

# Decision of the FIFA Disciplinary Committee

passed on 26 October 2023

## DECISION BY:

**Jorge Iván PALACIO (Colombia), Chairperson**  
**Anin YEBOAH (Ghana), Deputy Chairperson**  
**Thomas HOLLERER (Austria), Member**

## ON THE CASE OF:

**Luis Rubiales Bejar**  
**(Decision FDD-15763)**

## REGARDING:

**Article 13 of the FIFA Disciplinary Code - Offensive behaviour and violations of the principles of fair play**

## I. FACTS OF THE CASE

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 FIFA Disciplinary Committee (**the Committee**) has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.

### A. Overview

2. The present case relates to the conduct of Mr Luis Rubiales Bejar (**the Respondent** or **Mr Rubiales**), then president of the Spanish Football Federation (**RFEF**) during and after the final match of the FIFA Women's World Cup Australia and New Zealand 2023™.
3. More specifically, and as will be described in more details, it was reported that the Respondent behaved in way that may be contrary to art. 13 of the FIFA Disciplinary Code (**FDC**).

### B. Factual and procedural background

4. On 20 August 2023, the final of the FIFA Women's World Cup Australia and New Zealand 2023™ was played in Sydney, Australia, between the representative teams of Spain and England (**the Match**) (Attendance 75,784 spectators – Final score 1-0).
5. During the Match, the Respondent was, amongst others, seen:
  - celebrating the Spanish victory by grabbing his crotch/genitals in the VVIP area (**the Genitals Incident**);
  - carrying the Spanish player Athenea del Castillo over his shoulder during the post-Match celebrations on the field of play (**the Carrying Incident**);
  - give the player Olga Carmona a peck on the cheek during these celebrations (**the Peck Incident**).
6. A further incident occurred at the award ceremony at the end of the Match, during which the Spanish player Jennifer Hermoso (**the Player** or **Ms Hermoso**) stood on the podium and received her medal from the FIFA President, before greeting the officials and other dignitaries present on the podium, including the Respondent. In particular, when Ms Hermoso was facing the Respondent to greet him, the latter hugged her, spoke to her briefly, then put his hands on the back of her head and kissed her on her lips (**the Kiss** or **the Kiss Incident**).
7. Subsequently to the award ceremony, in a video shared on social media by Ms Hermoso, she is seen in the dressing room commenting on the Kiss Incident, saying "*I did not like it*".

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<sup>1</sup> Free translation from Spanish.

8. The Kiss Incident was widely reported in the media and condemned, *inter alia*, by the players' unions concerned, FUTPRO and FIFPRO respectively.
9. After the Match, the Respondent commented the Kiss during an interview with a COPE journalist and said, *inter alia*, that "*it was a kiss between two friends celebrating somethings*" suggesting that those who saw this incident (the Kiss) differently were "*idiots and stupid people*"<sup>2</sup>.
10. Later, in a video published by RFEF, the Respondent stated *inter alia* that he "*made a mistake for sure*" and that he "[has] to accept it. *In a moment of such emotion, without any bad intention or bad faith, what happened, happened, in a very spontaneous way, with no bad faith from either side*". He further explained that "*we saw it as something natural normal*" but "*on the outside it has caused commotion, because people have felt hurt by it, so I have to apologize; there's no alternative. I have to learn from this and understand that a president of an institution as important as the federation, above all in ceremonies and that kind of thing, should be more careful*". The Respondent also said that "*I'm also saddened, because this is the biggest success in our history in women's football, the second World Cup that we've won, and this has affected the celebration.*"<sup>3</sup>.
11. On 23 August 2023, RFEF urgently convened an Extraordinary General Assembly for Friday 25 August 2023 in connection with the Kiss Incident.
12. On 24 August 2023, disciplinary proceedings were opened against the Respondent for potential breaches of arts. 13.1, 13.2.a and 13.2.d FDC.
13. On 25 August 2023, the Respondent gave a speech at the RFEF's Extraordinary General Assembly, in which he claimed, *inter alia*, that the Kiss was mutual and consensual, explaining that the Player had lifted him up and that he had asked her for a little kiss, to which she said yes. The Respondent considered himself to be the victim of a witch-hunt led by false feminists, promising that he would defend his honour in court and that he would not resign from his position as RFEF president.
14. On the same day:
  - FUTPRO issued an official statement stating, *inter alia*, that "*Given the statements made by [the Respondent], Jennifer Hermoso wants to emphasise that she did not give consent to [the Respondent] to kiss her during the World Cup Final. I want to clarify that as seen on the footage, I never consented to the kiss he gave me, and of course, I never intended to lift [the Respondent] in the air.*" (...)"<sup>2</sup>. The statement, signed by about 81 Spanish women players, including 23 world champions, concludes "*After everything that has happened during the award ceremony of the Women's World Cup, we want to declare that all the players who sign this letter will not return to a call-up for the National Team if the current leaders continue*".
  - Ms Hermoso published a statement on social media which read as follows:

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<sup>2</sup> Free translation from Spanish.

