

Decision of the Adjudicatory Chamber of the Ethics Committee

passed on 19 January 2022

DECISION BY:

Vassilios SKOURIS (Greece), Chairperson
Fiti SUNIA (American Samoa), Deputy Chairperson
Stefan BUONTEMPO (Malta), Member

ON THE CASE OF:

Diego Alberto Guacci, Argentina
(Decision FED-159)

REGARDING:

FIFA Ethics Code, Art. 23 – Protection of physical and mental integrity

I. FACTS

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the Adjudicatory Chamber of the Ethics Committee (**the Adjudicatory Chamber or the Chamber**) has thoroughly considered in its discussion and deliberations any and all evidence and arguments submitted.

A. Proceedings before the Investigatory Chamber

1. Procedural background and communications with the party

a. The Respondent

2. Mr Diego Alberto Guacci (**Mr Guacci or the Respondent**) was a football official linked to the Argentinian Football Association (**AFA**) as a women football manager and technical director of the U17 and U15 Argentinian women's national teams.
3. He was also the technical director of women's football in the Club Atlético River Plate from 2014 to 2017 and technical director of women's football at the Club Deportivo UAI Urquiza from 2011 to 2014.
4. In addition, Mr Guacci has been a FIFA Instructor for women's football since 5 January 2011 and a FIFA Technical Expert and Mentor since 1 January 2021.

b. Preliminary investigations and opening of proceedings

5. On 28 January 2020, a staff member of the FIFA Women's Football personally received a complaint related to a possible conduct of sexual harassment and/or abuse, which apparently had been committed by a Mr Guacci against a woman football player.
6. Based on the above, on 31 January 2020, a member of the FIFA Safeguarding & Child Protection Department contacted the alleged victim via telephone call as to obtain more information on the reported conduct.
7. On the same date, the FIFA Safeguarding & Child Protection Department submitted a report before the Investigatory Chamber of the Ethics Committee (**the Investigatory Chamber**) highlighting the relevant aspects of the allegations and incidents that were apparently committed by Mr Guacci during his time as head coach of the women's team of two main clubs in Argentina (namely Atletico River Plate and Deportivo UAI Urquiza). In particular, the report indicated several wrongful acts addressed to the complainant and her teammates, including:
 - the use of discriminatory and denigratory words on the account of gender, sexual orientation and physical appearance; and
 - conducts related to sexual harassment, mental abuse, hostile acts and threats.

8. As a result of the foregoing, and in accordance with art. 59 of the FIFA Code of Ethics, 2019 edition, on 1 February 2020, Ms Maria Claudia Rojas, then Chairperson of the Investigatory Chamber, instructed the Secretariat of the Investigatory Chamber (**the IC Secretariat**) to initiate preliminary investigations into any potential breach of the FIFA Code of Ethics by the Respondent.
9. Subsequently, a series of written enquiries, interviews and requests for documents and information has been ongoing between the Investigatory Chamber and several entities. Further reference to those elements can be found in the following developments.
10. On 13 April 2021, based on the evidence gathered, in accordance with art. 60 (2) of the FIFA Code of Ethics, 2020 edition (**FCE**), formal investigation proceedings were initiated by the Investigatory Chamber against Mr Guacci with respect to possible violations of arts. 13, 22 and 23 of the FCE. The Investigatory Chamber further asked Mr Guacci to submit a written statement concerning the allegations.

c. New composition of the investigatory chamber of the FIFA Ethics Committee

11. On 21 May 2021, FIFA held its 71st Congress, during which the FIFA member associations voted on the election and/or re-election of the chairpersons and deputy chairpersons of the independent committees, including both chambers of the FIFA Ethics Committee.
12. As a consequence of the foregoing, the composition of the Investigatory Chamber was modified and the former Chairperson and chief of investigation in the present proceedings, Ms Rojas, was replaced by Mr Martin Ngoga, who was appointed as the new Chairperson of the Investigatory Chamber.
13. On 24 June 2021, since Ms Rojas was no longer a member of the Investigatory Chamber, Mr Ngoga, in his new capacity and in accordance with art. 63 FCE decided to appoint Ms Margarita Echeverria, member of the Investigatory Chamber, to lead the investigation proceedings as the new chief of investigation (**Ms Echeverria or the Chief of Investigations**).

d. Communications with the party

14. Between 13 April 2021 and 9 September 2021, several communications were addressed to Mr Guacci on different e-mail addresses to inform him about the opening of the investigation proceedings, and to invite him to provide his position concerning the allegations against him.
15. On 9 September 2021, the Respondent *inter alia* requested an extension of the time-limit to respond to the allegations, such request being subsequently granted.
16. On 17 September 2021, Mr Guacci provided the Investigatory Chamber with a written statement responding to the allegations brought against him. In a nine-page document, the latter expressed his interest in cooperating with the Investigatory Chamber, rejecting the accusations filed against him and providing an extensive list of witnesses.
17. On 7 October 2021, after some exchange of communications with the Investigatory Chamber, Mr Guacci *inter alia* provided additional information on the above witnesses.

e. Communications with other stakeholders

i. AFA and AFA's Ethics Committee

18. On 5 November 2020, the Investigatory Chamber contacted AFA, providing it with information about the complaint related to a possible conduct of sexual harassment and/or abuse, apparently committed by a technical director (coach) of one of the women's national teams in Argentina, further informing it that it had initiated investigatory proceedings against Mr Guacci. More specifically, AFA was requested to indicate whether it had received any complaints or initiated an investigation procedure during the years 2019 and 2020 regarding conduct of sexual harassment and/or abuse suffered by players of the national team.
19. On 13 November 2020, the AFA replied to the above-mentioned request, *inter alia* informing the Investigatory Chamber that neither the association nor its independent bodies had, so far, received any claim or initiated any proceedings in 2019 and 2020 with respect to conducts of sexual harassment and/or abuse committed against women players of the national squads.
20. On 11 May 2021, the AFA's Ethics Committee sent a communication to the Investigatory Chamber acknowledging that the FIFA Ethics Committee was conducting investigations for the potential acts carried out by an Argentinian coach of the women's national football teams. In particular, it requested a copy of the investigatory case file, considering that it was competent to conduct proceedings against Mr Guacci.
21. On 31 May 2021, the Investigatory Chamber clarified that:
 - although the AFA's Ethics Committee could, in parallel, have jurisdiction to deal with the alleged conducts, the FIFA Ethics Committee had exclusive competence over these investigations as it concerned potential violations of arts. 22 and 23 FCE which have allegedly been committed by a football official who had been appointed by FIFA as a Women's Football Instructor; and
 - the investigation proceedings would remain confidential in accordance with art. 36 (1) FCE.
22. On 20 September 2021, after having received Mr Guacci's written statement responding to the allegations¹, the Investigatory Chamber requested AFA's cooperation in order to gather the necessary contact details of Argentinian football officials referred to by Mr Guacci in his allegations.
23. On 22 September 2021, AFA replied to the above-mentioned request and provided the telephone numbers of seven football officials.

ii. FIFPro

24. As from 14 February 2021, the Investigatory Chamber has maintained direct contact and communications with FIFPro, said organisation having been appointed by the players (witnesses and victims) as their legal representative.

¹ Cf. para. 16 *supra*

25. On 14 February 2020, the Legal Director of FIFPro sent a letter to FIFA informing that Player A, the first complainant and whistle-blower, had authorised FIFPro to act on her behalf in any pertinent procedure that would arise as a consequence of the allegations against Mr Guacci.
26. On 15 November 2020, FIFPro provided a report on behalf of four female players: Player A, Player B, Player C and Player D, in relation to complaints filed against Mr Guacci.
27. On 26 March 2021, FIFPro *inter alia* provided the Investigatory Chamber with the redacted/anonymized witness statements of Player A, Player B, Player C and Player D, describing the allegations against Mr Guacci.
28. On 6 May 2021, FIFPro issued a public statement indicating that numerous female players, who had played in Argentina, had approached their organisation and had made a collective complaint before FIFA's Ethics Committee. FIFPro further maintained that the evidence provided to FIFA's Ethics Committee detailed how a "current" coach of AFA used his position to intimidate and sexually harassed teenage players. Finally, FIFPro made a call to all potential victims to come forward, engage with FIFPRO and share their experiences.
29. On 23 June 2021, FIFPro provided the Investigatory Chamber with the redacted/anonymized statement of a fifth player (i.e. Player E²), including allegations against Mr Guacci related to sexual misconduct and abuse towards her. In this same communication, FIFPro also reported that Mr Guacci had been inquiring about one of the witnesses. More specifically, FIFPro stated that, on 16 June 2021, a coach (**Coach X**), who did not want to reveal his identity, had confirmed by telephone the accounts stated by this Player E in her statement. However, the latter refused to provide any statement before the FIFA Ethics Committee fearing repercussions.
30. On 3 and 5 August 2021, the Investigatory Chamber interviewed three of the Players who had provided their testimony (i.e. Players A, B and E) via Zoom.
31. On 12 August 2021, upon request of the Investigatory Chamber, FIFPro provided a report including a summary of FIFPro's communications with Coach X, enclosing screenshots of their WhatsApp conversations as evidence.
32. On several occasions during the investigation proceeding, FIFPro requested the Investigatory Chamber to grant anonymity to the Players for the following reasons:
 - some of the Players were minors at the time of the alleged conducts;
 - most of the Players are still involved in football activities;
 - Mr Guacci could make use of his influence in Argentinian football over the sporting career of the Players; and
 - Mr Guacci was the head coach of the U-15 and U-17 Argentinian women's national team until 31 March 2021.

² Players A, B, C, D and E will collectively be referred to as **the Players**.

33. Based on the above, the Chief of Investigations decided to grant anonymity to the Players on the basis of art. 44 FCE.

iii. Mr Guacci's witnesses

34. On 11 October 2021, the Investigatory Chamber contacted four of the witnesses indicated by Mr Guacci³, requesting them (i) to provide a written statement regarding the allegations against the latter and (ii) to indicate whether they had suffered or witnessed any kind of abuse by Mr Guacci during the years he was head coach of UAI Urquiza and/or River Plate.
35. On 12 October 2021, the Investigatory Chamber received the replies from three of the four above-mentioned witnesses, in which they all denied having suffered or witnessed any kind of abuse from Mr Guacci.

2. Factual findings of the Investigatory Chamber

36. The present section aims at summarising the case file constituted by the Investigatory Chamber as well as the related findings contained in its final report on the investigation (**the Final Report**).

a. Player E

i. Written statement

37. In a statement dated 15 June 2021, Player E described an incident of sexual harassment during a video phone call with Mr Guacci. According to said statement, Mr Guacci not only asked her to show him her intimate parts, but he also intimidated her by exposing his private parts in an unsolicited manner.
38. More specifically, Player E described this incident as follows:

"[...] then we spoke about tactics and how I should reflect on my game in that context. Then, quite out of the blue, Diego Guacci said:

"I'm embarrassed to ask you but can you take off your shirt and show me your breasts?"

