

THE FIVB DISCIPLINARY PANEL SUB-COMMITTEE

composed by

Dr Rosmarijn van Kleef (NED)	Vice-Chairperson
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Case DP [Year]¹-01

I. PARTIES

1. [Player 1] and [Player 2] are players of the women's national team of [Players' Country] (hereafter the "**Players**") and members of the Volleyball Federation of [Players' Country] (hereafter the "**National Federation**") (together referred to as the "**Parties**").

II. FACTUAL BACKGROUND AND PROCEDURE

2. On [date], during the [event] in [Country] taking place from [date] to [date] (hereafter the "**Event**"), a Preliminary Round match took place in between the national teams of [Players' Country] (hereafter the "**Team**") and [country of the opposing team from Asia, hereafter: "**Second Country**"], at 15:00 local time² (hereafter the "**Match**").
3. The Team won the first set of the Match.
4. The Team was leading the score with nine points to eight during the second set. At the end of a mega rally, the Team scored the tenth point of the second set following a fault made by the national team of [Second Country].
5. When celebrating winning the tenth point, [Player 1] made a slant-eye gesture while heading towards her teammate [Player 2] who reacted by doing a similar gesture (hereafter the "**Gestures**").
6. After the Match, [Player 1] posted a written apology on social media (temporary Instagram story) (hereafter the "**Player's Apology**").
7. In her apology, [Player 1], stated the following:

"I am aware of my mistake and I immediately after the match apologized to the whole [Second Country] team. I only wanted to address my teammates with the message: "now, we will start playing defense like them", I didn't mean to disrespect anyone. Of course, it was unfortunate and not so smart gesture from my side. I want to apologize one more time to all people all over the world who

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

² [LINK to the Event]

are offended by this. Big thanks to the [Second Country] team for understanding.” [sic]

8. Immediately after the Match, [Player 1] met the women’s national team of [Second Country] in their locker room to apologise in person. She appeared in an Instagram video alongside multiples members of the women’s national team of [Second Country], and, in particular, [Player of the Second Country’s national team, hereafter: Second Country’s Player], who posted the video on her profile on the same day, where they appeared friendly and embraced each other. [Player 1] appeared to be crying, blowed a kiss to the camera and can be heard to say “Sorry” in the video.
9. Shortly after the Match on [date], the National Federation posted a written apology on social media (Twitter, Instagram and Facebook) (hereafter the “**NF’s Apology**”).
10. The NF’s Apology on Twitter stated the following:

“Was it uncalled for? Yes. Was it a racist gesture? Yes. What we argue is that there was no intention or malice. This young girl didn’t grasp the weight of the gesture. It is unacceptable, we agree. But our girls are no racist by any means. We sincerely apologize to all affected.” [sic]
11. The NF’s Apology on Facebook stated the following:

“We are deeply saddened by the recent events that took place during the [Players’ Country] vs [Second Country] #VNL match in Rimini and the unfortunate gesture of our player [Player 1].

We apologize sincerely to the [Second Country] team, people of [Second Country] and to all of you affected by this.

But, please don’t blow this out of proportion! [Player 1] is aware of her mistake and she immediately apologized to the whole [Second Country] team. She only wanted to show her teammates “let’s start playing defense like them now”, she didn’t mean any disrespect. Of course, it was unfortunate.

It all ended up as a simple misunderstanding, in a friendly atmosphere between the players of the two teams.”
12. On [date], the FIVB Disciplinary Panel Sub-Committee charged the Players and the National Federation with violations of Article 8.1, 8.4 and 8.5 of the FIVB Disciplinary Regulations 2020 and opened the present proceedings (hereafter the “**Charge Letter**”).
13. In light of the ongoing Event, the FIVB Disciplinary Panel Sub-Committee invited the Players and the National Federation to respond to the charges by no later than midnight on [date] (hereafter the “**Answer**”).
14. On [date], the Volleyball Federation of [Players’ Country] sent a letter to the [Second Country] Volleyball Association apologising for the incident involving [Player 1] during

the Match and clarifying that it was a clumsy celebration following a hard-fought point with no offensive or insulting intention behind it.

