

THE FIVB DISCIPLINARY PANEL

composed by

Mr. Jaime Cambreleng (ESP)	Chairperson
Mr. Luis Antonio González Ríos (PUR)	Member
Mr. Ludovic Deléchat (SUI)	Member

Case DP [Case number]¹

I. CHARGED PARTY

1. [The Coach], the head coach of the U21 women's [Country] national team (the "**Head Coach**") for the [Event] ("**Event**").

II. FACTUAL BACKGROUND AND PROCEDURE

2. From [date] to [date], the [Event] took place in the [Host Country] cities of [Host City 1] and [Host City 2].
3. On [date], after the end of the 1st set of the match between [the Opponent Team 1] and [the Coach's Team] (the "**First Match**"), the Head Coach slapped one of his players, the opposite hitter [First Player's name] (the "**First Player**") in the face during a conversation outside the pitch (the "**First Incident**"). The First Incident was recorded on a mobile phone video provided to the FIVB Legal Department on [date].
4. On [date], towards the end of the 3rd set of the match between the [Opponent Team 2] and [the Coach's Team] (the "**Second Match**"), the Head Coach slapped the middle blocker [Second Player's name] (the "**Second Player**") while she was sitting on the bench (the "**Second Incident**"). The Player was emotionally affected and, at the end of the match, was seen crying. The Second Incident was witnessed by the team guide of the [the Coach's Team], who had required the FIVB to not disclose her identity, and the security staff, [the Security Staff's name] (the "**Staff**"), who were behind the bench. The two line judges, also confirmed the Second Incident.
5. The Second Incident was reported to the FIVB Legal Department on [date]. On the same day, the FIVB DP Sub-Committee sent a charge letter (the "**Charge Letter**") to the Head Coach, providing essentially as follows:

"1. [The Coach] shall be provisionally suspended with immediate effect.

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

2. [The Coach] has the right to provide his position on the provisional suspension by no later than [Hour] ([Host City 2] time) on [date]. [...]"

6. After having sent out the Charge Letter regarding the Second Incident, the FIVB DP Sub-Committee has been informed about the First Incident, i.e., the incident regarding the match between [the Opponent Team 1] and [the Coach's Team].
7. The Head Coach did not submit any response within the set deadline.
8. On [date], the FIVB DP Sub-Committee rendered a decision (the "**Decision**"), providing as follows:

"1. The provisional suspension imposed on [date] on [the Coach] based on the violent physical misconduct from the match between [the Coach's team] and the [Opponent Team 2] on [date] shall be maintained for the duration of the [Event].

2. As a result of the suspension, [the Coach] shall not have access to any official competition venues and hotels nor be allowed to participate any further in the [Event].

3. As per Article 14.4 of the FIVB Disciplinary Regulations and considering the seriousness of [the Coach]'s misconduct, the FIVB Disciplinary Panel Sub-Committee will refer the file of the abovementioned violent physical misconduct, as well as the additional file related to the match between [the Coach's Team] and [the Opponent Team 1], to the FIVB Disciplinary Panel so that it can review the cases and evaluate whether to take any further action beyond the [Event]. At that stage, [the Coach] will be granted a deadline to provide his position in writing, including the video footage which is herewith attached, for his information."

9. On [date], the FIVB Disciplinary Panel Secretariat, referencing the Decision, requested the Head Coach to provide a written position on his misconduct during the First and the Second Matches by no later than [date]. In addition, the FIVB Disciplinary Panel Secretariat informed the Head Coach that the FIVB Disciplinary Panel would be composed as follows in the present case: Mr. Jaime Cambreleng (ESP), Chairperson, and Mr. Luis Antonio González Ríos (PUR) and Mr. Ludovic Deléchat (SUI), Members.
10. On [date], the FIVB Disciplinary Panel Secretariat noted that the Head Coach had not submitted his written position within the deadline and provided him with a final opportunity to do so by no later than [date]. Additionally, the FIVB Disciplinary Panel Secretariat invited the "[the Coach's Team's National Federation]" ("**CTNF**") to confirm – by no later than [date] - that the respective communication along with the attached documents had been delivered to the Head Coach under signature.
11. On [date], the [CTNF] sent a submission to the FIVB Disciplinary Panel Secretariat.
12. On [date], the FIVB Disciplinary Panel Secretariat acknowledged receipt of the [CTNF]'s submission which included the [CTNF]'s position on the case at hand and the Head

Coach's Answer. Upon review of said submissions, the FIVB Disciplinary Panel Secretariat noted that they were in [Language] and, in accordance with Article 16.2.2 let. c of the FIVB Disciplinary Regulations 2023, invited both the [CTNF] and the Head Coach to provide it with an English translation by no later than [date].