I was completely shocked. I pretended to not understand and I hoped he would just stop. But he insisted and asked again for me to show him my breasts. He also asked me to show him my panties.

When I continued to play dumb he repeated the request. Then he moved his camera and showed me that he was not wearing any trousers. He was only wearing boxers and he showed me that he had an erection.

³ Cf. para. 17 *supra* – those witnesses were players of the UAI Urquiza and/or River Plate at the time Mr Guacci had been the head coach

I was completely shocked and horrified. I had no idea what to do and felt disgusted, violated and incredibly awkward. I just said "I'm sorry, I am in a relationship I don't do those things." I also pointed out that he was my coach and I was a player, and I made it clear that I did not want this.

When he realised that I was not going to go along with whatever he wanted he started to back track and said: "This never happened to me before, you are the only one." He then asked me not to tell anyone and promised that it wouldn't happen again. [...]"

39. Additionally, Player E indicated that, after that first incident Mr Guacci provoked other unwanted sexual contacts with her for a lengthy period of time, including phone calls and text messages with sexual content:

"[...] Initially, Guacci acted like nothing had happened. [...] Then a few weeks later he started sending me messages. The messages said that he had never felt this way before, and he also sent me pictures of him in his boxers and with an erection. In these messages he asked me to send him naked pictures back. [...]. I was constantly afraid that he would ask me again to do something sexual with him, or that if I outright refused, I would be benched.

Guacci was very deceitful and manipulative in the way he did this. For example, he would be very polite and nice with my [...] and would act normally upfront. Then, behind the scenes he would send me inappropriate pictures of himself and ask to meet up privately.

He messaged me quite consistently for about two or three weeks. I ignored it as much as I could, and made sure we were never alone just the two of us. There is no way that he didn't understand that I was not interested. Eventually he stopped and I was very relieved.

However, not long afterwards he started messaging me again. That is when I realized he would never leave me alone. I thought about telling someone but, at the time, I just didn't feel comfortable talking about it and I didn't trust anyone at [club] to act on it or protect me from the repercussions of reporting his behaviour [...]

All this time I was terrified and incredibly distressed. It was very uncomfortable and upsetting, and I believe that I was traumatised by what he did. He had power and authority over me, and he knew that. He used his position and the contact we had through football to try to convince me to do things I didn't want to do. Even to this day, I feel very upset when I think back on that time. [...]"

40. Player E further declared that Mr Guacci behaved in a certain manner that, in her view, was no appropriate for a coach, let alone from a FIFA instructor. More specifically, Player E gave account of Mr Guacci's outbursts, insults and threats during training as well as during after-match discussions

ii. Interview before the Investigatory Chamber

41. On 3 August 2021, Player E agreed to an interview in front of the Investigatory Chamber, led by the Chief of Investigations.

42. Through this interview, Player E ratified the content of her written statement dated 15 June 2021 and provided more details of the sexual harassment by Mr Guacci, stressing on the consequences that such traumatic experiences had caused her:

"[...] So, we talked about what they did at practice in tactics and so at the end of the call he asked me, he's like, 'Oh, can you give me something in return?' [...] I told him like, 'I don't understand what you're saying,' and he rolled down the laptop screen and showed me that he was in his boxers and he had an erection [...]"

I said, 'Oh. I'm sorry, I have a relationship. I don't do these things,' and that he's a coach and I'm a player. So, he said, 'Oh, I'm sorry. This has never happened to me before,' blah, blah, blah. He kind of gave me the whole thing [...] He insisted another time through [...] and then afterwards he said it wasn't going to happen again, he promised me and then when I went [...] he acted completely normal like nothing happened [...] I recall it was a few weeks after that he messaged me. He asked me to send him pictures. I initially took screenshots of everything.

[...] He said that he wasn't going to do it again.

[...] I was just like, 'Okay, maybe it was just an episode he went through,' but then he texted me later, a few weeks later... It was very uncomfortable and so I always said, 'Oh, I don't understand. Like, no, I'm in a relationship,' and it happened multiple times after that...

[...] At the time I was thinking, 'Oh, how did this happen to me? Why did I get myself in this situation?' Mentally it impacted me in the sense of my future goals, kind of, my mental health as also a woman too because it made me uncomfortable... I would say a lot at the time I was terrified about my future goals, I was terrified about my mental health, what people would think of me. At first it was like I, kind of, blamed myself and I'm like, 'No, no. This has nothing to do with me. This has to do with someone else.' I was very clear from day one that I said no and the actions continued [...]"

43. Player E also recalled specific situations where Mr Guacci lost his temper and made use of offensive language, insults and threatened the players:

"[...] I recall one specifically against [club], which is the rival of [club], that his language was kind of crazy the whole situation. Argentines tend to swear but the extreme that he went to, it was a little bit more offensive, it was a lot more offensive. It was more violent. Sometimes he would tell us that we were useless. Against [club] I think we were losing 2-0 and he told us the only thing that we were good for is to pull our pants down and for him to penetrate us. That happened during [match] and it happened a few other times but the most extreme time that I recall was [match] because I was in shock because it was already a big game, [...]"

[...] "Servimos para bajarnos los pantalones y que cojan" [Free English translation: "you serve for pulling down your trousers and be fucked"]. That was one part but it was really long and I was just in shock. I kind of like blacked out, I was just like, 'Wow, we're in the locker room here. We're playing in [club] and you're telling us this. Like, shouldn't we concentrate on the game?"

[...] Yes, he would just shout at us “No sirven para nada, cómo están jugando al fútbol” [Free English translation “You serve for nothing, the way you play football”]. A lot of comments like that. [...]

iii. Confirmation of conversation with Coach X

44. In addition to the above, Player E reported that, initially, she had decided not to engage in the investigations opened by the FIFA Ethics Committee, but a recent action carried out by Mr Guacci changed her mind. More specifically, Player E stated the following:

“[...] when the news broke of a complaint against a senior coach, I suspected it must have been him... I was worried that I would not be believed.

Then Guacci did something that changed things for me. I had not been involved in the complaint in any way. But Diego Guacci called someone who I work with and asked if I was the player who had made the complaint. I realized then two things: first, he had more or less admitted that he had sexually harassed me! I had not been involved in the complaint and to my knowledge my name was not known to anyone at FIFA who was investigating. Guacci must have coached hundreds of women over the years, so why did he phone up specifically asking about me? Diego Guacci, by calling and asking about me, confirmed himself to be guilty. I didn’t even have to say anything.

The second thing I realized was that I could not hide from this any longer. This was not the only time someone asked about him in recent weeks. I was sent a screenshot from another player, who was sent something by a coach working with him. The messages show efforts to identify the players involved in the complaint, and I am appalled that this is happening. [...]

45. In its communication dated 23 June 2021⁴, FIFPro maintained that, before submitting Player E’s statement, it made direct contact with Coach X who allegedly confirmed the facts outlined in Player E’s statement dated 15 June 2021⁵.
46. In its report dated 12 August 2021⁶, FIFPro submitted details of a telephone conversation with Coach X and documentary evidence such as, screenshots of the WhatsApp communications with Player E and Coach X:

“[...] After player 5 [Player E] provided me with the details of the coach and authorised me to contact him, I texted him on WhatsApp introducing myself and asking whether it was possible for me to speak with him. He agreed and I gave him a call. I explained to him the context of the call, [...] namely that Player 5 [Player E] had told me that Mr. X [Coach X] had been contacted by Mr. Guacci [...]

Mr. X [Coach X] was cooperative but slightly concerned about being perceived as creating problems for Mr. Guacci as Mr. X [Coach X] stated that Mr. Guacci was a man with connections [...]

4 Cf. para. 29 *supra*

5 Cf. para. 37 *supra*

6 Cf. para. 31 *supra*

Mr. X [Coach X] explained that towards the end of [...] he received a call from Mr. Guacci. I asked him if he remembered the exact date [...] He later checked his phone record and could see that it had been on the [...].

[...] finally, quite abruptly Guacci said:

“A vos XXX [Player 5] te dijo que yo me la quise levantar y que la molesté? (Did XXX (player 5) tell you that I hit on her and that I molested her?)

Mr. X [Coach X] replied to Mr. Guacci’s question in the negative. [...]

I asked Mr. X [Coach X] if he was surprised by his call. Mr. X [Coach X] said that he was, but not that much about the behaviour as it was well-known that Mr. Guacci conducted himself inappropriately with players and it was a “known secret” that he would harass players [...]. He also said it was information that circulated among players.

I asked Mr. X [Coach X] what he did after the call. He said that [...] and after the [...] he called Player 5 [Player E] and told her about the call he had had that same [...]. He said she was extremely upset and he realized that indeed Mr. Guacci has abused Player 5 [Player E] [...].

I explained to Mr. X [Coach X] that it would help the investigation if he would provide a statement, or if he could be contacted by FIFA. He was unsure and told me he would think about it and get back to me.

The following day, [...] he sent me a WhatsApp audio message, explaining that he had discussed it with his family, and also with Player 5 [Player E], and he had decided not to submit a statement to FIFA or grant me permission to share his identity. [...].

It is of critical importance here that FIFA notes that at the time that Mr. Guacci called Mr. X [Coach X] and mentioned Player 5 [Player E] by name, Player 5 [Player E] had in fact not been involved in any of the allegations against him. Player 5 [Player E] in fact did not speak to FIFPRO about her abuse until more than a month after. Therefore, as Player 5 [Player E] herself has pointed out, Mr. Guacci appears to have inadvertently confirmed his abuse of Player 5 [Player E] by referencing her in the context of this case before she had provided any such evidence to FIFPRO, FIFA or to my knowledge and other entity. [...].”

iv. Summary

47. The Investigatory Chamber deemed that the conducts reported by Player E not only respond to a verbal aggression committed by Mr Guacci towards Player E while being under his supervision, but also refer to serious behaviours of sexual harassment.
48. The Investigatory Chamber further emphasized that:

- the sexual harassment suffered by Player E has been partly confirmed by Player A, who also gave testimony *inter alia* asserting that she had access to the communications between Mr Guacci and another player, including pictures of himself he had sent to a player with sexual content, and messages in which he asked that player to share sexual pictures of her with him; and
- Mr Guacci has unintentionally confirmed that he had harassed Player E when he called Coach X and directly inquired him/her about whether or not he/she knew if Player E was involved in the current investigation proceedings, specifically naming her.

b. Player A

i. Written statement

49. In a written statement dated 26 March 2021, Player A referred to Mr Guacci's status as a FIFA official and how this position presented him as a respectful and trusted man in women's football. Player A, however, said that after her experience with him as a coach, this impression was far from reality as he *"has caused untold harm and distress to women and girls playing in Argentina"*.
50. Player A further reported situations where Mr Guacci used disgusting and crude language with sexual connotation in front of minors (i.e. players), while describing a toxic environment of mental abuse after performances whenever the team lost:

"[...] Our team performed poorly and we lost. Mr Guacci was furious in the locker room after the match. The team at the time included girls who were very young, including 14- and 15-year-olds. Mr Guacci gathered us all in the locker room and screamed at us words to the effect of:

"Si vuelven a jugar de esa manera, las voy a meter a las duchas y cogerlas por el orto" [English free translation: "If you ever play that badly again I will put you all in the shower and fuck you in the arse!"] [...]"