15. On [date] , the [Second Country] Volleyball Association sent a letter to the Volleyball Federation of [Players' Country] thanking them for their apology and expressing their understanding of the inoffensive mistake made by [Player 1] which did not appear racially motivated.
16. On the same day, the FIVB Disciplinary Panel Secretariat clarified that the deadline for the Parties to provide the Answer was by no later than 00:00 AM CEST (at the beginning of the day) on [date].
17. On [date] at 23:29 CEST, [Player 1] filed her Answer (hereafter the "[Player 1] Answer").
18. On [date] at 00:32 CEST, [Player 2] filed her Answer (hereafter the "[Player 2] Answer").
19. On the same day at 12:08 CEST, the FIVB Disciplinary Panel Secretariat acknowledged receipt of the respective Answers filed by the Players and invited them to provide a signed copy of their Answers and its enclosure within the same deadline for providing the Answer. Additionally, the FIVB Disciplinary Panel Secretariat reminded the National Federation that its deadline for submitting its Answer remained by no later than 00:00 AM CEST (at the beginning of the day) on [date].
20. On [date] at 13:09 CEST, [Player 2] filed a signed copy of the [Player 2] Answer which submitted, in essence, the following:
 - [Player 2] actions have been mistakenly interpreted as slant-eye gestures. However, [Player 2] was merely wiping her eyes, which is a common step she takes as part of her "court routine".
 - As evidenced by video footage, [Player 2]'s court routine includes the following steps, in order: wiping her shoes, tightening her hair and wiping her face with her shirt.
 - When [Player 1] made the Gestures, [Player 2] mechanically wiped her eyes and cleaned her mascara as part of her routine, and regrets the unfortunate timing of this.
 - When the Players realised the reactions on social media to [Player 2]'s gestures and the unintended offense caused, they immediately went to meet the women's national team of [Second Country] in their locker room to explain.
 - [Player 2] apologised for any offense inflicted by the act of her wiping her eyes during the Match which has been mistakenly interpreted as a slant-eye gesture.
 - [Player 2] provided a statement from the team manager, [name of the team manager, hereafter "Team Manager"], stating, in particular, that [Player 2] was unconsciously touching her eyes, as part of her court rituals, and not making a slant-eye gesture during the Match.

21. On the same day 13:13 CEST, [Player 1] filed a signed copy of the [Player 1] Answer which submitted, in essence, the following:
- [Player 1] explained her background and that she comes from a family of professional football and volleyball players free of prejudice or discriminatory ideas.
 - The Gestures made during the Match were not racially motivated, were not intended to offend anyone and were the result of a bad and thoughtless reaction.
 - [Player 1] had just played the longest point of her career and intended to express her admiration for the defence players of the women's national team of [Second Country]. By making the Gestures, she meant to say that she was becoming as good as the opposing team.
 - After the Match, when she saw the reactions on social media, [Player 1] felt remorse and immediately went to apologise in person to the women's national team of [Second Country]. [Player 1] also issued written apologies on her Instagram profile.
 - This experience has taught her the impact that such actions may have, in particular on social media, and the significance of the Gestures and her mistake.
 - In [year], when her team qualified to [another international event in Asia], they learned that such gestures can be construed as offensive and recognised worldwide as racist. However, in her team's view, it was intended as a sign of solidarity and affection towards the Asian community. In that moment, her emotions took over and were intended as positive and inoffensive.
 - [Player 1] is not racist, rather she recklessly chose to make an inappropriate gesture and is very apologetic.
 - [Player 1] provided a statement from the team manager, [Team Manager], stating in particular that [Player 1], who is not racist, misunderstood the impact of the Gestures and, due to unfortunate circumstances, her actions have been misconstrued as racist on social media.
22. On [date] at 16:57 CEST, the National Federation filed its Answer (hereafter the "**NF Answer**") which submitted, in essence, the following:
- The National Federation finds such behaviour unacceptable and is already taking actions towards preventing them in the future.
 - While the Gestures were a clumsy celebration of a hard-fought point, it is clear from the evidence that [Player 1] directed the Gestures at her teammate [Player 2] and not towards the players of the women's national team of [Second Country], which would have been the case had they been racial insults.
 - [Player 2] did not make slant-eye gestures. Rather, she was removing sweat from below her eyes which is apparent on the video. The timing of this was unfortunate

in light of the Gestures made by [Player 1]. However, [Player 2] did not make any racist gestures. Therefore, disciplinary proceedings should not have been opened against [Player 2].