<sup>3</sup> Free translation from Spanish.

*"After achieving one of the most desired successes of my sporting career and after a few days of reflection, I want to give my heartfelt thanks to my teammates, fans, followers, media and all of you who have made this dream come true; your work and unconditional support have been a fundamental part of winning the World Cup.*

*In reference to what happened today. While it is true that I do not want to interfere with the multiple legal processes underway, I feel obliged to denounce that the words of Mr. Luis Rubiales explaining the unfortunate incident are categorically false and part of the manipulative culture that he has generated.*

*I clarify that at no time did the conversation to which Mr. Luis Rubiales referred take place and that, far from it, his kiss was consensual. In the same way, I would like to reiterate, as I did at the time, that this was not to my liking.*

*The situation caused me a shock due to the context of the celebration, and as time went by and after delving a little deeper into those first feelings, I felt the need to denounce this event, as I believe that no person, in any work, sporting or social environment, should be a victim of this type of non-consensual behaviour. I felt vulnerable and a victim of aggression, an impulsive, sexist act, out of place and without any type of consent on my part.*

*I was asked to make a joint statement to reduce the pressure on the president, but at that moment in my mind I only had the idea of enjoying the historic milestone achieved together with my teammates. That's why, at all times, I told the RFEF and its various interlocutors, as well as the media and people I trusted, that I would not make any kind of individual or joint statement on this matter, as I understood that, if I did, it would take even more attention away from such a special moment for my teammates and for me.*

*Despite my decision, I have to say that I have been under continuous pressure to come up with a statement that could justify the act of Mr. Luis Rubiales. Not only that, but in different ways and through different people, the RFEF has pressured my entourage (family, friends, colleagues, etc.) to give a testimony that had little or nothing to do with my feelings.*

*It is not for me to evaluate communication and integrity practices but I am sure that as a World Champion National Team we do not deserve a manipulative, hostile and controlling culture. This type of incident joins a long list of situations that we players have been denouncing in recent years, so this incident, in which I have been involved, is just the last straw and what everyone has been able to see, but attitudes like this have been part of the daily life of our national team for years.*

*For all these reasons, I want to reinforce the position I took from the beginning, considering that I do not have to support the person who has committed this action against my will, without respecting me, at a historic moment for me and for women's sport in this country.*

*In no case can it be my responsibility to assume the consequences of transmitting something I do not believe in, which is why I have refused the pressure I have been put under.*

*ZERO TOLERANCE with such behaviour.*

*I want to close by making it very clear that although I am the one expressing these words, it is all the players in Spain and the world who have given me the strength to come out with this statement. Faced with such a show of disrespect and inability to recognise my own mistakes and assume the consequences, I have taken the decision not to return to play for the national team as long as the current leadership continues.*

*Thank you all for your messages of support and words of encouragement. I know I am not alone and thanks to all of you we will move forward more united. I leave this to the people I trust TMJ and FUTPRO and they will continue to work on the next steps in light of recent events.  
#It'sOver".*

15. On 26 August 2023, RFEF released an official statement, saying *"We have to state that Ms Jennifer Hermoso lies in every statement she makes against the president. We have all the reports and expert opinions that prove what the president has stated and we are going to take the corresponding legal actions against all those people who are falsifying reality and committing very serious crimes. The facts are what they are; and, no matter how many statements are made to distort reality, it is impossible to change what happened. The kiss was consensual. The consent was given in the moment with the conditions of the moment. Later you can think that you have made a mistake, but you cannot change reality."* (free translation from Spanish).
16. The statement was subsequently deleted from the website and RFEF shortly thereafter issued a second statement regarding the one released by FUTPRO and stated that *"the RFEF and the President will demonstrate each falsehood that is spread, whether by someone on behalf of the player or, if necessary, by the player herself. Given the gravity of the content in the press release by the Futpro union, the RFEF and the President will initiate the appropriate legal actions. The RFEF laments that after such an extraordinary sporting success as witnessed in the World Football Championship, the situation cannot be celebrated as it deserves due to entirely non-sporting reasons. In any case, and as it should be, the RFEF respects, as it has always respected, the decisions of the players to participate or not with the Spanish national team in international matches. Nevertheless, it is noted that participation in the national team is an obligation for all federated individuals if called upon to do so."* (free translation from Spanish).
17. Given these extraordinary circumstances, on 26 August 2023, Ms Hermoso was invited to confirm the content of her public statements and the accusations made against the Respondent. She confirmed the statement by way of an email addressed to the Disciplinary Committee on the same day.
18. On the same day (26 August 2023), the Respondent was provisionally suspended by the Chairperson of the FIFA Disciplinary Committee (**the Chairperson**) from exercising any football related activity for 90 days (**the Provisional Suspension**). In addition, the Chairperson requested the implementation of the following directives:
  - The Respondent *"shall refrain, through himself or third parties, from contacting or attempting to contact the player Jennifer Hermoso or her close environment"*;
  - The RFEF *"and its officials or employees, directly or through third parties, are ordered to refrain from contacting the player Jennifer Hermoso or her close environment"*.

