

THE FIVB DISCIPLINARY PANEL

composed by

Ms. Margaret Ann Fleming (SCO)	Chair
Mr. Tomohiro Tohyama (JPN)	Member
Mr. Mounir Ben Slimane (TUN)	Member

I. FACTUAL BACKGROUND

1. On 29 and 31 May 2015 Brazil hosted Serbia at the Mineirinho Gymnasium in Belo Horizonte, Brazil ("the Venue"), for the Intercontinental Round of the FIVB Volleyball World League 2015 (Group 1).
2. The first match was played on 29 May 2015 ("the First Match"). Brazil won the First Match by 3-2 sets. Representatives of both teams participated in a post-game press conference after the First Match, which took place at the Venue.
3. The second match was played on 31 May 2015 ("the Second Match"). Brazil won the Second Match by 3-1 sets. A post-game conference was organized at the Venue. The captain of the Brazilian team, Mr. Murilo Endres, as well as the head coach Mr. Roberlay Leonaldo, were present. Neither the captain of the Serbian team Mr. Dragan Stanković ("the Captain") nor the head coach Mr. Nikola Grbić ("the Head Coach"), or any other representative of the Serbian team, attended the press conference after the Second Match.
4. In his report of the same day, the FIVB Supervisor Mr. Roberto Wilfrido Escobar Gonzalez ("the FIVB Supervisor") stated as follows:

"In general very good organization thanks to the professionalism of the CBV(BRA NF) staff and also their experience with such type of events, complying with all the requirements of FIVB. Since I had a flight very close to the time the match finished, I had to leave the stadium in haste and coordinate with Sandra everything regarding the score sheets and the reports to FIVB. On my way to the hotel I was informed that the team of Serbia did not show up at the Press Conference. I do not know the reason, because both teams and their attachés had received all the instructions that there was an obligation to appear at the press conference." (free translation from Spanish – emphasis added)

II. COMPETENCE

5. The FIVB Disciplinary Panel (hereinafter "the Panel") is competent to hear this case as per Articles 17.5 and 17.6 of the 2015 FIVB Disciplinary Regulations (hereinafter "FIVB DR").

III. APPLICABLE LAW

6. The Panel notes that the FIVB Constitution and Regulations apply to this case. Since FIVB has its seat in Switzerland, Swiss law may apply subsidiarily. The rules which are relevant for the resolution of this dispute are quoted in this section.

7. Article 85.5.1 of the FIVB Sports Regulations (hereinafter "FIVB SR") provides in relevant part as follows:

"[...] Each official FIVB press conference must be attended by at least the head coach of the team plus the captain unless a specific player is requested by the media instead of the captain."

8. Article 6 of the FIVB DR provides as follows:

"Disciplinary offences are classified as follows:

a) Simple offences: offences entailing a sanction under Article 7.1 below;

b) Major offences: offences entailing a sanction under Article 7.2 below;

c) Institutional offences: offences committed by NFs, Confederations, Zonal Associations, and their officers, entailing a sanction under Article 7.3 below;

d) Anti-doping rule violations: offences entailing a sanction under the FIVB Medical Regulations.

In case the FIVB Constitution, Regulations and decisions do not stipulate a specific sanction for the violation of a rule contained therein, such violation shall be treated as a major offence. However, in these cases the Disciplinary Panel is not bound by the minimum sanctions provided for in Article 7."

9. Article 7.1 of the FIVB DR provides as follows:

"The following sanctions may be imposed for a simple offence;

a) Warning;

b) Reprimand;

c) Monetary fine up to CHF 10,000;

d) Repeal of a right (for example a suspension, i.e. prohibition from participation, for a given period of time, in any official activity within the sphere of the FIVB) up to six (6) months;

e) A combination of the above sanctions."

10. Article 7.2 of the FIVB DR provides as follows:

"The following sanctions may be imposed for a major offence;

a) Monetary fine of more than CHF 10,000;

b) Repeal of a right (for example a suspension, i.e. prohibition from participation, for a given period of time, in any official activity within the sphere of the FIVB) of more than six (6) months;

c) Disqualification;

d) Forfeit of match(es);

e) Deduction of point(s);

f) A combination of the above sanctions."

11. Article 8.1 of the FIVB DR provides as follows:

"The body that imposes the fine decides the terms and time limits for payment."

12. Article 8.4 of the FIVB DR provides as follows:

"Delayed payment shall involve a five percent (5%) per annum surcharge and prohibition from participation in Competitions until the entire fine has been paid."

13. Article 9 of the FIVB DR provides as follows:

"Non-observance of sanctions imposed by the FIVB bodies shall be subject to the sanctions provided under Article 7.2 above."

IV. PROCEDURE

14. Article 19.1 of the FIVB DR provides as follows:

"Except for urgent matters, a sanction may not be imposed before the person concerned has had the opportunity to be heard and to present his/her case. The competent FIVB body is free to decide whether the right to be heard may be exercised solely in writing (ordinary mail, facsimile, email), or also orally. It may authorize the use of telephone or video conference."

15. On 1 June 2015, FIVB provided the Serbian Volleyball Federation ("the OSSRB", as per its Serbian acronym) delegation with the opportunity to submit its position on the matter.