- The National Federation denies any racist intent behind this incident. At the same time, the National Federation acknowledges that people may have felt offended when misinterpreting [Player 1]'s behaviour.
- Immediately after the Match, the National Federation issued written apologies on its social media platforms (Instagram, Facebook and Twitter). Additionally, [Player 1] went to apologise, in person, to the women's national team of [Second Country].
- The National Federation sent a letter of apology to the [Second Country] Volleyball Association and to the Asian Volleyball Confederation.
- The [Second Country] Volleyball Association replied to this letter in a very positive and understanding manner. The [Second Country] Volleyball Association agreed that the Gestures were not racially motivated and that [Player 1] "*did nothing wrong*", but that they were a poor expression of joy in that moment. It is evident that the [Second Country] Volleyball Association does not consider itself a victim of racism. As such, no racist act can be held against the Players. Additionally, the reply from the [Second Country] Volleyball Association does not mention [Player 2] which shows that she was erroneously included in these proceedings.
- The National Federation is aware of the importance of its historic and present relationship with the Asian community, in particular in light of [Players' Country]'s geographic situation and cultural history. The National Federation has strong bonds with the Asian continent, which is also apparent from their volleyball activities and exchange programmes (as can be seen in the letter addressed to the [Second Country] Volleyball Association).
- The Gestures made by [Player 1] were not intended to be provocative or insulting. Rather, they were the result of a young woman thoughtlessly expressing admiration for the women's national team of [Second Country] during a moment of joy and in a positive context. Considering her lack of intent, [Player 1] cannot be held liable for a violation or, *ad minima*, this should be considered as a mitigating factor.
- Culturally, in [Players' Country], slant-eye gestures are not perceived as insulting or having a derogatory meaning. In [year], when the [Players' Country] team made the same gestures, the intention was singularly a positive identification with the Asian community, not racism. However, this incident did not suffice to prevent it from happening again.
- [Player 1] made an unintentional mistake, and better education could have prevented this. As such, the National Federation will immediately start implementing seminars and awareness programmes regarding these sensitive issues.

23. On [date] at 15:27 CEST, additional evidence was submitted to the Parties related to [Player 2] (video of the Gestures from another angle and screenshot of [Player 2] making the alleged Gestures) and [Player 2] and the National Federation were invited to provide their comments thereon by no later than 15:30 CEST on [date]. The FIVB Disciplinary Panel Secretariat also informed [Player 2] and the National Federation that a failure to provide comments within the applicable deadline would be deemed as waiver of their right to be heard on the additional evidence and as a confirmation of the contents of their respective Answer.
24. On [date] at 10:24 CEST, the National Federation filed its submission which submitted, in essence, the following:
- In accordance with Article 16.4.4 of the FIVB Disciplinary Regulations 2020, the evidence should not be accepted as it was provided after the initial deadline provided by the FIVB Disciplinary Panel Sub Committee.
 - The National Federation stands by its original claims in the NF Answer as well as the statements provided by [Player 2], [Player 1] and [Team Manager] as the additional evidence provided is inconclusive.
 - People who make a slant-eye gesture usually pull the corner of their eyes with their index fingers as supported by the photographic evidence provided.
 - As part of her normal routine of rubbing her eyes, [Player 2] made a different gesture and was using all four fingers except her thumbs. However, the timing of her gesture was unfortunate. In addition, there were no reactions when she made the same movement on previous occasions.
 - [Player 2] is not mentioned in the letter from the [Second Country Volleyball Association] nor in the Instagram video of the member of the women's national team of [Second Country], [Second Country's Player].
25. On [date] at 16:00 CEST, the FIVB Disciplinary Panel Sub Committee acknowledged receipt of the submission from the Volleyball Federation of [Players' Country] and noted that [Player 2] failed to provide further comments within the set deadline.