Mr Guacci constantly and inappropriately used sexual references, including in the presence of players who were still children. His behaviour was controlling, sexualised, aggressive and dominating. [...]"

51. Player A further also referred to a specific situation in which she was verbally attacked by Mr Guacci because of her call-up to play for the Argentinian national team. According to Player A, Mr Guacci's behaviour towards her deteriorated after said incident, so that she was benched even though she was fit to play.

"[...]While playing for [Club] I was also called up for the Argentinian national team. Mr Guacci was always very negative about the national team and was rude and towards the coaches and staff managing the [Argentinian national] team ... He would belittle us in front of our teammates and the staff and would make us feel guilty for playing for the national team.

[...] I finished training [...] and Mr Guacci called me over. We were on our own and started walking to team training, [...]. He was clearly angry at me and started to shout at me, saying I thought I was too good for the club. Then, as we were on our own and walking across [...], he said words to the effect of:

“Sos como todas las demás, capaz de bajarte los pantalones y hacerte violar para estar en la selección” [Free English translation: “You are like everyone else, capable of lowering your pants and getting raped so you can play on the national team.”] [...]

To make matters worse, after practice [...], he called the whole team together in the changing room and said that some players’ attitudes had changed, that we were prioritising the national team over the club, that some players’ heads were getting too big and then he again repeated the statement referred [before]. I felt insulted, degraded and disgusted by the events.

Things deteriorated from there. Mr Guacci would try to isolate me from the team by speaking to other leaders and complaining that it was ridiculous that I thought I should get special treatment. I had never asked for anything special but did make it clear that I considered it a great honour to play for the national team. As a result, I was benched even when I was fit to play. [...]

52. Finally, Player A reported homophobic conducts and incidents carried out by Mr Guacci, as well as a situation in which the latter disclosed the sexual preference of a player to her relatives without her consent

“[...] Mr Guacci conducted himself in an inappropriate and sometimes sexist and homophobic manner. [...] Mr Guacci explicitly stated that for Argentinian football to be successful we needed players who could both be feminine and good footballers. He said that homosexuality was holding women’s football back and repeatedly commented on players’ sex lives or sexual behaviour, in a way that would never happen in the men’s game and was completely inappropriate.

Mr Guacci described women’s football in Argentina as a puterio, which translates to “group of whores” and referenced the sex lives and perceived promiscuity of players. He said that the problems in women’s football arose from women having relationships with other women and that it disrupted the team. He was very indiscreet and inappropriate about players’ private lives. [...]

Sometimes players’ partners would wait for them after training or playing. When my [male] partner did so, Mr Guacci did not object. However, when one of my teammates’ [female] partner waited for her, Mr Guacci said that this did not portray an appropriate image for the club, which was as a reference to the same-sex nature of their relationship.

His homophobic behaviour was insulting to me, but even more damaging for players who felt their sexuality and morality was being criticized. One of my teammates, 17 or 18 years’ old at the time, had not yet discussed her sexuality with her family. As you will appreciate, how and when a gay person decides to discuss their sexuality is a very private and deeply sensitive issue.

She was seeking to leave the club (in part, I understand, because of his homophobic behaviour). When this came to Mr Guacci’s attention, he threatened to out her sexuality to her family if she left.

Mr Guacci repeatedly told her that if she left he would call her mother. The player refused to stay, and Mr Guacci outed this young player's sexuality to her mother without her consent. The player left the club shortly afterward."

ii. Interview before the Investigatory Chamber

53. On 5 August 2021, Player A participated in an interview in front of the Investigatory Chamber, led by the Chief of Investigations.
54. Player A ratified the facts described in her written statement dated 26 March 2021, providing specifics regarding the time and locations in which the referred allegations occurred and further enlarging her accounts by providing more examples of Mr Guacci's wrongful conducts.

"[...] He said, something to the effect of, "[SPEAKING IN SPANISH]", which basically is saying, "if you ever play that badly again, I'll put you in the showers and fuck you up the ass", ... I never really heard a coach use that sort of language and especially in a changing room where we had, we had players who were 14 or 15 years old in that locker room, and to use that language [intelligible] is perfectly normal. [...]"

"[...] I remember him actually telling me this as well, that he was, that he knew that she was... she was about 17 and he knew that, or he thought that she was dating one of the players that left the club, and that he thought the best way to keep her at the club was to tell her mum that she was seeing another player, female player, and that that was why she wanted to leave the club, that her best place to develop was under him, so essentially threatening to out her to her family without her permission especially as a younger player was, I don't know. The way he sort of twisted it, I think I tried to think he was doing it with her best interests in mind, but I think looking back and sort of seeing the pattern of his behaviour, it was clear that it was a form of manipulation and that he really wasn't at all concerned with the player's well-being, because if he had been, that idea wouldn't have even crossed his mind but yes, that was sort of probably some of the major, major indicators that I witnessed[...]"

"[...] he would tell me that players were, like the problem with women's football is that it's a "puterío", the problem is the players who want to get together and that it's, that they're all lesbians, so it's just that they only play because they want to sleep with each other and then it becomes bad and that's bad for the image of the game... And then the other incidences that were more, I think, more visible were probably when he told one of my teammates that her girlfriend or her partner could not be waiting for us, or could not wait for her at the club because it was inappropriate for that to be seen, that was not okay, but then my partner who was a man, it was fine if he would come to pick me up after training, be seen around the club and we could hold hands, and that was acceptable, but for any players who might have had a female partner, that was not something that could be seen at the club or around the club, it was something that was damaging the image of the game. He essentially said that, for women's football to be more popular, for it to grow, we needed to be more feminine. [...]"

[...] once I came back from the national team duty [...], [unintelligible] came back, we also had a team meeting and he was just bashing and pretty much criticising, as much as he could, the entire performance of the team, individual players, the coaching staff, saying that we were an embarrassment, so I spoke back to him, I stood up for my teammates and for, not so much, I didn't say much about the coaching staff, but I stood up for my teammates and he was not happy with that and I never played again the rest of that season [...]

[After Player A informed the Club that she wanted to leave by the end of the season] [...] I received a very aggressive phone call from Guacci saying that I was "desagradecida" [Free English translation: "ungrateful"], that I was an unthankful player again just like everyone else, like everything that he'd done for me, he'd got me on to the national team, I don't know, he went on for about 10 minutes saying that he couldn't believe that I would say something that we had issues, that I had an issue with him [...]

[...] Another thing that he would typically do is try to turn players against each other, so those players that left the club at the beginning of the season, he would talk about them constantly throughout the rest of the year saying that they were traitors, that they were quitters, that the one player who left, the first player to leave, who was quite young, was just fat and lazy and that's why she didn't want [...] he was not even upset that she wanted to leave the club [...]"

iii. Summary

55. The Investigatory Chamber deemed that the conducts reported by Player A are to be considered unethical, specifically with respect to:
- Mr Guacci's aggressive behaviour towards the players while using insults, denigratory words and comments with sexual connotation, even in front of minors;
 - how Mr Guacci used to make discriminatory remarks and actions on the account of the players' sexual orientation; and
 - the way Mr Guacci retaliated against Player A for only being called up to play at the national team.
56. The Investigatory Chamber further emphasized that Player A has confirmed the testimony of Player E regarding Mr Guacci's conducts related to sexual harassment.

c. Player B

i. Written statement

57. In a written statement dated 24 March 2021, Player B referred to (i) Mr Guacci's inappropriate sexual remarks, (ii) how Mr Guacci retaliated against her after being called up for the Argentinian national team, (iii) how Mr Guacci's used his position as FIFA Instructor to demand respect from the players (iv) her sentiments about Mr Guacci's manners as a coach and how this behaviour personally affected her, particularly considering that, at the time, she was a minor:

"[...] I make this statement by way of complaint to FIFA in relation to the behaviour of my former coach Diego Guacci. I would like to complain about Mr Guacci's behaviour towards me when I was 15 years' old and playing under him at [Club].

Playing under Mr Guacci was one of the worst experiences of my playing career. He regularly made me feel uncomfortable, and sometimes made me fear for my safety. Mr Guacci attacked my confidence and undermined my love of the game. I consider his behaviour towards me mental abuse.

[...] Mr Guacci would sometimes give players a ride in his car from the club to [location of club]. [...] However, one day I ended up on my own in the car with him... But when we were alone he started to ask me a lot of questions. I was only 15 at the time but he repeatedly and persistently asked me about my sex life. He asked me whether I liked girls. He asked me whether I liked boys. He asked me whether I was dating someone. He asked me a number of questions about my sex life that a coach is not supposed to ask you. He never asked questions like this in front of the other girls and the way that he asked them made me feel uncomfortable and in danger...

Mr Guacci's behaviour towards me was also inappropriate in other ways. For example, he would often comment about how pretty I was. He would say I was the prettiest girl in the team. He would comment on my clothes and how I looked in them. For example, he would say things like "Wow, that shirt fits you so good." All of this happened when I was just 15 years' old. It was creepy and upsetting and made me feel very uncomfortable.

[...] My relationship with Mr Guacci from a coaching perspective was positive. But things changed drastically when I was called up for the [...] national team. [...] Mr Guacci seemed angry about this. One day, when I was training at [Club] and saw Guacci, he laughed at me starting for the national team. He said "How are you starting?" and mocked me for not being good enough.

[...] I understand coaches have a degree of authority and that we should listen to them. But that is different than the total dominance that Guacci wanted. There was never any space for questioning or challenging him. This was both the case for the players and for the coaching assistants. Nobody could speak out against him and he was so negative to many of us all the time. I am used to firm coaches but nobody has ever treated me like he has in my playing career and I have never felt disrespected like I did by him. It felt like he wanted to control us and I believe the inappropriate sexual behaviour was part of that: either he was using that to dominate us, or his controlling behaviour was feeding into his inappropriate sexual interest.