19. On 27 August 2023, the Presidents of both the New Zealand Football (**NZF**) and The Football Association (**The FA**) sent a joint letter to FIFA, *inter alia* requesting for “*the opportunity [to] share [their] experience of [the Incident] with the Disciplinary Committee*”.
20. On 29 August 2023, the Player – through her legal representatives – sent a communication to the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) emphasising that she remained at the Committee’s disposal for any clarification in relation to the Kiss Incident.
21. On 5 September 2023, the Respondent provided his position and *inter alia* requested (i) to be provided with “*all the original footage recorded of the incidents*” and (ii) “*the celebration of a hearing before the disciplinary committee*”.
22. On 5 and 6 September 2023, the Secretariat *inter alia* provided the Respondent with the aforementioned communication from the Presidents of the NZF and The FA (see para. 19 *supra*), and that of the Player respectively.
23. On 7 September 2023, the Respondent “*request[ed] a formal meeting to explore the possibility of reaching an agreement to close the procedure in the sense of art 59 of the Disciplinary Code*”.
24. On 12 September 2023, the Chairperson informed the Respondent that “*at the present stage of the proceedings, the holding of such meeting is not considered necessary*”.
25. On 13 September 2023, the Secretariat requested:
  - the Presidents of the NZF and of The FA to provide further statement and/or documentary evidence in relation to their previous communication dated 27 August 2023;
  - the Player to provide (i) any further statement and/or documentary evidence in relation to the Kiss Incident and (ii) clarification and/or explanation on a series of questions.
26. On the same day, the Respondent was informed about the abovementioned requests.
27. On 15 September 2023, the grounds of the Provisional Suspension were notified to the Respondent.
28. On 19 September 2023, the Presidents of both the NZF and The FA provided their comments on the request made by the Secretariat.
29. On 20 September 2023, the Respondent appealed the Provisional Suspension.
30. On 26 September 2023, the President of the NZF provided an additional statement “*reflecting on the global*” as well as on the “*ongoing impact of [the Respondent’s] actions*”.
31. On the same day, the Player provided her “*[s]tatemts/comments (...) in response to the questions posed by FIFA*” as well as “*[f]urther documentary evidence in relation to the incident(s) subject to the investigation*”.

32. On 29 September 2023, the Secretariat contacted Ms Patricia Perez (Chief of Media at the RFEF), requesting her to provide her position/comment(s) and any further clarification and/or explanation deemed necessary with respect to a specific list of questions.
33. On the same day, the Respondent was informed about the abovementioned request.
34. On 6 October 2023, the legal representative of Mrs Perez *inter alia* informed the Secretariat that the latter is on sick leave as a result of the recent events, and due to her psychological condition, is currently not in a position to answer the questions sent to her.
35. On the same day:
  - the Secretariat *inter alia* requested Mrs Perez to share "*a copy of the statement she made before the Spanish court(s) in relation to the incident(s) subject to the present proceedings*";
  - the Respondent was notified of the decision passed by the Chairperson of the FIFA Appeal Committee dismissing his appeal on the Provisional Suspension.
36. On 10 October 2023, the Secretariat provided the Respondent with an updated copy of the entire case file and provided him with a final opportunity to amend his position and/or provide any statement(s)/comment(s) deemed relevant in relation to the present matter. In addition, the Respondent was informed that the case would be decided on the basis of the case file, without a hearing being held.
37. On 16 October 2023, the Respondent submitted his final position, insisting on his request for a hearing to be held.
38. On the same day, Mrs Perez informed the Secretariat that the Spanish court refused that any document related to the ongoing proceedings in Spain be shared in the context of the present disciplinary proceedings.
39. On 18 October 2023, the Secretariat provided the Respondent with the latest communication from Mrs Perez and informed him about (i) the date on which the case would be decided and (ii) the deciding panel. Finally, the Respondent was reminded that the case would be decided on the basis of the case file, without a hearing being held.