III. COMPETENCE

26. The FIVB Disciplinary Panel Sub-Committee is competent to hear this case as per Article 14.6 of the FIVB Disciplinary Regulations 2020, which provides, in its relevant part, the following:

"14.6 The FIVB Disciplinary Panel Sub-Committee (or the FIVB Representative) is competent to impose sanctions for simple and major offences arising on the occasion of the competition for which it was appointed, as specified herein."

27. As the Gestures were made on [date] during the Event, which started on [date] and is scheduled to end on [date], this charge falls on the occasion of the [event] and under the competence of the FIVB Disciplinary Panel Sub-Committee.
28. The FIVB Disciplinary Panel Sub-Committee further notes that the Players and the National Federation did not challenge the competence of the FIVB Disciplinary Panel Sub-Committee to hear the present case.

IV. APPLICABLE LAW

29. The FIVB Disciplinary Panel Sub-Committee notes that the FIVB Constitution and Regulations apply to this case. Additionally, Swiss law is applicable subsidiarily to the FIVB Disciplinary Regulations in accordance with Article 1.2 of the FIVB Disciplinary Regulations 2020.
30. The FIVB Disciplinary Regulations 2020 are applicable as to the substantive rules of the present dispute as they were passed by the FIVB Board of Administration on 13 November 2020 and provided to the Players and the National Federation with the Charge Letter.
31. The substantive provisions which are relevant for the resolution of this dispute are quoted in the following:

"8. VIOLENT CONDUCT

8.1 Any action, attitude or public statement displaying an improper use of physical or emotional force in order to injure, intimidate, harass or defame the FIVB, its guests, third parties or any of the persons listed in Article 1 herein (including violations of the FIVB Policy against Harassment and Abuse) is considered a violent conduct which shall be sanctioned in accordance with the seriousness of the violation.

8.2 Violent conduct in connection with a competition or in general a Volleyball activity shall be sanctioned as a major offence. Sanctions shall be imposed on the persons involved and/or the national federation or club accountable for such actions (see Article 2.4 above).

[...]

8.4 Harassment, insult, verbal or physical abuse (including violations of the FIVB Policy against Harassment and Abuse) by a coach, player, team delegation member, official to or against a player or any other team member or official present, shall be sanctioned by the Disciplinary Panel Sub-Committee with suspension for one or more matches or exclusion from the competition depending on the seriousness of the violation.

8.5 The NFs and their Organising Committee of a Competition must deal courteously and considerately with the FIVB, its officials and the members of the

Control Committee, referees, participating team delegations and guests. Any commentary or remark expressed publicly through the media, detrimental to the image or the reputation of the FIVB and its institutions or any of its officials is considered violent conduct.”

“2. GENERAL PRINCIPLES

[...]

2.3 Unless otherwise specified, offences are sanctionable regardless of whether they have been committed intentionally or negligently.

2.4 In addition to personal responsibility, national federations and clubs are accountable, and may be sanctioned accordingly, for the conduct of their players, members, officials, supporters and any persons exercising a function within the federation or the club and/or during the organization of a match on behalf of the federation or club.

[...]

2.8 All sanctions imposed by the FIVB on leagues, clubs, teams and their administrators, team managers, players, coaches, technical and support personnel, FIVB officials and referees and referees affiliated to a NF shall also apply at a continental and national level, unless otherwise decided by the FIVB.”

“5. EXECUTION OF SANCTIONS

[...]

5.5 Disqualification of players and coaches

5.5.1 Disqualification must be applied to the FIVB and/or other competitions (as applicable) immediately following notification.

5.5.2 If a coach or player participates in a match while he is suspended or disqualified, his team shall forfeit the match and the sanction will be doubled or restart, as decided by the body which imposed it.”