[...] Coaches are in incredible positions of power and the way that he made me feel, both the discomfort and fear that he made me feel when he asked inappropriate questions about my sexual life, and the disrespect and damage he did mocking my success were hugely damaging.

[...] Mr Guacci is a FIFA instructor. He uses that badge to demand our respect, because he could never earn it. Mr Guacci claims to be a supporter of women's football, while at the same time behaving in this way towards girls and young women [...]"

ii. Interview before the Investigatory Chamber

58. On 3 August 2021, Player B participated in an interview in front of the Investigatory Chamber, led by the Chief of Investigations. The main highlights of said interview can be summarized as follows:

"[...] I think that the quality that stands out the most is arrogance when conveying a message, with anger and contempt [...]"

"[...] Individually, he has not been violent, so to speak, but he has used hurtful or unfair words. Individually, I repeat, he was not violent with me, but he behaved in a way in which I think that a head coach should not be with a player, especially at my age, at the time I was[...] years old, but when the comments were derogatory it was always in a group, in my experience it was in a group [...]"

"[...] I have to stay alone with him in the car and when... obviously it is uncomfortable for a player to be with the technical director, because it is usually a more professional relationship and one at that time does not know what to talk about, but he led to a conversation which was quite uncomfortable for me, that it was to start wondering about my sex life, wondering if I liked women, if I liked men, if I had already had my first time, implying that I... implying, to ask me if I had been with "X" player of the squad, ... Obviously, I felt in danger because the conversation was not comfortable at all, and in addition to the conversation one... although at the time I did not know or had heard any type of allegation of abuse from him, I did know that many players agree with his ways, I knew that a lot of players didn't want him, so to speak, so obviously that made me a little scared ."

"[...] I was one of the players who was summoned to play for the Argentinian national team. So, since he put me aside because he did it with every player who played in the national team, he knew very well that I was a very important part of the team in [...] so he tried to make me feel good on that side by telling me how beautiful smile I had or every time I came to the club dressed in clothes that were not from the club he would tell me "how beautiful you are", "look how beautiful that bun is on you", I was wearing glasses and he would tell me "how beautiful those glasses fit you".."

"[...] it was very notorious, but it was truly too evident how every time a player went to the national team, he changed his treatment or the way he addressed that player...from the moment I started to be cited in the national team, it was noticeable or at least I noticed it was very personal. The fact that he did not like it, he did not like that the player go to the national team. [...]"

"Obviously, he always bragged about... he was a FIFA coordinator or I don't know his rank in FIFA, but the first word he always said to you was that "I represent FIFA, I work for FIFA and for women's football", when many times we knew that this was not the case precisely because of his attitude[...]" [free English translation]."

iii. Summary

59. As summarized by the Investigatory Chamber, Player B:

- referred to situations, while being 15 years old, in which Mr Guacci made remarks about her sexuality and physical appearance;
- mentioned how Mr Guacci frequently used offensive gestures and language towards the team under his technical direction;
- described particular occasions where Mr Guacci was personally hostile with her, only because she had been selected to play for the Argentinian national team and he was known to have problem with the technical director of such team;
- mentioned how in numerous circumstances Mr Guacci used his position as a FIFA instructor to have certain degree of authority on the players.

d. Player C

i. Written statement

60. In a written statement dated 11 November 2020 and submitted in Spanish, Player C described situations where Mr Guacci aggressively and offensively verbally attacked players, but also some where he made discriminatory remarks on account of the sexual orientation and physical appearance of the players:

"I was 14 years old, [...] I do not know if it was at halftime or at the end of the game that Guacci got very angry because of the way the girls had played, he was screaming and told them:

"¿Qué tengo que hacer?! ¿Meterles el dedo en el orto o directamente todo el brazo para que jueguen mejor?!" ["What do I need to do?! Put a finger in the arse or directly the whole arm so that you play better?! " [Free English translation]].

I remember the impact this aggression had on me. It scared me. I was a little girl, and I wondered if we were in danger. It was very ugly to experience that.

Another thing that stuck with me about Guacci was when he told my parents that on the team, they were all lesbians and that they were involved with everyone, and that they had to take care of me so that I didn't "go the other way". He even told them that he sometimes went to gay clubs to check on the girls a bit and see who they were and what they were doing. I remember it well because my mother was traumatized, scared, she was sending her daughter, just 14 years old, to a club that somehow the coach defined as dangerous...

The topic of sexuality was repetitive. Guacci asked me several times if I liked any female or any male, trying to find out what my sexual orientation was, invading my private sphere...

Around the same time, Guacci told the parents of a colleague that her daughter was homosexual and that she was in a relationship with another girl from the club. This was very strong for all of us

[players]. He went into where he did not belong, he entered into the private sphere of the players in a super invasive way, generating fear...

One day he grabbed me and said:

“Estás gorda. Así no podés jugar. No vas a estar con nadie así, eh” [“You are fat. This way you cannot play. You are not going to be with anybody this way, eh” [Free English translation]].

He told me this, without anesthesia, without proposing a plan as to get in shape, if there was a need. Without talking to a nutritionist. It was more bullying than a technical appreciation. He made me feel horrible, and he really traumatized me. He was talking to a minor, in her teenage years, when I think about it now, I cannot believe it...

[after talking about a sick leave] When I recovered I went back to train immediately. The day I came back there was a technical meeting, and Guacci asked me stay out (he let me alone waiting for the meeting to finish, while all of my colleagues were in in the meeting). When he came out, he told me that I was out, that I was not a player that fit in the team. He told me that he had my pass at his disposal for me to leave the club...

[...] I played as [position] and Guacci, coach of the contrary team, whispered when I passed near him, telling:

“Sos una fracasada, sos horrible, gorda” [“You are a loser, you are horrible, fat” [Free English translation]].

He did it during the whole match, low, so nobody else can hear it, but with the intention to take me out of the match[...] [free English translation].

ii. Summary

61. As summarized by the Investigatory Chamber, Player C:

- recalled several situations in which Mr Guacci acted in an unethical manner;
- confirmed that Mr Guacci was known for having made contemptuous and discriminatory comments on the account of the players' sexual preference;
- reported how Mr Guacci personally attacked her by using discriminatory and offensive language on account of her physical appearance; and
- stated how Mr Guacci's actions personally affected her, especially considering that, at the time of the conducts, she was still a minor.

e. Player D

i. Written statement

62. Player D's written statement dated 21 October 2021 (submitted in Spanish) can be summarized as follows:

"[...] I never felt comfortable with Guacci. I did not like his unequal treatment towards the members of the team. He did not include all in the same way, even made differences in the travel expenses, which did not correspond to him.

I remember once a colleague could not come to train because she had a problem, and he started to talked badly about her, in a derogative manner, telling things like:

"Ésta gorda no quiere entrenar" ["She is fat, does not want to train" [Free English translation].

It was usual that he referred to the physical appearance of the female players. He tried to enter into our head, and manipulate us, so to control us better. His way of operating, always trying to place a colleague against the other, it was unpleasant.

Another anecdote that comes to my mind was that once we were coming back from playing with the national team and a colleague and I asked for permission to [...]. The club granted us the permission, but that same day, when we went in the morning to the club [...] Guacci seemed visibly annoyed.

[...] when I was about to take the bus, my mobile phone rang. It was my mother, she was really concerned, because Guacci has called her telling her that I had escaped with another colleague [...]

[...] He was the head coach, it was logic to believe him.

[...] I did not want to continue for the next season. I asked for my pass, they told me no, and we had a long negotiation in which I expressed that I did not want to be in the club if Guacci was the head coach, that ended-up with an agreement in which I could leave and they would give me my pass.

I went to the cafeteria, where my colleagues were to say goodbye and there he entered behind screaming why I was leaving, that I was leaving because I wanted to follow my girlfriend [...]

[...] In general terms, he is a person who always denigrated female players, he was homophobic, he would say homophobic comments in his conversations all the time." [free English translation].

ii. Summary

63. As summarized by the Investigatory Chamber, Player D:

- gave account of Mr Guacci unequal treatment among the team players;
- stated that Mr Guacci was regularly discriminatory and homophobic towards female players;
- described a situation in which Mr Guacci used his position as head coach to convince the Player D's mother that she had escaped from training as punishment for having being invited to a sporting-related event; and

- specified a particular occasion where, after having decided to leave the club, Mr Guacci publicly humiliated her in the club's facilities and in front of anybody present, insinuating that she was a lesbian.

f. Mr Guacci

64. In its statement submitted on 17 September 2021⁷, Mr Guacci denied all accusations related to sexual harassment. More specifically, the latter *inter alia* indicated that:

- he became aware of the accusations against him on 8 September 2021 for the first time;
- he categorically denies having played a leading role in the alleged acts attributed to him and/or to have participated in any way in similar acts of similar nature;
- he will cooperate with the FIFA Ethics Committee to clarify the allegations brought against him; and
- the alleged allegations against him have never existed.

65. In addition, Mr Guacci provided an extensive list of more than a hundred possible witnesses who have known him in his professional capacity along his career as a coach, including a number of players who he coached at the time of the allegations.

g. Mr Guacci's witnesses

66. The witness statements provided on 12 October 2021⁸ can be summarised as follows:

i. [Witness 1]

67. [Witness 1] indicated that she had never been a victim nor witnessed any of the allegations:

"I have been part of the team led by Diego Guacci and I have been his captain during his leadership period. Diego has encouraged teamwork, cooperation, solidarity and empathy among all team members; from an inclusive leadership, with rules/norms of coexistence pre-established by the whole team and seeing the being before the player.

It made UAI have a leap of quality at an institutional level in the development of the discipline [...]

Diego and his wife have always been at our disposal for any urgency or inconvenience that could exist in the personal and soccer level.

And when it comes to sexuality, he has been a mediator in the case of couple conflicts in the team, he has accompanied players when their parents found out about their sexual orientation and they did not receive support and even wanted to separate them or exclude them from the activity.

⁷ Cf. para. 16 *supra*

⁸ Cf. para. 35 *supra*

I was not a victim of any of these facts nor did I witness any of the acts for which he is being investigated, on the contrary, I attest to the quality of the person and the family he has.” (Free translation to English)

ii. [Witness 2]

68. Similarly, [Witness 2] stressed that she had never been a victim nor witnessed any of the allegations:

“I was part of Club Uai Urquiza, during the mentioned period. I never went through a situation for which Mr. Diego Guacci is accused, on the contrary. He always addressed with respect, kindness and predisposed to help both soccer and personally, not only him, but all the coaching staff at that time. He always gave an image of values, companionship, professionalism and FAMILY. It should be noted that he was always very well accompanied by Andrea, his wife, not only with him, but with each of the players.