## II. WRITTEN SUBMISSIONS

### A. Submission of the Player

40. The main elements of the Player's submission (cf. para. 31 *supra*) can be summarised as follows (free translation from Spanish).

## 1. On the Respondent's attitude during the awards ceremony

41. During the awards ceremony, the Respondent's *"attitude was too effusive and inappropriate in many ways (...) and it is even possible that some teammates might have felt a little uncomfortable given that the way he celebrated was more typical of a player than of a manager, for example when he carried a teammate on his shoulder or when he kissed other teammates on the cheek during the celebration in a somewhat abrupt manner"*.

## 2. In relation to the Kiss Incident

42. *"[The Player's] behaviour was the same as with the rest of the personalities who were there before, [she] approached [the Respondent] and [they] gave each other a cordial and respectful hug. Everything happened very quickly, but in fact [she] approached him because it is part of the protocol to greet the personalities who were at the stand. [She] remember[s] that he hugged [her] tightly, that he jumped up and climbed on top of [her], straddling [her] with his legs wide open, and [she] had to hold him up. [She] told him "what a mess we've made" and he said something like "we've won this World Cup thanks to you" (you could hardly hear anything over the atmosphere and the music) and when he got off, holding [her] with his arms and hugging [her] head, he grabbed [her] with his hands on [her] ears and kissed [her]"*.
43. She had *"no indication of his intentions, nor could [she] have expected what he did when [she] was receiving the world champion's medal, with the emotion of the moment and the emotional state [she] was in. It was a surprise and unexpected and unpleasant, with no capacity for any reaction on [her] part and [she] felt very embarrassed and bad"*.
44. She did not agree to the Kiss beforehand. It came from the Respondent and *"it was totally unexpected" and "humiliating"*. She felt uncomfortable with and *"never gave him permission or consented to it"*. It *"was in no way mutual, nor was it consensual"*.
45. The Player pointed out that the Respondent *"also had [her] by the head, locked very close to his mouth and it was him who came to [her] mouth to kiss [her], [she] was in shock"*.
46. After the Kiss, she remembers *"feeling embarrassed at the time and [she] quickly shared with some of [her] teammates what had happened because [she] didn't feel good. As time went on, and although [she] always tried to keep the focus on the celebration as well so as not to upset [her] teammates, [she] was able to reflect on what had happened and [she] was more aware that [she] didn't feel respected, that it put [her] in a very complicated situation. Mr. Rubiales insisted on talking to [her] privately, and at the first opportunity [she] let Mr. Rubiales know that what he had done to [her] was wrong and that there could be consequences. Also, as [she] said immediately afterwards, [she] did not like it and he put [her] in a very complicated position"*.
47. While the players were celebrating, the RFEF Sporting Director called the Player to talk to the Respondent. During this conversation, *"he tried to explain his behaviour again from his point of view and [she] told him that [she] didn't need explanations because [she] knew perfectly well what had happened and [she] let him know that it hadn't been right"*. *"[I]nstead of approaching [the Player] to apologise, he tried to justify his behaviour and manipulate [her] opinion in order to play down the issue and not to compromise*

him. [She] even felt pressured by both him and the people around him to do what they wanted me to do, in particular, they wanted [her] to sign a joint statement to play it down”.

48. Mr. Rubiales and/or RFEF officials tried on several occasions to put pressure on the Player and/or her family after the awards ceremony to make her take position in his favour:

- *“First of all in the dressing room as soon as [the Player] arrived (...) the Sports Director asked [her] if [she] could go out for a moment to speak privately with [the Respondent]. (...) [The latter] tried to give his explanations like “well Jenni, you know how it was, we hugged and so on and so forth” and [she] said “don’t explain to me how it was. This is going to fall on you because what you have done is not right”. And he said “but Jenni, you know how I am, it’s a thing of the moment... Well, I have something to say to the team”;*
- *“Later, on the way to the airport the bus stopped and [the Player] was told to get off. Pablo Garcia-Cuervo and Patricia Pérez, Head of Communications, told [her] that there had been a lot of commotion and that the RFEF needed to come out with a statement including a few sentences of [the Player] to play down the importance of the matter. [Patricia Perez] showed [the Player] something on [her] mobile phone and [the Player] asked if [she] was obliged to do it and [Patricia Perez] said yes, to which [the Player] said something like “do whatever you want” so that they would leave [her] alone, but [she] has never written, read, signed or authorised the RFEF for [her] name to appear in this statement”;*
- *During the flight back to Spain, the Respondent asked the player “to “please, we had to make a video explaining what had happened and that we had to do it now (because of the stopover in Doha)” and again he wanted to explain to [the Player] his version of what had happened. Again, [she] told him that he didn’t have to tell [her] how it had happened because [she] had lived through it and that [she] had already told him that he was going to make a mess because it hadn’t been right. [Se] also told him that [she] didn’t have to be in any video because [she] hadn’t done anything wrong. At that moment, [the Respondent] said something that [the Player] will never forget: “Jenni, I am a good person and I have done a lot for women’s football. You are a good person too and good things happen to good people. I have my two daughters back there crying, I need you to help me, to be with me. You know that I have always been very good to you. Besides, we both know that we both like the same thing (referring to my sexual orientation)”. And [the Player] said “look Luis, I’m sorry, let me talk to my people”. And he said, “OK, I’ll tell Chema to talk to your brother”. [The Player] told him that [she] didn’t want him to talk to [her] brother and that [she] would talk to [her] agency. From then on, they didn’t even look at [her] or anything”;*
- *In Ibiza (i.e. where the Spanish team went after the World Cup), “Miguel García (from RFEF Integrity) called [the Player] saying that he had to do a Zoom to explain what had happened, insisting that [she] had to tell the truth, that it had been “something natural and spontaneous”. [She] asked him if it was compulsory and he said yes because the process was already underway but that it would be very quick. [Her] mobile phone was out of battery and they offered [her] Rubén’s mobile phone to do it... (...) The truth is that [she] felt very pressured (...)”. The Player was requested a couple more times to take part in this call until she told them to leave her alone. “That’s when they started talking and chasing my friend Ecu, who told me that she could put up with the downpour so they wouldn’t give me a hard time. As [her] friend Ecu can confirm, Albert had a conversation on the phone*

*for almost an hour and after the conversation Albert came to [the players'] hotel with the intention of talking to [the Player], although [she] had already replied saying (...) that [she] wasn't going to talk to anyone. In the 30-minute conversation in person with [the Player's] friend, Albert told [the latter] that he had done many favours [to the Player] (in reference to some tickets to a discotheque or a hotel reservation) and to please convince [her] to talk to him in person".*

49. The statements quoted in the media release(s) of the RFEF were not written or authorised by the Player.
50. Following the Incident, *"in calmer moments [the Player] understood the humiliation [she] had been through and the shame [she] felt. (...) On the one hand [she] wanted and felt the need to say out loud that it had not been right and, on the other hand, [she] did not want to cloud a moment, a celebration and such a special moment for [her] teammates, for [her] country and for [herself]. At all times [her] intention was to handle this issue privately so as not to expose more publicly and that is why [she] only spoke to people close to [her] to assess how to manage this crisis (...). For [her] part, in the face of the crisis, [she] was suffering personally (...), [she] had to publish a strong statement (...). Obviously, [the Respondent's] behaviour and the total falsehood of his words, making [her] responsible for his exclusive behaviour, forced [her] to make things clear, as he was using [her] to whitewash his responsibility, his position, even without respecting [the Player] as a person, as a woman, tarnishing [her] image and putting things in [her] mouth that [she had] never said".*

### **3. On the day following the Match**

51. The Respondent never apologised to the Player.
52. As previously explained, various officials of the RFEF (Jorge Vilda, Patricia Perez, Ruben Rivera, Albert Luque) approached her, asking the Player *"to somehow defuse the tension and say that it was a mutual, friendly act".* The Player felt pressure *"on several occasions with emotional blackmail".*
53. *"[F]rom the very first moment [the Player's] agency sought professional advice and [she has] been advised by lawyers. Also, from the very first moment [she] made [herself] available to the Spanish justice system to clarify the facts and to collaborate in the investigation opened by the State Attorney General's Office (...). In the same way, [she has] been in contact with the psychologists of Club Pachuca as well as with a psychologist [she] trusts. There have been recordings of [her] statement and of Mr. Rubiales, but [her] lawyer [told her that she] cannot share them due to the express warning of the investigating judge (...)".*
54. The Player feels *"really humiliated by everything that has happened and the media exposure and public scrutiny that [she and her] family have been subjected to. [She has] been hounded for photos, [her] family has been harassed, information has been published in the media and social networks to attack [her] personally and professionally when [she had] done nothing wrong and [she is] a victim in all of this".*
55. As a footballer, she doesn't know if she will *"ever be able to recover from the damage [her] image has suffered because after so many years of work and in the best moment of [her] career, [she] feel[s] that [she has] been robbed of the opportunity to be remembered as a world champion, as one of the best players in the tournament and as captain. All these achievements are now tarnished by an act that was completely*

*out of place, inappropriate, forced, unwanted and that at no time could [she] have imagined and that [she] neither consented to, nor provoked".*

56. She considers herself *"a strong woman, but this would bring anyone down. [She has] been used to steal the limelight from a team and it makes [her] feel bad for [her] teammates and [her] country (...)"*.