V. PROCEDURAL CONSIDERATIONS

32. The FIVB Disciplinary Panel Sub-Committee notes that the National Federation argues that, in accordance with Article 16.4.4 of the FIVB Disciplinary Regulations 2020, the additional evidence provided on [date] should be disregarded as it was provided after the initial deadline set by the FIVB Disciplinary Panel Sub-Committee.
33. The FIVB Disciplinary Panel Sub-Committee notes the content of the following provisions of the FIVB Disciplinary Regulations 2020:

“16.1.2 Upon request by the competent FIVB body, the concerned person must provide any information which the competent FIVB body considers may be relevant to investigate the alleged violation, including records relating to the alleged violation (such as betting account numbers and information, itemised telephone bills, bank statements, internet service records, computers, hard drives and other electronic information storage devices), and/or a statement setting out the relevant facts and circumstances around the alleged violation.”

“16.4.4 At the end of the deadline granted for the exercise of the right to be heard or following the hearing at which the right to be heard was also exercised orally, the FIVB institution will take its decision which will be notified to the concerned person. This decision will indicate the deadline and appeal process, specifically mentioning the competent institution to revise the decision taken.”

34. In light of the above, the FIVB Disciplinary Panel Sub-Committee notes that the request to comment on the additional evidence collected falls perfectly within the scope of Article 16.1.2 and 16.4.4 of the FIVB Disciplinary Regulations 2020 and that the FIVB Disciplinary Regulations 2020 do not prevent the consideration of additional evidence. On the one hand, [Player 2] and the National Federation were provided with the opportunity to clarify the facts and circumstances of the alleged violation in light of the new evidence regarding the player. On the other hand, it is with the express objective of respecting the concerned persons’ right to be heard that they were invited to comment on the new evidence.
35. As such, the FIVB Disciplinary Panel Sub-Committee finds that the additional evidence provided [date] is admissible.

VI. LEGAL CONSIDERATIONS

(a) Violations

(1) Violent Conduct

36. The FIVB Disciplinary Panel Sub-Committee notes that:
- [Player 2] denies making the Gestures and claims that she was cleaning her eyes as per her usual court routine during matches.
 - [Player 1] does not deny making the Gestures. However, she denies any offensive or racist intention behind the Gestures.
 - The National Federation denies any racist intent behind the Gestures made by [Player 1] and claims that [Player 2] did not make any slant-eye gestures as she was merely wiping sweat from her eyes when [Player 1] came towards her.
37. The FIVB Disciplinary Panel Sub-Committee will analyse each of these points in turn.

38. First, as regards [Player 2], the FIVB Disciplinary Panel Sub-Committee notes that the only evidence of her making the Gestures is the excerpt of the videos of the Match, from two different angles, where she appears to be briefly putting her fingers to the side of her eyes in reply to the Gestures made by [Player 1], as well as relevant screenshots of the alleged Gestures where she can be seen putting her fingers to the side of her face.
39. However, both [Player 2] and the National Federation deny that she made a slant-eye gesture and claim that this movement was only to wipe the mascara/sweat from her eyes. [Player 2] and the National Federation have provided evidence that the gestures made by [Player 2] are different to those usually made when making a slant-eye gesture, i.e. by using one's index fingers to the exclusion of the other fingers. Additionally, [Player 2] claims that her match routine always involves touching and wiping her face and/or hair, and that these movements are often made subconsciously. Indeed, at least one of the screenshots provided from different matches seems to show [Player 2] making a similar hand movement with both hands.
40. The FIVB Disciplinary Panel Sub Committee notes that the applicable standard of proof is the balance of probabilities (Article 16.3 of the FIVB Disciplinary Regulations 2020), i.e. the satisfaction that, on the preponderance of the evidence, it is more likely than not that a breach of the FIVB Disciplinary Regulations has occurred.
41. In this regard, based on the second video provided, the FIVB Disciplinary Panel-Sub Committee finds that the movement made by [Player 2] looks very similar to a slant-eye gesture in immediate response to her teammate's Gestures. However, given the distance between the camera and [Player 2], it is difficult to tell what precisely she is doing with her hands. Also, the FIVB Disciplinary Panel-Sub Committee finds that, in the first video provided, it is clear that [Player 2] is using four fingers. Although this would perhaps be somewhat unusual for a slant-eye gesture, the FIVB Disciplinary Panel Sub-Committee does not find this argument sufficiently convincing to determine whether or not [Player 2] made a slant-eye gesture. In fact, it is not impossible that the movements made by [Player 2] could have been a slant-eye gesture. However, given the comparable weakness of the video evidence, the FIVB Disciplinary Panel Sub-Committee is not satisfied that the version of the player, i.e. that she wiped her eyes, can be ruled out with the necessary degree of conviction. As such, at this time, the FIVB Disciplinary Panel Sub-Committee is not satisfied that it is more likely than not that she was making a slant-eye gesture. The FIVB Disciplinary Panel-Sub Committee notes that, under the FIVB Disciplinary Regulations 2020, it does not have the procedural option to suspend only the case of [Player 2] for further investigation without delaying the decision in the case of [Player 1], which would be undesirable.
42. Therefore, the FIVB Disciplinary Panel Sub-Committee finds that the FIVB has not fulfilled its burden of proof and the charges against [Player 2] may not be upheld in order to assert violations of Article 8.1 and 8.4 of the FIVB Disciplinary Regulations 2020.
43. Second, turning to the case of [Player 1], neither [Player 1] nor the National Federation deny that she made the Gestures and that they can be perceived as culturally insensitive. However, both [Player 1] and the National Federation deny any racist intent