16. On 3 June 2015, the OSSRB submitted to FIVB the position of the Serbian delegation, which consisted of a statement by the Team Manager of the Serbian Team Mr. Laslo Lukač ("the Team Manager"). In his statement, the Team Manager submitted *inter alia* that:

- The FIVB were not effective about informing the Serbian team delegates about the times and locations of both of the post-game press conferences held after the First and the Second Match respectively.
- The First Match post-game press conference was attended by the Serbian delegates. They undertook considerable effort to find out about its time and location in order to attend since they were not informed about it. Furthermore, the conference was "chaotic" and poorly organized (e.g. without translation) and resulting in the Captain not being requested to speak at all. One female event-representative came over to apologize to the Serbian team.
- After the end of the Second Match, both teams passed through the "Mixed Zone" as is required by the rules. Once again, no one from FIVB, nor any event organizers informed the Serbian delegates of any press conference time or location.
- The Team Manager returned several times to the room where the previous press conference had been organized after the First Match, however the room was empty.
- Approximately 30 minutes after the game, the same female event-representative from the previous conference informed the Team Manager about a conference and informed him that she would call them, presumably when it was time to begin. After another (at least) 20 minutes, the Team Manager approached her again when she was talking to the Brazilian team captain. When the Team Manager expressed a desire to attend the conference, she

informed him that the journalists had left the press room “and that there was no need for it to be held”.

- The Team Manager concludes by surmising that the “mistakes” in the organization of the press conferences resulted in confusion and miscommunication to the team delegates leading to Serbia delegates’ not attending the Second Match press conference on 31 May 2015. Therefore, the event organizers are solely to blame.

17. Also on 3 June 2015, the Chairman of the FIVB Disciplinary Panel Mr. Wanderley Rebello excused himself from this case, since it – indirectly – involves Brazil, and appointed as per Article 18.1 of the FIVB DR a panel of three persons, which is chaired by Ms. Margaret Ann Fleming, Vice-Chairwoman of the FIVB Disciplinary Panel.

18. On 3 June 2015, the FIVB confirmed to OSSRB that this case was forwarded to the Panel.

V. LEGAL CONSIDERATIONS:

(a) Violation(s)

19. The Panel firstly notes that there is only one issue pertaining to the aforementioned conduct: the Head Coach and the Captain were required to attend the post-game press conference pursuant to Article 85.5.1 of the FIVB Sports Regulations. The wording of the provision (“*Each official FIVB press conference must be attended by at least the head coach of the team plus the captain unless a specific player is requested by the media instead of the captain.*”) leaves no room for interpretation. They both had a duty to ensure that they were present at the press conference, and this duty includes inquiring when and where it will take place.
20. The Panel is of the opinion that attending a post-game press conference is not a particularly burdensome obligation or a difficult task, since it is almost always taking place in the same venue as the event and shortly after the conclusion of the match. This is all the more true at the top level of the FIVB competitions, such as Group 1 of the FIVB Volleyball World League.
21. Applying these principles to the present case, the Panel notes that the Head Coach and the Captain have participated in many matches in the framework of FIVB competitions and are therefore assumed to be familiar with the procedures followed in World League. In addition, they had no problem attending the press conference after the First Match, only two days earlier in the same Venue.
22. Lastly, the Team Manager’s statements regarding a lack of proper organisation, also at the press conference after the First Match, are not corroborated and come in contrast with the Supervisor’s report that the level of organization was high and that the teams had been advised that attendance of post-game press conference is mandatory. In any event, there is no evidence

whatsoever that the organisers deliberately misled or misguided the Serbian delegation in order for the latter to not attend the press conference after the Second Match.

23. The Panel therefore finds that the Head Coach and the Captain violated Article 85.5.1 of the FIVB Sports Regulations.

(b) Sanctions

24. When determining the applicable sanction, the FIVB Disciplinary Panel must look at Article 7.1 of the FIVB DR for minor offenses and Article 7.2 for major offenses.

25. Article 85.5.1 does not stipulate a particular sanction. Therefore the FIVB Disciplinary Panel shall deal with the violation as a major offense, pursuant to Article 6 of the FIVB DR which reads as follows:

"In case the FIVB Constitution, Regulations and decisions do not stipulate a specific sanction for the violation of a rule contained therein, such violation shall be treated as a major offence. However, in these cases the Disciplinary Panel is not bound by the minimum sanctions provided for in Article 7." (emphasis added)

26. After reviewing the facts and the position of the OSSRB, considering also its jurisprudence in similar cases (see case 2014/01) and the fact that the Head Coach and the Team Captain attended the press conference after the First Match, the Panel decides that a monetary fine of CHF 1,000 to each of them is appropriate in this case.

Taking all the above into consideration

THE FIVB DISCIPLINARY PANEL

Concludes and Decides

1. A fine of 1,000 CHF imposed on Mr. Nikola Grbić.
2. A fine of 1,000 CHF imposed on Mr. Dragan Stanković.

Lausanne, 10 June 2015

For the FIVB DISCIPLINARY PANEL



Margaret Ann Fleming
Chair