## **B. Additional submissions**

57. The main elements of the written submissions of the Presidents of both the NZF and The FA (cf. paras. 19, 28 and 30 *supra*) can be summarised as follows.

### **1. Joint submission of the Presidents of both the NZF and The FA**

58. *"Given that [they] both observed the events leading up to the medal ceremony and then were directly involved in it, [they] feel that [they] can bring a sense of perspective to the circumstances, as well as first-hand observations on the impact of [the Respondent's] behaviour".*
59. They stood next to the Respondent during the awards ceremony and observed the following:
- He was *"aggressive about where he was positioned in the line-up of the medal ceremony. This was inappropriate and unnecessary"*;
  - He threw *"his arms around the Spanish player Jenni Hermoso and give her a strong hug, while whispering in her ear. He put both his hands on the back of her head and kissed her fully and forcibly on the mouth. There was no evidence that this kiss was consensual and her body language immediately after (including rolling her eyes) implied that she was uncomfortable. It left [the Presidents of the NZF and The FA] feeling uncomfortable too. It is noticeable that she stated directly afterwards to media that she "did not enjoy that.""*;
  - The Player *"was not the only player to be treated this way by [the Respondent], as he effusively hugged and forcibly kissed other players, on their cheeks, holding their heads and inappropriately tapped parts of their bodies"*;
  - Whilst they did not observe this themselves, *"it is widely reported that [the Respondent] grabbed his crotch in a victory gesture when the final whistle was blown, an act which was aggressive, inappropriate, and disrespectful"*;
  - The Respondent's *"initial reaction was to dismiss the serious nature of his actions and to comment that anyone who saw this as inappropriate behaviour were both an "idiot" and/or "stupid" and his half-hearted apology that followed the next day was hollow, lacked any humility and was as damaging as the offending action he was apologising for"*.
60. It is their assertion that the Respondent's behaviour *"represents a material breach of the FIFA code and that the strongest possible sanctions are therefore applied to him"*.
61. Whilst they *"can speculate about his motive, [they] do feel that he is fully aware of the responsibilities that come with his role and we feel he has abused them, at the same time bringing the game into serious disrepute"*.

62. They request to have *"the opportunity share [their] experience of this event with the Disciplinary Committee"*.

## 2. Individual submissions of the President of the NZF

63. In a first submission, the President of the NZF provided – *upon request of the Secretariat* – additional comments in relation to the aforementioned submission (cf. paras. 58 ff *supra*), which can be summarised as follows:

- On her previous observations:
  - The Respondent and *"his team were pushy in the tunnel and formed a line in front of those of us who had been asked to present medals requiring FIFA staff to physically put themselves around us to avoid being pushed and finding a way for us to move towards the stage"*;
  - The Respondent *"put both his hands on the back of [the Player's] head. It appeared to [the President of the NZF] that he was holding her head firmly to ensure that she could not move away"*;
  - She *"observed other players turning their head away so any kiss from [the Respondent] was to the side of their lips. Again, this felt to [her] as an observer as forcible as players appeared to not be able to avoid [the Respondent]"*;
- In her opinion, the Respondent's behaviour *"has brought the success of the FIFA World cup into disrepute (...). It has distracted from what should have been a celebration of the Spanish Team and the month-long successes of the World Cup. His actions have tarnished our organisation and brought us into disrepute undermining all the positive changes the FIFA Council and FIFA Staff have made in the years that [she has] been a FIFA Council Member. No woman (or man) should be exposed to such blatant physical contact. Nor should anyone be told that something is consensual or due to the excitement of a moment. FIFA has a flagship programme in its FIFA Guardians Diploma which has at its heart the safety of all. From [her] perspective it did not feel or look safe to [her]"*.