behind her actions and claim that she did not intend to offend anyone during her celebration of the point scored.

44. The FIVB Disciplinary Panel Sub-Committee notes that [Player 1] immediately apologised in person and on social media to the women's national team of [Second Country] as well as its fans and followers. As such, she is clearly remorseful about her unfortunate mistake. Consequently, it is apparent that [Player 1] became aware that the Gestures were offensive to other people.
45. Nevertheless, it is also apparent that the Gestures were culturally insensitive and insulting. Not only did countless members of the volleyball family across the globe report the actions of the Players online, but this also came after similar accusations made against the women's national team of [Players' Country] who, in [year], made slant-eye gestures in a photograph to celebrate their qualification to [another international event in Asia]³.
46. Additionally, the FIVB Disciplinary Panel Sub-Committee notes that similar behaviour by an assistant coach and players of two different national teams was sanctioned by the FIVB, in [year], during some of the last international volleyball events which took place before the COVID-19 pandemic brought sports to a halt and, thus, before the Event⁴.
47. While the National Federation argues that [Player 1] cannot be held liable due to the lack of intent to offend anyone, the FIVB Disciplinary Panel Sub-Committee highlights that offences are sanctionable regardless of whether they have been committed intentionally or negligently (Article 2.3 of the FIVB Disciplinary Regulations 2020).
48. Taking all of the above into consideration, the FIVB Disciplinary Panel Sub-Committee notes that such imprudent behaviour is incompatible with the principles of fair play, Olympism and the protection of human rights as reminded namely in Article 20.2.1 of the FIVB Official Volleyball Rules 2017-2020. Moreover, in an environment such as the Event, [Player 1], as a professional and experienced international athlete – as insisted upon by her in the [Player 1] Answer – should have used precaution and a higher level of prudence, sensitivity and sportsmanship towards the international community.
49. In light of the above, [Player 1] is liable for violations of Article 8.1, 8.2 and 8.4 of the FIVB Disciplinary Regulations 2020.
50. Finally, regarding the National Federation, the FIVB Disciplinary Panel Sub-Committee notes that, on the one hand, it argues that the Gestures were not racist and simply an unintentional mistake. On the other hand, the NF's Apology on Twitter demonstrates that the National Federation acknowledged the Gestures as racist and unacceptable. Additionally, the National Federation asserts that said incident could have been prevented through better education, in particular, in light of the accusations made against its national team in [year].

³ [Links to the events] .

⁴ [LINK](#) to the decision.]

51. In light of the above, the FIVB Disciplinary Panel Sub-Committee finds that the National Federation is liable for the violations of Article 8.1, 8.2 and 8.5 *cum* Article 2.4 of the FIVB Disciplinary Regulations 2020.