13. On [date], the [CTNF] provided English translations of both its submission and the Head Coach's Answer. The [CTNF]'s submission essentially stated the following:

- The Head Coach is a university professor and held various positions within the [CTNF], such as national technical director and national coach.
- The Head Coach has never been subject to any disciplinary sanctions throughout his 30 years of exemplary professional career.
- The [CTNF] has cancelled any and all contractual relations with the Head Coach following the First and the Second Incidents.
- The [CTNF] kindly asks the FIVB to take into consideration the Head Coach's age and sporting career.

In his Answer, the Head Coach essentially submitted as follows:

- He apologises for not having responded to the FIVB's previous emails, but his email address was no longer functional.
- Regarding the First and the Second Incidents, the Head Coach holds that he had no intention of attacking the players or "*diminishing*" their personalities.
- He has an excellent paternal relationship with all the players of the [Country] national team.
- The First and Second Incidents were acts of "*irritation*" aiming at pushing the players to perform better and not be "*hypnotized*" by the opposing team's high quality.
- He has been coaching [Country] national teams for over thirty years without any sort of incident.
- He apologises for his behaviour which he regrets. His behaviour was not malicious and "*not even voluntary*" but took place in a sporting context and was due to excess of emotion.
- He is trained as an educator and as such strongly "*imbued*" with the values of respect for people and the rights of young people, meaning that he cannot be violent towards his players.
- Finally, he once again offers his "*deep and sincere*" apologies to both players and the entire volleyball family.

14. On [date], the FIVB Disciplinary Panel Secretariat acknowledged receipt of the required English translations.

15. On the same day, the FIVB Disciplinary Panel Secretariat announced that the FIVB Disciplinary Panel would deliberate on the case shortly and decide based on the written submissions filed by the Parties unless otherwise decided by the FIVB Disciplinary Panel.

III. COMPETENCE

16. In accordance with Articles 13.5.2 of the FIVB Event Regulations 2023 and 14.4 of the FIVB Disciplinary Regulations 2023, the FIVB Disciplinary Panel Sub-Committee is competent to impose sanctions during an FIVB competition, such as the [Event]. In addition, pursuant to Article 14.4 of the FIVB Disciplinary Regulations 2023, the Sub-Committee may refer a matter to the Disciplinary Panel depending on the complexity and seriousness of the disciplinary breach and if it is practically possible.
17. By way of the Decision dated [date], the FIVB Disciplinary Panel Sub-Committee decided to suspend the Head Coach for the duration of the [Event], i.e., imposed a sanction during an FIVB competition. In addition, it referred the case file regarding the First and the Second Incidents to the FIVB Disciplinary Panel for review and evaluation as to whether any further action beyond the [Event] should be taken.
18. In the interest of procedural efficiency and in accordance with Article 16.4 of the FIVB Disciplinary Regulations 2023, the First Incident and the Second Incident have been consolidated in one disciplinary proceeding.
19. Hence, the procedure provided for cases of potential violent physical misconduct in the FIVB Disciplinary Regulations 2023 has been followed and the FIVB Disciplinary Panel is competent to review the matter at hand.
20. In addition, the FIVB Disciplinary Panel notes that the Head Coach did not challenge the competence of the FIVB Disciplinary Panel to hear the present case concerning the First Incident and the Second Incident.

IV. APPLICABLE LAW

21. The FIVB Disciplinary Panel notes that the FIVB Constitution and Regulations apply to this case. Additionally, Swiss law is applicable in accordance with Article 1.2 of the Disciplinary Regulations 2023.
22. The Disciplinary Regulations 2023, which entered into force on 23 June 2023 and hence were in force at the time of the incidents, are applicable for the adjudication of the present case.
23. The substantive provisions of the Disciplinary Regulations 2023 that are relevant for the resolution of this dispute are quoted in the following:

"2. GENERAL PRINCIPLES

2.1 Violations of the FIVB Constitution, Regulations and decisions may be sanctioned as provided herein and in the respective provisions of said legal documents. Violations of ethical standards shall be subject to the FIVB Code of Ethics.

[...]