64. In a second submission, the following elements were put forward:

- She has *"been reflecting on the global impact of the actions of [the Respondent] further and a recent request by players of [the NZF] women's national team to support [the Player] with #SeAcabo armbands in their recent game against Chile 1.5 hours before kickoff, seeking approval of NZF Executive and Board for this has made [the President of the NZF] pause and reflect on not just the global impact but the ongoing impact of [the Respondent's] actions"*;
- *"It is this global and ongoing impact, which in [her] opinion brings our beautiful game into disrepute and damages the reputation of FIFA as a whole. [She has] seen many media stories and posts regarding the matter and would like to outline but a few below:*
  - *Firstly, the request from the New Zealand Women's Team, [she] believe[s], took the focus away from the game at hand. Given that 15 hours before kick off they were requesting a meeting*

*with NZF Management and Executive to wear #SeAcabo armbands in their match against Chile (...)*<sup>4</sup>;

- *Media channels have continued to run with this story and detracts from the success of the FIFA Women's World Cup 2023 and throws a negative lens on football, and in [her] opinion contravene [art. 13.1 FDC] which states that any official may be subject to disciplinary measures if they, by illustration, violate the basic rules of the decent conduct, insult a person in any way, especially by using offensive gestures, signs or language or behave in a way that brings the sport of football and/or FIFA into disrepute (...)*<sup>5</sup>.

### 3. Individual submission of the President of The FA

65. In a written submission, the President of The FA provided – *upon request of the Secretariat* – additional comments in relation to the aforementioned submission (cf. paras. 58 *ff supra*), which can be summarised as follows:

- Her account of the events is as follows:
  - She was initially standing next to the Respondent *"in the tunnel, as [they] were being positioned for the medal ceremony. He appeared unhappy as to where he had been positioned in the lineup. FIFA staff (or stewards) told him to remain where placed and stood around us so that the presentation group could make our way to the stage. The tone of his voice in response was unpleasant and unnecessarily aggressive"*;
  - She *"stood directly next to [the Respondent] in the line-up on the stage (...). [He] greeted each [match officials] warmly with a handshake. The England team came up individually onto the stage. [The Respondent] shook the hand of every player and touched a few on the arm as they walked past. He then 'cupped and stroked' the face of the English player Laura Coombs, which [the President of The FA] thought was slightly odd and then he seemingly forcefully kissed the English player Lucy Bronze on her face"*;
  - *"As the Spanish players stepped up, [the Respondent] became more boisterous. He was tactile with almost all of them, kissing most on the cheek, and giving some multiple kisses in quick succession and holding them very tightly. He rubbed some on their back, tapped one on her bottom, grabbed some by their arm, lifted several off their feet, and one was hoisted twice. In most cases, [the Respondent] initiated the hugs and physical contact. The hugs were reciprocated but the kisses weren't. It appeared that some players moved their heads to avoid the kissing. [The President of The FA] felt deeply uncomfortable and embarrassed"*;
  - *"Halfway along the line of Spanish players [the Respondent] and [the Player] embraced and hugged. [The President of The FA] was not conscious of their initial interaction as [she] was embracing a different player. It was noticeable that he was still hugging [the Player] when [the President of The FA] was free. He had put both his hands on the back of her head and kissed her fully and forcibly on the mouth. He tapped her on her back as she walked away. There was no evidence to suggest that this kiss was consensual, it was not possible for her to pull away*

<sup>4</sup> Various links to media articles on this subject were provided.

<sup>5</sup> Various links to media articles on this subject were provided.

*without significant force and her body language, including rolling her eyes, implied that she was embarrassed. It is noticeable too that she stated directly afterwards to media that she "did not enjoy that.". [The President of The FA] was slightly shocked by what [she had] seen, the aggression and force seemed inappropriate and out of place";*

- *"As the celebrations continued, on the pitch, Snr Rubiales lifted a player onto his shoulder before carrying her while holding the backs of her thighs";*
- *"Whilst it could be argued that this exuberance was a result of being caught up in the moment of a medal ceremony, it is widely reported, with photographic evidence, that ahead of the ceremony, [the Respondent] grabbed his crotch in a victory gesture when the final whistle was blown, an act which itself was aggressive, inappropriate, and disrespectful, especially as he was seated next to the Queen of Spain and her 16 year old daughter";*
- *The Respondent's "initial reaction was to dismiss the serious nature of his actions (...) and his half-hearted apology that followed the next day was hollow, lacked any humility and was as damaging as the offending action he was apologising for. There was an opportunity to show contrition but rather he aggressively blamed the Player, and used his position to coerce her into suggesting the kiss was consensual and subsequently to assert disciplinary proceedings against her. Such behaviour allowed the global audience watching these unfortunate events unfold to speculate about the potentially toxic and oppressive culture of the Spanish FA and more broadly question the tolerance and potentially complicit acceptance of FIFA as an organisation of such behaviour in one of its senior leaders";*
- *It is her assertion that the Respondent's behaviour constitutes a breach of art. 13 FDC. "He has brought the FIFA organisation and the World Cup Ceremony into disrepute by behaving in such a way on this global stage. He has taken away the focus on what should have been the positive and joyous celebrations of the Spanish team and he has instead stubbornly and repeatedly tried to blame the player".*

### III. RESPONDENT'S POSITION

66. The Respondent submitted (i) his initial position on 5 September 2023 (cf. para. 21 *supra*) and (ii) his final position on 16 October 2023 (cf. para. 37 *supra*).