He always fought not for one, but for all the players so that the institution would give us everything we needed to be able to work and leave the club at the top, which in fact was the case. [...]” (Free translation to English)

iii. [Witness 3]

69. [Witness 3] also highlighted that she had never been a victim nor witnessed any of the allegations:

“I have known Mr. Diego Guacci for many years, I know him as a professional and as a person, and I can personally say that I have never experienced or witnessed any type of inappropriate behavior on his part with me or with any of my colleagues. There was always a very respectful and professional relationship.

I am also completely unaware that there is any player who has suffered harassment, or any type of inappropriate behavior caused by him. [...]

I attest to his professionalism but above all I attest to the kind of person he is.” (Free translation to English)

3. Conclusions of the Investigatory Chamber

70. After careful analysis of the gathered information and documentation at its disposal, the Investigatory Chamber reached the following conclusions in its Final Report:

“(a) Mr Guacci has violated Article 23 par. 1 of the FCE 2020, for failing to protect, respect and safeguard the integrity and personal dignity of others;

(b) Mr Guacci has infringed article 23 par. 2 of the FCE 2020, for making use of offensive gestures and language in order to insult, isolate, ostracise players generally and individually;

(c) Mr Guacci has breached article 23 par. 3 of the FCE 2020, for having engaged in acts leading to mental abuse, as well as for making use of hostile acts intended to isolate, ostracise players generally and individually.

(d) Mr Guacci has breached article 23 par. 4 of the FCE 2020, when he sexually harassed player E by presenting her with unwanted and unsolicited images with pornographic content and by requesting her pictures of her intimate parts.

As a consequence of the foregoing, Mr Guacci is found guilty of having breached Article 23 (Protection of physical and mental integrity) FCE.”

B. Proceedings before the Adjudicatory Chamber

1. Opening of adjudicatory proceedings and communications with the party

71. On 19 November 2021, Mr Guacci was informed (i) that the Adjudicatory Chamber had opened adjudicatory proceedings against him based on the Final Report as per art. 68 (1) of the FCE, and (ii) of his right to request a hearing. In these circumstances, Mr Guacci was provided with a copy of the Final Report and was requested to submit a written position.
72. On the same day, Mr Guacci requested a copy of the entire case file.
73. On 23 November 2021, the Secretariat to the Adjudicatory Chamber (**the AC Secretariat**) informed Mr Guacci that he was already in possession of the entire case file and reminded the latter of the deadlines (i) to indicate whether he requests a hearing to be held and (ii) to provide his position.
74. On 26 November 2021, Mr Guacci *inter alia* requested a hearing to be held and provided a list of three witnesses that he wished to call for said hearing.
75. On 3 December 2021, Mr Guacci submitted his position to the Adjudicatory Chamber⁹.
76. On 7 December 2021, Mr Guacci reiterated its request for a hearing to be held.
77. On 22 December 2021, Mr Guacci was informed (i) that his request for a hearing had been granted, said hearing being scheduled on 19 January 2022 and (ii) of the composition of the panel that would decide on the present matter. In addition, the latter was invited to provide the final list of all individuals whom would be accompanying him at the hearing.
78. On 6 January 2022, Mr Guacci provided a list of seven (7) witnesses that he wished to call for the hearing.

⁹ Said position is summarised in the following section.

79. On 12 January 2022, the Adjudicatory Chamber *inter alia* informed Mr Guacci about the details of the hearing as well as of the persons attending it on behalf of the Investigatory Chamber.
80. On 17 January 2022, Mr Guacci provided the final list of three (3) witnesses that he wished to call for the hearing¹⁰ and submitted a written affidavit from [Witness 6].

2. The Respondent's written position

81. In its position submitted on 3 December 2021, the Respondent essentially reiterated the position provided to the Investigatory Chamber and denied all allegations contained in the complaints as well as in the Final Report.
82. This said, the remaining of Mr Guacci's position can be summarised as follows:

i. Factual statements

- *On his professional development and career in women's football*
 - He started working in women's football in 2005 and, since then, became an honorary member of the Club Atlético River Plate due to his sporting achievements;
 - From 2007 to 2011, he was Technical Director of said club's women's team and trained more than 200 female players;
 - In 2009, he organized the first women's football congress in Argentina;
 - In 2011, he was removed from his position at the club Atlético River Plate for political reasons;
 - While he was employed at Atlético River Plate, said club was the first one (i) to include a psychology department for female players, (ii) to provide free of charge studies to its female players, and (iii) to obtain a sponsor dedicated to women's football;
 - A tournament named 'Diego Guacci Integration Tournament' is held in Rio Negro, Argentina, since 2011 in honour of his efforts to develop women's football;
 - In 2011, he joined the club UAI Urquiza. The then captain of said club had sought the dismissal of the coach whom he replaced due to inappropriate conduct;
 - During his time at UAI Urquiza, said club was the first one to provide accommodation for its female players who lived more than 200 km away. The female players who came were able to begin their university studies, in line with his idea to contribute to the education of female football players;
 - In 2015, he came back to work for the Club Atlético River Plate and together with a former female Argentinian player, founded the first free U15 women's football academy;
 - In 2017, he worked for 4 months at a state university and a club in the United States of America before coming back to Argentina to fulfil his dream, *i.e.* to work for the Argentinian national team;
 - He has collaborated and participated as a promotion agent for FIFA since 2008 and for CONMEBOL since 2011, thus contributing to the development of women's football worldwide;

¹⁰ Namely [Witness 1], [Witness 4] and [Witness 5]

- His media and public spaces all contain images that give an account of the aforementioned;
- *On the allegations*
 - On 28 January 2020, an accusation was made against him;
 - He received a call from [Witness 5], a River Plate player, informing him in the following terms:

“Diego, [a player] came to the club, she talked to a few people there and she began to say that, as you had come back, she was going to report [him], [She] told her that she couldn’t count on [her] because that was a lie”
 - He reacted calmly to that comment because no one could have any proof of something that did not happen;
 - [The aforementioned player] was playing for another club, and her intention was to find allies at the club to which she no longer belonged;
 - He is confident of his conduct and his work;
 - FIFPro’s claims are clearly discriminatory and abusive, and it is using its link with FIFA to expose his name. Not only is FIFPro arbitrarily harming his professional career, but it is also damaging his image and seriously affecting his income. This situation is exemplified by the reassignment of another expert to a course he had been assigned to in November in Paraguay without receiving any explanation in that respect, leaving his professional situation exposed in the Paraguayan FA as well;
 - Surprisingly, out of the 35,000 female players registered at AFA, no-one provided any content, nor support to the allegations brought against him;
 - He strongly denies the existence of the communications mentioned in the Final Report denies the form and words attributed to him by the Players. In particular, the repeated comment of “FIFA Instructor” does not form part of his personal or professional daily vocabulary;

ii. Position on the Players’ allegations

- *Player A*
 - Based on the warnings given to him by his colleagues and since Player A is the first claimant, Mr Guacci assumes that she is Ms G.G.;
 - He knows her since 2014, but he also knows her husband;
 - Ms G.G. suffered an injury and during her rehabilitation, there were several times when he offered to take her for treatment along with her partner. As such, they made several trips together;
 - During her recovery, she assisted Mr Guacci in drafting his CV and in translating it into English. She mainly helped him considering that he needed to develop his profession abroad because he was different;
 - At that time, the club’s substitute player of Ms G.G. had already covered her position as her performance was superior to that of Ms G.G. (this, despite the fact that the latter completed her rehabilitation);

- In view of the disagreement and repeated requests over a period of 3 to 4 months to regain her position, she complained about her treatment ("how come she's playing and not me") and decided not to remain in the team;
 - At the end of 2015, Ms G.G. moved to the Club UAI Urquiza with Mr C.B. who was a coach there;
 - Ms G.G. was Mr Guacci's English teacher in 2014;
 - Up until February 2015, Ms G.G continued to consider Mr Guacci as a professional and point of reference for women's football in Argentina;
 - On the ways or vocabulary allegedly used, Mr Guacci refers to videos that reflect the manner of talking in Argentina, repeating that what is stated by Ms G.G. does not form part of his language of communication;
 - His personality and conduct are not reflected in Ms G.G.'s interpretations;
- *Player B*
 - He assumes that she is Ms L.M.;
 - He mentions the following statement from [a] former goalkeeper for the Club Atlético River Plate between 2008 and 2015 and goalkeeper for the Argentinean team:
"...Diego's conduct is actually flattering, not on physical aspects but on clothing. You often hear him flattering the clothes or pointing out the accessories worn by one of the members of his technical staff or team"
 - His aim towards his teams is clear: he wants to have the team with the greatest number of players in the national team, as this is a sign of good performance;
 - Considering it counterproductive to be part of the national team is not only incorrect but is also irrational;
 - He reiterates the lack of contact with the Technical Director for the adult team, Mr C.B.;
 - He felt obliged to warn the players of the mistreatment from him, of necessary obedience and silence if they wanted to be part of the national team;
 - If those comments gave rise to an interpretation of not wishing to form part of the national team for some reason, they are misunderstood as they were solely based on his will to care for the players;
 - Throughout his career, he has not had any type of contact with Mr C.B. who has been in charge of the national teams since 1998;
 - There was no other option but to speak to his team about what they should and could expect from such a relationship;
 - The players of his team suffered mistreatment on the part of Mr C.B., and he has always been obligated to fight for the emotional and sports security of the players at the club he represented at the time;
 - *Player C*
 - Mr Guacci assumes that she is Ms C.G.A.;
 - It is not in his interests (nor in those of his staff) to proffer comments on homosexuality, lesbianism or personal relations;
 - For instance, when Mr M.B., the physical trainer of the Club UAI Urquiza, began a relationship with a player from the team, the conversation Mr Guacci had with them was

solely about the performance of both of them and the respect they should have for the others;

- There were occasions when the technical staff had to talk to avoid differences, annoyances, so that any sentimental relationship would remain outside the changing rooms and could be handled with professionalism;
- In this context, if Mr Guacci had to talk to any parent regarding such matters at any time, it was solely on the request of the adults responsible since, being under age, he could not get involved in those matters without their authorization;
- It was customary, given the family association achieved within the teams, for some parents to ask him to intercede or to investigate any personal matter, and even to intervene so that young girls would not abandon their studies or fail to improve their performance, even to the point of informing players that they should submit their reports to him as some of them managed to obtain scholarships to the River Plate Academy;