(b) Sanction

52. When determining the applicable sanctions, the FIVB Disciplinary Panel Sub-Committee must look at the sanctions provided in the applicable regulations.

53. In addition to the above, the FIVB Disciplinary Panel Sub-Committee notes that Article 16.4.1 of the FIVB Disciplinary Regulations 2020 provides the following:

“16.4.1 The competent FIVB body shall evaluate the evidence, take into consideration the specific conditions under which the events occurred, the previous conduct of the person(s)/or institution(s) concerned and generally all the circumstances in order to determine whether and to what extent a sanction is required. The following principles apply:

a) When determining the appropriate sanctions applicable, the competent FIVB body shall take into consideration all aggravating and mitigating circumstances and shall detail the effect of such circumstances on the final sanction in the written decision.

[...]”

54. Furthermore, the FIVB Disciplinary Panel Sub-Committee highlights the content of Article 14.6.3 of the FIVB Disciplinary Regulations 2020 which provides the following:

“14. COMPETENCE TO IMPOSE SANCTIONS

[...]

14.6.3 Sanctions imposed by the FIVB Disciplinary Panel Sub-Committee (or an FIVB Representative) are final for the duration of the Competition.”

55. Looking at the circumstances of this case, the FIVB Disciplinary Panel Sub-Committee notes that:

- a. [Player 1] made the Gestures despite being clearly aware of the incident involving the women’s national team of [Player’s Country] in [year].
- b. [Player 1] issued the Player’s Apology on social media through her own initiative and went to apologise, in person, to the women’s national team of [Second Country].
- c. [Player 1], also through her own initiative, appeared and apologised in an Instagram video posted by a member of the women’s national team of [Second Country].

- d. On [date], i.e. on the day it was informed of the charges in the Charge Letter, the National Volleyball Federation of [Player's Country] sent a letter of apology to the [Second Country] Volleyball Association.
 - e. On [date], the [Second Country] Volleyball Association sent a letter to the Volleyball Federation of [Player's Country] thanking it for its apology, clarifying that it did not consider the Gestures to be an ethical issue and confirming the friendship of the national federations in question.
 - f. The National Federation has not sanctioned [Player 1].
56. *[Player 1]*The FIVB Disciplinary Panel Sub-Committee notes that, in accordance with Article 8.4 of the FIVB Disciplinary Regulations 2020, the applicable sanction is “a suspension for one or more matches or exclusion from the competition depending on the seriousness of the violation”.
57. Examining FIVB jurisprudence involving violations of Article 8.1, 8.4 and 8.5 (formerly Article 20.1, 20.4 and 20.5 of the FIVB Disciplinary Regulations 2019), particularly, FIVB DP 2014-01, FIVB DP 2019-01, FIVB DP 2019-03⁵ and FIVB DP 2019-04⁶, the FIVB Disciplinary Panel Sub-Committee finds that a match suspension is in line with FIVB jurisprudence.
58. The FIVB Disciplinary Panel Sub-Committee also notes that [Player 1]spontaneously issued a public apology on social media and took active measures to apologise in person to the women’s national team of [Second Country], as well as its fans and followers through the Instagram video. As such, taking into account all circumstances of this case, a total sanction of a two-match suspension is in line with FIVB jurisprudence, sufficient and proportionate to the severity of the violations.
59. In this regard, the provisions, which are relevant for the execution of the sanction, are quoted in the following:

Article 5 of the FIVB Disciplinary Regulations 2020

“5. EXECUTION OF SANCTIONS

[...]

5.5 Disqualification of players and coaches

5.5.1 Disqualification must be applied to the FIVB and/or other competitions (as applicable) immediately following notification.

⁵ [LINK to the decision]

⁶ [LINK to the decision].

5.5.2 *If a coach or player participates in a match while he is suspended or disqualified, his team shall forfeit the match and the sanction will be doubled or restart, as decided by the body which imposed it.*

[...]

5.6 Suspension

Suspension starts from the day after receipt of the written notification of the sanction unless decided otherwise by the decision-making body.”