2.9 The otherwise applicable sanction may be increased (up to double) in case of a recurrence of the offence. Recurrence occurs if a sanction has to be imposed again within five (5) years after a sanction had been imposed for an offence of a similar nature.”

“4. SANCTIONS

4.1 The following sanctions may be imposed for a disciplinary offence committed by individuals:

- a) Warning;*
- b) Reprimand;*
- c) Monetary fine;*
- d) Suspension from participation in competitions;*
- e) Suspension from carrying out a function within the FIVB (including Confederations, National Federations, clubs, etc.);*
- f) Withdrawal of a title or award;*
- g) Temporary or permanent withdrawal of a license;*
- h) Disqualification from competitions and/or exclusion from future competitions;*
- i) Forfeit of match(es);*
- j) Deduction of points (for the current and/or a future competition);*
- k) Ban on international transfers;*
- l) Ban on exercising any volleyball-related activity;*
- m) Volleyball community service;*
- n) A combination of the above sanctions.”*

[...]

“8. OFFENSIVE BEHAVIOUR AND DISCRIMINATION

8.1 Violations of the following provisions may be sanctioned subject to Article 2.2 of these Regulations and sanctions already imposed under the Official Rules for the same conduct.

8.2 Violent physical misconduct

Any violent physical misconduct (including any such conduct in violation of the FIVB Policy against Harassment and Abuse) shall be sanctioned based on the severity of the misconduct.

[...]

8.7 Disciplinary offences under Articles 8.1 through 8.3 as well as 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.”

V. LEGAL CONSIDERATIONS

1. Violation

24. At the outset, the FIVB Disciplinary Panel notes that, in the present case, the Head Coach has not challenged his conduct in the First and Second Incidents i.e., slapping two players coached by him on two separate occasions. Further, the FIVB Disciplinary Panel notes that mobile phone video footage of the First Incident was provided to the FIVB Legal Department on [date] and there were witnesses to the Second Incident who have confirmed the incidents. As such, the FIVB Disciplinary Panel finds that there is sufficient (and uncontested) evidence on record to prove that the Head Coach, on [date] slapped the First Player into the face and on [date] slapped the Second Player.
25. The FIVB Disciplinary Panel considers it unquestionable that the act of slapping players, as proven in this case, falls within the scope of ‘violent physical misconduct’ as provided in Article 8.2 of the FIVB Disciplinary Regulations 2023.
26. Hence, the FIVB Disciplinary Panel finds that the conduct of the Head Coach in the First and Second Incidents constituted two violations of Article 8.2 of the FIVB Disciplinary Regulations 2023.

2. Sanction

27. According to Article 8.2 of the FIVB Disciplinary Regulations 2023, any violent physical misconduct shall be sanctioned based on its severity. Further, according to Article 16.6.1 (a) of the FIVB Disciplinary Regulations 2023, when determining the appropriate sanctions, 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.”*
28. Accordingly, while deciding on the sanction to be imposed on the Head Coach in this case, the FIVB Disciplinary Panel, in line with well-established CAS jurisprudence², deems it appropriate to consider circumstances such as the gravity of the offense, the power to dissuade the offender from repeating the same offense in the future and the importance of the rule of law that is protected as well as any previous conduct or the offender’s behaviour after the disciplinary offence. The FIVB Disciplinary Panel considers it necessary to conduct an evaluation taking into account the seriousness of the facts and other related circumstances as well as the damage that the penalised conduct entailed for the parties involved.³ In any case, sanctions must comply with the principle of proportionality, according to which the severity of the sanction must relate to the gravity of the offense displayed.

² Cf. e.g., CAS 2020/A/7369.

³ Cf. CAS 2017/A/5117, para. 84.