- *Player D*

- Mr Guacci assumes that she is Ms A.C.;
- Once she heard that one of her colleagues was not going to remain at the club due to a technical decision regarding underachievement, Ms A.C. immediately decided to request a transfer;
- Together with the Chairman of Women's Football, they decided to speak to the player, trying to retain her at the club;
- As she refused to stay, Mr Guacci informed the player that they had decided to inform her mother as she was underage. Her reaction at that time was one of annoyance;
- A few days later, Ms A.C. and her mother were summoned before the management committee to discuss the above. Mr Guacci and his colleagues informed the player's mother of their intention to retain her but, in view of the Ms A.C.'s refusal and annoyance, they had to concede to her request, giving her a free transfer. At that time, on ending the meeting, the physical trainer informed Ms A.C.'s mother that it would be advisable for such decisions that are made through the influence of third parties to be taken into account in the future. It was then that Ms A.C. got even more upset and started to make insults in a raised voice, claiming that the physical trainer should not get involved in her life. She also accused Mr Guacci of being responsible for what had happened;

iii. Final statements

- Mr Guacci is aware of Ms G.G.'s intention to harm his career with AFA, but not within FIFA. He never imagined that, with such cruelty and lack of consideration, she could cause so much damage;
- He simply thought that Ms G.G. was one of the many players who, annoyed that he could not meet their (sporting) desires, declared their annoyance with negative comments about his work. Coaches, unlike in other jobs, often find themselves with tens of people who want something that they are certainly unable to satisfy as there are only 11 players;

iv. Conclusions

- The accusation is aimed at discrediting him and his irreproachable professional performance;
- The scheme against him is demonstrated by the simple fact that none of the complainants has made any accusation before the Argentinian judicial system, precisely because they do not have any concrete evidence that can give credibility to their statements. As such, those accusations were put forward to tarnish his reputation through a sanction imposed on him;

v. Request:

- Given all above developments, the Respondent requests the closure of the present proceedings

83. In support of his position, Mr Guacci provided various documents, namely:

- A statement from [Witness 1] who establishes and explains how and why (and spurious interests) Mr C.B. and Ms G.G. devised the lies that brought about these proceedings;
- A statement from [Witness 7], mother of two (2) players whom Mr Guacci managed in 2013 at the Club Atlético River Plate: the latter testified on the Respondent's performance, treatment and responsibility towards the players;
- A statement from [Witness 8], Chairman of the Committee for Women, Gender and Diversity at the Club Atlético River Plate: she essentially (i) explained that the club never received any accusations or comments against Mr Guacci and (ii) gave an account of Mr Guacci's moral behaviour;
- A statement from [Witness 4], a colleague of the technical team during Mr Guacci's time at River Plate: she *inter alia* testified (i) to have shared countless tasks, trips, etc., with him and (ii) on his moral and sports behaviour;
- A statement from [Witness 5], a member of the technical staff of the Club River Plate who *inter alia* testified as to how Mr Guacci behaved with the players;
- A statement from [Witness 9], a player for the Club UAI Urquiza whom Mr Guacci had the privilege of managing and who testifies to his behaviour towards and treatment of the players;
- A statement from [Witness 10], a player that used to be managed by Mr Guacci at the Club River Plate, who testified on the Respondent's behaviour and treatment towards players over the years;
- An audio conversation with Mr Claudio Tapia, President of AFA, dated 8 May 2021;
- Exchange of emails with Ms G.G.; and
- Various Exchange of WhatsApp conversations.

84. The Adjudicatory Chamber reiterated that it has considered all the facts, allegations, legal arguments and evidence provided by the Respondent, and in the present decision had only referred to those observations and evidence regarded as necessary to explain its reasoning.

3. The hearing

85. On 19 January 2022, a hearing was held by video-conference (**the Hearing**) in the presence of the following persons:

- For the Adjudicatory Chamber:
 - Mr Vassilios Skouris, Chairperson;
 - Mr Fiti Sunia, Deputy Chairperson;
 - Mr Stefan Buontempo, Member;
- For the Respondent:
 - Mr Guacci;
 - Mr Martin E. Villar, legal representative of the Respondent;
- For the Investigatory Chamber:
 - Mr Martin Ngoga, Chairperson of the Investigatory Chamber;
 - Ms Margarita Echevarria, Chief of Investigation and member of the Ethics Committee;
- Representatives of the IC Secretariat and of the AC Secretariat

86. During the Hearing, both the Respondent and the Investigatory Chamber received the opportunity to provide their position and answer questions from the members of the Adjudicatory Chamber.

87. In addition, the following witnesses called by the Respondent were heard during the Hearing:

- [Witness 1]
- [Witness 4]
- [Witness 5]

II. CONSIDERATIONS OF THE ADJUDICATORY CHAMBER

88. In view of the circumstances of the present matter, the Adjudicatory Chamber first addressed some key procedural aspects, before entering into the substance of the case at stake.

A. Procedural aspects

1. Jurisdiction and competence

89. To begin with, and although its jurisdiction has not been challenged, the Adjudicatory Chamber recalled that the competence of the FIFA Ethics Committee is defined by art. 30 FCE.

90. While the second paragraph of said article determines the subsidiary competence of the FIFA Ethics Committee, the first paragraph establishes its primary (and exclusive) competence in the following terms:

“The Ethics Committee has the exclusive competence to investigate and judge the conduct of all persons bound by this Code where such conduct:

- a) has been committed by an individual who was elected, appointed or assigned by FIFA to exercise a function;*
- b) directly concerns their FIFA-related duties or responsibilities; or*
- c) is related to the use of FIFA funds.”*

91. With the above in mind, the Adjudicatory Chamber pointed out that, in 2011, Mr Gucci has been appointed by FIFA as a FIFA Instructor for women’s football, a position that he still held at the time of the reported conduct(s). In other words, the conduct(s) at stake *“has been committed by an individual who was elected, appointed or assigned by FIFA to exercise a function”*.

92. By way of consequence, the Adjudicatory Chamber concluded that, in accordance with art. 30 (1) (a) FCE, it was competent to assess and judge the present matter.

2. Applicable law

a. Applicability of the FCE *ratione materiae*

93. In continuation, and upon analysis of the conclusions contained in the Final Report, the Adjudicatory Chamber noted that there are several indications of potential immoral and unethical behaviour/conduct by Mr Guacci.

94. As such, the FCE is applicable to the case at stake in line with art. 1 (1) FCE (applicability *ratione materiae*).

b. Applicability of the FCE *ratione personae*

95. The Adjudicatory Chamber subsequently recalled that art. 2 (1) FCE provides that said code shall *inter alia* apply to “officials”.
96. To that end, reference shall be made to the FIFA Statutes which define an official as “any board member (including the members of the Council), committee member, referee and assistant referee, coach, trainer and any other person responsible for technical, medical and administrative matters in FIFA, a confederation, a member association, a league or a club as well as all other persons obliged to comply with the FIFA Statutes (...)”.
97. Against such background, and referring to the professional background of Mr Guacci¹¹, the Adjudicatory Chambers concluded that, at the time the relevant actions and events allegedly occurred, he was a football official as per the above definition.
98. As a consequence, the FCE was applicable to the Respondent as per art. 2 (1) FCE (applicability *ratione personae*).

c. Applicability of the FCE *ratione temporis*

99. As emphasised in the Final Report, the relevant facts described in the previous sections of this decision allegedly occurred between 2012 and 2015, *i.e.* at a time when the 2012 edition of the FIFA Code of Ethics was in force.
100. In these circumstances, art. 3 FCE however establishes that the current edition of the FCE (*i.e.* the 2020 edition) shall apply to conduct whenever it occurred, unless a more favorable provision was in force at the time of the facts (principle of *lex mitior*).
101. It therefore needs to be emphasised that CAS has acknowledged and accepted that although art. 3 FCE departs from the traditional *lex mitior* principle by reversing it so that the new substantive rule applies automatically (unless the old rule is more favorable to the accused), the approach of the FIFA Code of Ethics on intertemporal issues is equivalent to the traditional principle of *lex mitior* based on the *tempus regit actum* principle¹².
102. In the present case, the Adjudicatory Chamber deemed that the legal provisions of the respective article(s) are equivalent in the various editions of the FCE (*i.e.* 2012, 2018, 2019 and 2020).
103. In this context, following the relevant case-law and jurisprudence, the Adjudicatory Chamber noted that the spirit and intent of the previous editions of the FCE are duly reflected in the current wording of art. 23 FCE. More specifically, said article (named *Protection of physical and mental integrity*) has a corresponding provision in the 2018 and 2019 editions of the Code (art. 23), as well as in the 2012 edition of the Code (art. 24).

¹¹ Cf. para. 2 *supra*

¹² CAS 2016/A/4474 Michel Platini v. FIFA, CAS 2019/A/6489 Juan Angel Napout v. FIFA par. 84 et seq.

104. In consideration of the above, the Adjudicatory Chamber concluded that the different editions of the FIFA Code of Ethics cover the same offense that would not be more favourable to the accused, and thus the 2020 edition of the FCE is applicable to the procedural aspects and merits of this case as per art. 3 of the FCE (applicability *ratione temporis*).

3. Proof

105. As a preliminary remark, reference shall be made to art. 49 FCE in accordance with which the burden of proof regarding breaches of provisions of the Code rests on the Ethics Committee (*in casu* on the Adjudicatory Chamber).

106. In continuation, the Adjudicatory Chamber pointed out that, in line with art. 48 FEC, its members shall judge and decide on the basis of their comfortable satisfaction.

107. According to CAS jurisprudence, *"in practical terms [this] means the "personal convictions" of the Panel, having in mind the seriousness of the offence committed and after evaluating all the evidence in the file"*¹³.

108. More specifically, *"the assessment of the evidence contributes significantly to the decision-making based on the "comfortable satisfaction" standard. The [deciding body] needs to have strong evidence that certain facts occurred in a given manner and also the evidence has to satisfy [said body] in the same sense. The relevant circumstances of the case assessed individually and/or combined, commonly known as the context are major elements to reach this conclusion (CAS 2013/3324 and 3369)"*¹⁴.

109. In so far that evidence are concerned, the Chamber recalled that it shall have absolute discretion regarding proof (art. 47 FCE), keeping in mind that any proof that has been obtained by means or ways involving violations of human dignity or that obviously does not serve to establish relevant facts shall be rejected (art. 46 FCE).

110. Having clarified the foregoing, the Chamber proceeded to consider the merits of the case.

B. Merits of the case

111. As a preliminary remark, the Chamber pointed out that the matter at stake relates to various complaints lodged against Mr Guacci for having allegedly (i) used discriminatory and denigratory words against his players on account of gender, sexual orientation and/or physical appearance, and (ii) engaged in inappropriate conducts (such as sexual harassment, mental abuse, hostile acts and threats) towards those players.