Article 1.3 of the FIVB Event Regulations 2020

“1.3 CATEGORIES OF INTERNATIONAL VOLLEYBALL COMPETITIONS

The categories of international Volleyball competitions are:

- a. FIVB competitions;*
- b. World competitions;*
- c. Official competitions;*
- d. Recognized competitions; and*
- e. Registered competitions.”*

60. In the present case, the aforementioned match suspension is to be served during the next official matches of the women’s national team of [Player’s Country], i.e. during the Event, in principle on [date]and [date].
61. Finally, the FIVB Disciplinary Panel reserves the right to re-open the present proceedings in the event that any of the player fails to serve her match suspensions.

National Federation

62. Examining FIVB jurisprudence involving violations of Article 8.1, 8.2 and 8.5 of the FIVB Disciplinary Regulations 2020 (formerly Article 20.1, 20.2 and 20.5 of the FIVB Disciplinary Regulations 2019), particularly DP 2019-04, the FIVB Disciplinary Panel Sub-Committee finds that a fine is in line with FIVB jurisprudence. In DP 2019-04, the [Third Country] Volleyball Federation received a fine in the amount of CHF 15’000.-. Furthermore, a study of similar cases involving other sports⁷ shows that a fine is an appropriate sanction. It should be noted that in the aforementioned cases, the monetary fines varied in between CHF 10’000 and CHF 90’000. Violations under Article 8.1, 8.2 and 8.5 of the FIVB Disciplinary Regulations 2020 are considered a major offence. Pursuant to Article 4.2 of the FIVB Disciplinary Regulations 2020, a monetary fine of more than CHF 10’000.- may be imposed for a major offence. Although the National Federation sent a written apology to the [Second Country] Volleyball

⁷ Arbitration CAS 2015/A/4256 Feyenoord Rotterdam N.V. v. Union des Associations Européenes de Football (UEFA), award of 24 June 2016; Arbitration CAS 2017/A/5306 Guangzhou Evergrande Taobao FC v. Asian Football Confederation (AFC), award of 5 March 2018 (operative part of 15 January 2018); <https://img.fifa.com/image/upload/yaopnxsagb2kcaovzhrb.pdf>.



Association, the FIVB Disciplinary Panel Sub-Committee also notes that the National Federation acknowledges that the incident could have been prevented had it better educated its players, especially in light of the inappropriate celebration following the Team's qualification to the FIVB women's World Championships in Japan. Consequently, a monetary fine in the amount of **CHF 20'000.-** is in line with relevant jurisprudence, sufficient and proportionate to the severity of the violations.

Taking all the above into consideration

THE FIVB DISCIPLINARY PANEL SUB-COMMITTEE

Concludes and Decides

1. The Player, [Player 1], has committed violations of Article 8.1, 8.2 and 8.4 of the FIVB Disciplinary Regulations 2020.
2. The Player, [Player 1], shall be sanctioned with a total sanction of a suspension for two matches.
3. The Player, [Player 1] shall serve her match suspension during the next two matches of the women's national team of [Players' Country] during the [event], i.e. in principle on [date] and [date].
4. The Volleyball Federation of [Players' Country] has committed violations of Article 8.1, 8.2 and 8.5 of the FIVB Disciplinary Regulations 2020.
5. The Volleyball Federation of [Players' Country] shall be sanctioned with a fine in the amount of **CHF 20'000.-**.
6. The Volleyball Federation of [Players' Country] is ordered to make payment of the abovementioned fine **within 30 days** from notification of the decision to the following bank account:

Banque Cantonale Vaudoise (BCV)

Place Saint-François 14

CH-1001 Lausanne / Switzerland

Account: T 5344.53.25

IBAN: CH33 00767 000T 5344 5325

BIC Code (Swift Address): BCVLCH2LXXX

Bank clearing: 767

7. The FIVB Disciplinary Panel reserves the right to re-open this case in the event that any of the Player, [Player 1], fails to serve her sanction.
8. In accordance with Article 14.6.3 of the FIVB Disciplinary Regulations 2020, this sanction is final for the duration of the [event].



Lausanne, [date]

For the FIVB DISCIPLINARY PANEL SUB-COMMITTEE

Dr Rosmarijn van Kleef