of the FIFA World Cup and the AFC Champions League Competition Regulations (edition 2019) also regulate certain eligibility aspects in relation to these competitions.

² Official matches are those of competitions organized by FIFA or confederations (i.e. not friendly games).

³ For example, this can occur with nationals of the People's Republic of China (i.e. nationals of Mainland China , Hong Kong , Macau and Taiwan). Players with dual nationality by birth also fall under this Article 6.

⁴ This requirement may be deleted or amended by those associations which share a common nationality, by virtue of an official agreement which shall be afterwards approved by the FIFA Council.

⁵ There is a non-written exception to Article 7 (d) for those cases where a player has lived continuously for at least five years before the age of 18 on the territory of the relevant association. However, the FIFA PSC will only grant this exception in case the player and the new national association prove that the move of the player was due to reasons not related to football.

⁶ As per Article 8, the players who may request to change of association are (i) those players who have more than one nationality, or (ii) those who acquire a new nationality, or (iii) those who are eligible to play for several representative teams due to nationality.

⁷ As the decisions of the FIFA PSC on this matter are not public.