112. In those circumstances, and to summarise the various conducts as described in the Final Report, the Chamber acknowledged that allegations have been brought against the Respondent in relation to

¹³ CAS 2019/A/6439 Samson Siasia v. FIFA – See also CAS 2019/A/6665 Ricardo Terra Teixeira v. FIFA and TAS 2020/A/7592 Ahmad Ahmad c. FIFA

¹⁴ AS 2019/A/6439 op. cit.

possible violations of art. 23 FCE (protection of physical and mental integrity), namely for having allegedly:

- failed “to protect, respect and safeguard the integrity and personal dignity of others”;
- made “use of offensive gestures and language in order to insult, isolate, ostracise players generally and individually”;
- “engaged in acts leading to mental abuse”, as well as made “use of hostile acts intended to isolate, ostracise players generally and individually”; and
- “sexually harassed [P]layer E by presenting her with unwanted and unsolicited images with pornographic content and by requesting her pictures of her intimate parts”.

113. More specifically, the Chamber pointed out that, according to the considerations contained in the Final Report, “[a]ll evidence exhibited (...) follow the same factual patterns. Patterns that emerged from different unconnected sources, but that concurred and are consistent in the following assertions:

- a. That Mr Guacci repeatedly and sexually harassed player E by uninvitedly showing and sending her inappropriate pictures with pornographic content, at the same time that, he insisted for sexual images of the player in return;
- b. That Mr Guacci frequently offended the dignity and integrity of players under his supervision through contemptuous, discriminatory and denigratory words and actions on the account of the female players’ sexual orientation and physical appearance.
- c. That it was usual that Mr Guacci made usage of offensive gestures and languages in order to insult the team, as well as individually to the players, which included threats with sexual connotation; and,
- d. That Mr Guacci retaliated against any player that was called to participate in the Argentinian national team by employing mental abuse and other hostile acts intended to isolate, ostracise the dignity of those players to the point that those players decided to leave the club(s)”.

114. In view of the above, the Chamber held that, in order to assess as to whether or not Mr Guacci could be held liable for a breach of art. 23 FCE, it has to answer the following questions:

- What is the evidence on file?
- Did Mr Guacci sexually harass Player E?
- Did Mr Guacci engage in any form of mental abuse and/or harassment towards any of its players?

115. This being established, the Chamber first focused on the set of evidence upon which to rely when assessing the potential breaches committed by the Respondent.

1. What is the evidence on file?

116. Against such background, the Chamber stressed that the case at stake presents serious allegations against Mr Guacci and that the consequences for the latter are severe if the relevant charges would be

established. By way of consequence, it *“should have a high degree of confidence in the quality of the evidence”*¹⁵.

117. With those considerations in mind, the Chamber went on to analyse the evidence constituting the present case file.

118. In particular, the Chamber observed that the Investigatory Chamber found that *“the accusations pressed against Mr Guacci are sufficiently established by the following existing evidence gathered by said Chamber:*

- *Investigatory Chamber’s interviews with Players A, B and E;*
- *Written redacted versions of the Players A, B, C, D and E;*
- *Information and reports received from FIFPRO; and,*
- *FIFPRO’s public statement, media releases and publications on social media platforms”.*

119. In these circumstances, the Chamber subsequently stressed that no further substantial evidence had been submitted during the proceedings before it. Although it cannot be contested that Mr Guacci provided various documents in support of his position¹⁶, the Chamber affirmed that none of them explicitly referred to or directly related to the facts having led to the present proceedings. As a matter of fact, while most of the statements (including those of the witnesses during the Hearing) were aiming at testifying about Mr Guacci’s general behaviour and/or treatment towards his players, subordinates or colleagues – *and, as such were unrelated to the facts at stake* –, neither the audio conversation with Mr Claudio Tapia nor the various extracts of WhatsApp conversations are from the same time as the alleged facts attributed to the Respondent¹⁷.

120. Put differently, the Chamber formed the belief that the various allegations at stake had essentially to be assessed on the basis of the abovementioned set of evidence as gathered by the Investigatory Chamber, that is to say, the Players’ written statements/complaints and the transcriptions of their interviews, as well as the various documents emanating from FIFPro.

121. In this context, the Chamber first wished to underline its appreciation towards FIFPro’s efforts in supporting the Players. While it could only praise its endeavours in raising awareness and bringing into light any potential behaviour that would be detrimental to players and/or bringing football in disrepute, the Chamber wished to stressed that all public statements, media releases and publications made by FIFPro in connection with the present matter cannot be considered valid material evidence, in so far that they are mainly and essentially based on alleged reported facts. As such, as they simply relate facts as brought to FIFPro, they could not be taken into account to prove as to whether or not those facts actually occurred.

122. Given the above, and upon a careful analysis of all documents constituting the present case file, the Chamber concluded that the matter at stake essentially had to be analysed in light of the Players’ testimonies.

¹⁵ CAS 2018/A/5906 Kyle Cesare v. UEFA

¹⁶ Cf. para. 83 *supra*

¹⁷ The audio conversation and the WhatsApp conversations being from 2021

123. On account of the above and for the sake of good order, the Chamber, taking into account that the case at stake essentially revolves around the various testimonies (either written complaint/statement of the Players or interviews with the Investigatory Chamber), referred to the jurisprudence of CAS¹⁸ which clarified (i) that there is no reason to doubt the credibility and reliability of similar witnesses' depositions where there is no satisfying evidence that the witnesses had personal undisclosed reasons to accuse a football official of violations of the FCE, and, (ii) that if an anonymous witness statement is insufficient on its own to convict an individual, the fact that there is not only one anonymous witness statement on file but five separate, coherent, consistent and reliable witness statements from anonymous witnesses who were subject to cross-examination is relevant.

2. Did Mr Guacci sexually harass Player E?

124. To begin with, the Chamber noted that the Final Report reaches the conclusion that Mr Guacci *"repeatedly and sexually harassed player E by uninvitedly showing and sending her inappropriate pictures with pornographic content, at the same time that, he insisted for sexual images of the player in return"*.
125. To that end, and keeping in mind that sexual harassment is not directly defined in the FCE, the Chamber recalled that, as confirmed by CAS¹⁹, *"[t]he Merriam-Webster English dictionary defines it as an "uninvited and unwelcome verbal or physical behavior of a sexual nature especially by a person in authority toward a subordinate (such as an employee or student)"*.
126. Turning its attention to the written statement of Player E as well as her testimony during the interview conducted by the Investigatory Chamber, the Chamber went on to analyse the reported acts and noted that the latter affirmed that Mr Guacci (i) asked her to show him her intimate parts²⁰, (ii) intimidated her by exposing his private parts in an unsolicited manner²¹ and (iii) provoked other unwanted sexual contacts with her for a lengthy period of time, including phone calls and text messages with sexual content²².
127. In those circumstances, the Chamber subsequently observed that with respect to Player E, FIFPro also referred to a telephone conversation with Coach X *"who at the time was the coach of Player [E]"*. However, upon reading the relevant report from FIFPro, the Chamber noted that the facts referred to during said conversation are not those at stake in the present section (i.e. sexual harassment towards Player E). At best, the Chamber pointed out that Coach X allegedly *"said [Player E] was extremely upset and [that] he realized that indeed Mr. [Guacci] had abused Player [E]"*. However, given that it appears to be clear that Coach X was not present when the aforementioned incidents allegedly occurred, the Chamber regretted that it had no other alternative but to conclude that such report cannot be taken into account upon establishing as to whether or not Player E had been victim of sexual harassment from the Respondent.

18 CAS 2019/A/6388 Karim Keramuddin v. FIFA

19 CAS 2019/A/6388 op. cit.

20 *"(...) he insisted and asked again for me to show him my breasts. He also asked me to show him my panties"*

21 *"When I continued to play dumb he repeated the request. Then he moved his camera and showed me that he was not wearing any trousers. He was only wearing boxers and he showed me that he had an erection"*

"(...) he asked me, he's like, 'Oh, can you give me something in return?' [...] I told him like, 'I don't understand what you're saying,' and he rolled down the laptop screen and showed me that he was in his boxers and he had an erection"

22 *"The messages said that he had never felt this way before, and he also sent me pictures of him in his boxers and with an erection. In these messages he asked me to send him naked pictures back"; "but then he texted me later, a few weeks later... It was very uncomfortable and so I always said, 'Oh, I don't understand. Like, no, I'm in a relationship,' and it happened multiple times after that".*

128. In the same way, the Chamber held that it could not adhere to the conclusions of the Investigatory Chamber which considered that Mr Guacci has unintentionally confirmed that he had harassed Player E when he called Coach X and directly inquired him/her about whether or not he/she knew if Player E was involved in the current investigation proceedings, specifically naming her. As a matter of fact, such stance rather appears to be a hasty conclusion drawn by FIFPro (which considered that the Respondent “*appears to have inadvertently confirmed his abuse of Player [E] by referencing her in the context of this case before she had provided any such evidence (...)*”) and not a factual element that the Chamber could ascertain and upon which it could rely.
129. In continuation, the Chamber also stressed that none of the other testimonies at its disposal (*i.e.* those of the other players) reported nor related such facts (whether directly concerning Player E, or alternatively of which they would have been victims).
130. Last but not least, while it appears to be clear that the alleged acts occurred by means of record-keeping telecommunications, no screenshot and/or recording of those have been provided by Player E. As a matter of fact, given that everything apparently occurred via video/phone call and/or text messages, it would have been possible to record or take a screenshot, or at the very least, to keep the contentious messages. However, no material evidence was submitted to the case file presented before the Chamber.
131. Summarising those considerations, the Chamber regretted that no sufficient material evidence and/or witness statements corroborated Player E’s accusations.
132. With those considerations in mind, the Chamber reiterated that it should have a high degree of confidence in the quality of the evidence in order to be comfortably satisfied that Mr Guacci sexually harassed Player E. However, and in the absence of further evidence, that high degree of confidence in the evidence does not exist for the Chamber here.
133. As a matter of fact, “*under CAS jurisprudence, which conforms with ECHR and Swiss law, an anonymous witness statement is insufficient on its own to convict an individual*”²³. As such, and although it could obviously not rule out that the reported facts did not occur, the Chamber stressed that, on the sole basis of Player’s E statement, it could not conclude to its comfortable satisfaction that Mr Guacci sexually harassed her.

3. Did Mr Guacci engage in any form of mental abuse and/or harassment towards any of its players?

134. The Chamber first observed from the Final Report that Mr Guacci allegedly:

- “*frequently offended the dignity and integrity of players under his supervision through contemptuous, discriminatory and denigratory words and actions on the account of the female players’ sexual orientation and physical appearance*”;

²³ CAS 2019/A/6388 op. cit.