29. The FIVB Disciplinary Panel further notes that the present case involves two separate violations by the Head Coach. Accordingly, while deciding on the sanction to be imposed in this case, the FIVB Disciplinary Panel shall consider the fact that there are two violations committed by the Head Coach.
30. Considering the above factors, the FIVB Disciplinary Panel finds that the appropriate kind of sanction to be imposed in the present case is a ban on exercising any volleyball-related activity as provided in Article 4.1 (I) of the FIVB Disciplinary Regulations 2023.
31. While considering the duration of the said ban, as mentioned above, the FIVB Disciplinary Panel deems it necessary to assess the relevant aggravating and mitigating circumstances in the present case.
32. The FIVB Disciplinary Panel considers only one factor as a mitigating circumstance in this case i.e., that the Head Coach conceded both incidents, apologized for his behaviour and demonstrated remorse. On the other hand, the FIVB Disciplinary Panel considers that the following circumstances can be seen as aggravating factors:
 - a. even if in context of an emotional situation, a Head Coach (even more so of an under-21 national team) must be in control of his physical acts at any time;
 - b. the Head Coach violated the special position of trust accorded to him as coach of an under-21 team;
 - c. in the position that the Head Coach occupied, he could be reasonably expected to be a role model to players and other members of the team, but the Head Coach blatantly failed to meet this function;
 - d. the players suffered significant psychological distress as a result of the Head Coach's conducts; and
 - e. considering that both matches were played before an audience within an FIVB event, the Head Coach damaged the public image of the FIVB.
33. Against this background and taking into account the specific circumstances of the case at hand the FIVB Disciplinary Panel considers that, already for one of the incidents, a ban for a period around 12-18 months would be appropriate. Considering that the Head Coach is a multiple offender, as he slapped two different players on two different occasions, the FIVB Disciplinary Panel considers that the sanction shall be further increased. Therefore, in view of the two infringements identified in this case, the Panel finds a ban on exercising any volleyball-related activity for two (2) years to be appropriate.
34. The FIVB Disciplinary Panel notes that the factual situation in the present case, i.e., slapping or violent physical misconduct by a coach against his players, is unprecedented as far as the jurisprudence of FIVB judicial bodies are concerned. However, the FIVB Disciplinary Panel also considered relevant jurisprudence of the Court of Arbitration for Sport ("CAS") involving violent physical misconduct and noted that the panel in the case CAS 2008/A/1603, where a coach hit one of the referees by slapping him in the chest and verbally abused him, considered a sanction of suspension of three years

appropriate. Hence, also in light of this, the FIVB Disciplinary Panel considers the above-mentioned sanction to be appropriate in the present case.

35. The FIVB Disciplinary Panel finds that the ban on exercising any volleyball-related activity shall commence on the date of notification of the present decision to the Head Coach.
36. Additionally, considering the unprecedented nature of the facts of this case and the position of power that the Head Coach occupied, the FIVB Disciplinary Panel considers it appropriate to order, based on Article 4.1 (m) of the FIVB Disciplinary Regulations, the Head Coach to undergo within the next three (3) months the [FIVB E-learning course](#) on Safeguarding mandatory for all FIVB stakeholders as of [date].

Taking all the above into consideration

THE FIVB DISCIPLINARY PANEL

Concludes and Decides

1. [The Coach] has committed two violations of Article 8.2 of the FIVB Disciplinary Regulations 2023.
2. [The Coach] shall be sanctioned with a ban on exercising any volleyball-related activity of two (2) years starting from the date of notification of the present decision.
3. The Coach] shall complete the FIVB E-learning course on Safeguarding within the next three (3) months, i.e., by [date], at the latest.
4. The FIVB Disciplinary Panel reserves the right initiate disciplinary proceedings in the event that [the Coach] fails to serve his sanctions.
5. This decision may be appealed in accordance with the attached Notice of Appeals.

Lausanne, [date of the decision]

For the FIVB DISCIPLINARY PANEL

Mr. Jaime Cambreleng

Chairperson

NOTICE OF APPEALS

1. Parties who are affected by a decision of a FIVB body (e.g. the President, the Board of Administration, the Disciplinary Panel etc.) can file an appeal to the FIVB Appeals Panel unless otherwise provided in the FIVB Constitution and Regulations.
2. Appeals must be made in writing and must be received by the FIVB Secretariat within fourteen (14) days from notification of the decision, failing which the appeal will be considered inadmissible.
3. Appeals shall be accompanied by a copy of the decision appealed against and a bank certificate confirming payment of the administrative fee of CHF 2'000 into the following 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

4. Failure to pay the administrative fee within the deadline fixed by the FIVB Secretariat will result in considering the appeal withdrawn. The FIVB Appeals Panel may decide that the administrative fee be reimbursed in the event that the appeal is successful.
5. The appeal can be filed by a proxy if he/she presents a written power of attorney.
6. For details of the appeals procedure, please refer to Section III of the FIVB Disciplinary Regulations (<https://www.fivb.com/en/thefivb/legal>)
7. A further appeal against the decision by the FIVB Appeals Panel can only be lodged with the Court of Arbitration for Sport in Lausanne, Switzerland, within twenty-one (21) days following receipt of the decision.