- “made usage of offensive gestures and languages in order to insult the team, as well as individually to the players, which included threats with sexual connotation”; and
- “retaliated against any player that was called to participate in the Argentinian national team by employing mental abuse and other hostile acts intended to isolate, ostracise the dignity of those players to the point that those players decided to leave the club(s)”.

135. Against such background, the Chamber went on to analyse the individual statements and testimonies of the Players.

136. As such, the Chamber first observed that Player A essentially reports conducts considered to be “unethical” by the Investigatory Chamber. In particular, the latter reported situations where the Respondent (i) used insults, denigratory words and comments with sexual connotation in front of his players²⁴, (ii) made discriminatory remarks and actions on the account of the players’ sexual orientation²⁵ or (ii) verbally attacked her after she had been called-up to play for the national team²⁶.

137. In continuation, the Chamber acknowledged that Player B mainly referred to situations where Mr Guacci (i) made remarks about her sexuality and physical appearance²⁷, (ii) used offensive gestures and language towards the team under his technical direction²⁸, (iii) was personally hostile with her after she had been selected to play for the national team²⁹, or (iv) used his position as a FIFA instructor to have certain degree of authority on the players³⁰.

138. The Chamber then noted that Player C on her part, described situations where Mr Guacci (i) aggressively and offensively verbally attacked her³¹ or other players³², or (ii) made discriminatory remarks on account of the sexual orientation and physical appearance of the players³³.

24 “Mr Guacci gathered us all in the locker room and screamed at us words to the effect of: (...) “If you ever play that badly again I will put you all in the shower and fuck you in the arse!””

25 “He said that homosexuality was holding women’s football back and repeatedly commented on players’ sex lives or sexual behaviour, in a way that would never happen in the men’s game and was completely inappropriate. Mr Guacci described women’s football in Argentina as a puterio, which translates to “group of whores” and referenced the sex lives and perceived promiscuity of players.”

26 “Then, as we were on our own and walking across [...], he said words to the effect of: (...) “You are like everyone else, capable of lowering your pants and getting raped so you can play on the national team.””

27 “However, one day I ended up on my own in the car with him... But when we were alone he started to ask me a lot of questions. I was only 15 at the time but he repeatedly and persistently asked me about my sex life. He asked me whether I liked girls. He asked me whether I liked boys. He asked me whether I was dating someone. He asked me a number of questions about my sex life that a coach is not supposed to ask you.”

“Mr Guacci’s behaviour towards me was also inappropriate in other ways. For example, he would often comment about how pretty I was. He would say I was the prettiest girl in the team. He would comment on my clothes and how I looked in them.”

28 “Individually, he has not been violent, so to speak, but he has used hurtful or unfair words. Individually, I repeat, he was not violent with me, but he behaved in a way in which I think that a head coach should not be with a player, especially at my age, at the time I was[...] years old, but when the comments were derogatory it was always in a group, in my experience it was in a group”

29 “One day, when I was training at [Club] and saw Guacci, he laughed at me starting for the national team. He said “How are you starting?” and mocked me for not being good enough.”

30 “Mr Guacci is a FIFA instructor. He uses that badge to demand our respect, because he could never earn it.”

31 “One day he grabbed me and said: “Estás gorda. Así no podés jugar. No vas a estar con nadie así, eh” [“You are fat. This way you cannot play. You are not going to be with anybody this way, eh” [Free English translation]]”

32 “I was 14 years old, [...] I do not know if it was at halftime or at the end of the game that Guacci got very angry because of the way the girls had played, he was screaming and told them: “¿Qué tengo que hacer?! ¿Meterles el dedo en el orto o directamente todo el brazo para que jueguen mejor?!” [“What do I need to do?! Put a finger in the arse or directly the whole arm so that you play better?! ” [Free English translation]]”

33 “Another thing that stuck with me about Guacci was when he told my parents that on the team, they were all lesbians and that they were involved with everyone, and that they had to take care of me so that I didn’t “go the other way”

139. In addition to the above, the Chamber subsequently noticed that Player D stressed that Mr Guacci (i) treated players of his team unequally³⁴, (ii) often used discriminatory and homophobic words towards female players³⁵, (iii) made use of his position as head coach and (iv) publicly humiliated her in the club's facilities and in front of anybody present, insinuating that she was a lesbian³⁶.
140. With those elements in mind, the Chamber paid particular attention to Mr Guacci's submissions (both in writing and during the Hearing), in which the latter denied all allegations brought against him, that, according to him, were aiming at discrediting him and his professional career.
141. In those circumstances, the Chamber regretted that, similarly to the acts reported by Player E, the abovementioned conducts have not been supported by any material evidence apart from the Players' testimonies.
142. This said, and while analysing all statements from the Players, the Chamber noted that the reported conducts attributed to Mr Guacci could be divided in two categories, *i.e.* those that have been affecting players individually, and those having affected several players in a collective manner.
143. With respect to the first category, *i.e.* those that have been affecting players individually, the Chamber listed the following conducts:
- Mr Guacci making comments on Player B's sexuality and physical appearance;
 - Mr Guacci verbally attacking Player C.
144. In this regard, the Chamber however stressed that none of the other players reported those conducts.
145. Put differently, the only evidences that were submitted in relation thereto were the statement of the victims themselves.
146. As such, the Chamber reiterated that it could not convict an individual on the sole basis of an anonymous witness statement. By way of consequence, the Chamber had no other alternative but to conclude that it could not establish to its comfortable satisfaction that Mr Guacci engaged in those conducts.
147. The Chamber subsequently went on to analyse the conducts that formed part of the second category, *i.e.* those that having affected players in a collective manner, namely Mr Guacci:
- using insults, denigratory words and comments with sexual connotation;
 - using offensive gestures and language towards the team;
 - making discriminatory comments on the account of the players' sexual orientation;

"The topic of sexuality was repetitive. Guacci asked me several times if I liked any female or any male, trying to find out what my sexual orientation was, invading my private sphere..."

34 *"I did not like his unequal treatment towards the members of the team. He did not include all in the same way, even made differences in the travel expenses, which did not correspond to him"*

35 *"In general terms, he is a person who always denigrated female players, he was homophobic, he would say homophobic comments in his conversations all the time"*

36 *"I went to the cafeteria, where my colleagues were to say goodbye and there he entered behind screaming why I was leaving, that I was leaving because I wanted to follow my girlfriend [...]"*

- treating players unequally; and
- making use of his position to abuse the players.

148. In that respect, the Chamber first underlined that an unequal treatment of players, although morally questionable, cannot be seen as a breach of art. 23 FCE. In fact, the Chamber even wished to stress that coaching a football team *per se* implies that players would not be treated equally in so far that only eleven players can start a match on the field of play, and that several factors – *some of them being above the considerations of the concerned players* – may enter into account upon managing the players (such as their performance, but also their physical or mental condition, those factors evolving with time).

149. In so far that the remaining allegations of conduct are concerned, the Chamber was convinced that, if sufficiently proven, they would fall under the scope of art. 23 FCE either because they affect “*the integrity and personal dignity of others*” or are aimed at “*ostracis[ing] or harm[ing] the dignity of a person*”.

150. With this in mind, the Chamber subsequently pointed out, although all statements relate similar (if not identical) behaviours on the side of Mr Guacci, none of the reported conduct is described by several of the Players.

151. Put differently, the Chamber underlined that (i) the various testimonies are an addition of individual specific allegations, and (ii) none of those specific allegations is reported by more than one individual. In other words, those testimonies could unfortunately not be considered “*coherent, consistent and reliable*”, in so far that they individually refer to separate and specific conducts.

152. In fact, given that the above conducts attributed to Mr Guacci all allegedly occurred in front of several players (sometimes even in front of an entire team), one could expect that they would have been reported by several of the players concerned. Regrettably, this is however not the case.

153. In the same way, the Chamber regretted that no additional material evidence had been submitted in support of the allegations brought forward by the Players.

154. It follows from these considerations that, although it could once again not be excluded that the reported facts did occur, the Chamber underlined that, on the basis of the documentation at its disposal (specifically on the sole basis of the Players’ testimonies), it could not conclude to its comfortable satisfaction that Mr Guacci engaged in the reported conducts and as such would have to be found in breach of art. 23 FCE.

C. Conclusion

155. In view of all the considerations above, the Chamber believes that the evidence on file is insufficient to corroborate, to its comfortable satisfaction, the Players’ account of the events.

156. Notwithstanding the above, the Chamber wished to stress that such conclusion shall not be considered as a recognition that the reported facts did not occur, nor that Mr Guacci acted in accordance with the FCE. Nevertheless, on the basis of the evidence presented to it, the Chamber was not comfortably satisfied to reach another conclusion.

D. Procedural Costs

157. Referring to art. 54 FDC, the Chamber emphasised that procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings.
158. As a principle, those costs shall be borne by the party that has been sanctioned (art. 56 (1) FCE). However, in the event of closure of proceedings or acquittal, the procedural costs shall be borne by FIFA (art. 55 (1) FCE).
159. Given the outcome of the present matter, Mr Guacci shall not bear the related procedural costs.
160. Finally, the Chamber underlined that no procedural compensation shall be awarded in proceedings conducted by the Ethics Committee (art. 57 FCE). Consequently, Mr Guacci shall bear his own legal and other costs incurred in connection with these proceedings.

III. DECISION OF THE ADJUDICATORY CHAMBER

To close the proceedings initiated against Mr Diego Alberto Guacci in relation to acts of sexual harassment as well as mental abuse towards female players during the period 2012 - 2015.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Mr Vassilios Skouris

Chairperson of the Adjudicatory Chamber of the Ethics Committee

NOTE RELATED TO THE PUBLICATION:

The public may be informed about the reasons for any decision taken by the Ethics Committee. In particular, the chairperson of the Adjudicatory Chamber may decide to publish the decision taken, partly or in full, provided that the names mentioned in the decision (other than the ones related to the party) and any other information deemed sensitive by the chairperson of the Adjudicatory Chamber are duly anonymized (cf. art. 36 FCE).

NOTE RELATED TO THE APPEAL PROCEDURE:

In accordance with art. 82 (1) FCE and art. 58 (1) of the FIFA Statutes, decisions taken by the Adjudicatory Chamber are final, subject to appeals lodged with the Court of Arbitration for Sport (**CAS** - www.tas-cas.org). The statement of appeal must be sent directly to CAS within 21 days of notification of this decision. Within another ten (10) days following the expiry of the time limit for filing the statement of appeal, the appellant shall file with CAS a brief stating the facts and legal arguments giving rise to the appeal (see art. R51 of the Code of Sports-related Arbitration).