#### A. Initial position

##### 1. Preliminary remarks

67. The Respondent *"has already expressed his deepest regret at everything that happened"*.
68. The Respondent is *"aware that independently of the context, and the reasons that led him to do what he did, none of them should ever have happened"*.

69. He *"acknowledges his responsibility as President of one of the only 5 countries that proudly wear the star of the champions in their jerseys and recognizes that he should have known better"*.

## **2. On the context of the reported incidents**

### **a. On the Carrying Incident**

70. The Respondent *"acknowledges he should not have done it"*, but it should be noted from the pictures available that *"at no point she was trying to request Mr. Rubiales to put her down, she does not appear to feel threatened or uncomfortable with the act"*.
71. He *"was overcome by joy and happiness and while they were all celebrating hugging and jumping, he took Ms. Castillo on his shoulders. It has to be pointed out that his occurred 45 minutes after the end of the game, when the stadium was empty, and the medal ceremony was over"*.
72. *"At no point the players protested and/or called him out for having done so to the extent that when they were leaving the stadium, being in the bus, all the players started singing (...), cheering for him to the extent that Mr. Rubiales had to request them to stop because they were making him blush"*.
73. The behaviour at stake *"has to be considered as nothing but a happiness expression, comparable to what in other occasion Mr. Rubiales did with the Head Coach of the Men National Team, at that moment Luis Enrique Martinez, now head coach of PSG, when Spain eliminated Croatia during the Euro 2020"*.

### **b. On the Genitals Incident**

74. The Respondent *"recognizes that he never intended to bring the sport of football and/or FIFA into disrepute, to violate the basic rules of decent conduct or not act in compliance with FIFA Rules or the principles of fair play, loyalty, or integrity"*.
75. At the end of 2022, a group of players decided to withdraw from the national team until the head coach would be fired. The Respondent however backed the head coach and confirmed him for the Women's World Cup, leading to a lot of (media) pressure over the staff and the RFEF. *"When the referee blew the whistle, the head coach turned to the stands and pointed to [the Respondent], it was a celebration, and he thanked [the latter] for his trust. [The Respondent] responded pointing back at him and with the gesture that everyone saw and appears in the evidence provided by FIFA, meaning "olé tus huevos", a typical Spanish expression, meaning "way to go" (excuse my language). Could he have responded just by pointing Mr. Vilda back? Probably yes. In Spain that gesture, even if we understand it is not usually done in formal meetings, it is a very popular way to say, "you are the best". Unfortunately, [the Respondent] was carried out by the emotion of the victory and did something that he profoundly regrets. (...) [T]he gesture was not against anyone, it was only directed at the Coach that had just won the world championship"*.
76. At no point did the Respondent *"try to disrespect anyone or to bring any disrepute to football and or FIFA"*.
77. *"This gesture, has never been considered grounds for suspension when other have done it"*, including Diego Maradona during the FIFA World Cup Russia 2018, Diego Simeone during a UEFA Champions League Match or Emiliano Martinez after the final of the FIFA World cup Qatar 2022.

**c. On the Kiss Incident**

78. The Respondent insists that he *"has recognized that it should not have happened and acknowledged that because of his position as President of the RFEF he should have maintain the highest level of composure"*.
79. The Respondent *"confirmed several times, before and after this disciplinary procedure was opened, that in the moment of the medal ceremony, when [the Player] reached his position after receiving the gold medal the exchange was pretty quick, but she hugged him lifting him in the air, they expressed their admiration for each other and [the Respondent] told her to forget about the penalty (...), she replied by saying "you are the best", then he asked "can I kiss you?", she said "ok then" and then the peck kiss occurred, very quick, after which she left with a pat on his ribs. The whole exchange including the kiss lasted around 3 seconds"*;
80. It *"seemed clear that when [the Player] left the stage, happy, smiling, she was not concerned about anything"*. The version presented by the Respondent *"is sustained not only by the images but also supported by video footage where during a TV news program, they affirm having conducted a lips reading analysis, confirming that [the Respondent] requested permission to kiss [the Player]"*;
81. *"This version of events is the same maintained by Mr. Rubiales on radio, television, and public statements both written and oral (...)"*.
82. The Respondent *"wants to point out that the majority of the news media outlets have decided to, intentionally or negligently, omit from their reports other evidence publicly available and to misinterpret the videos available"*.
83. There are two videos available of the players celebrating in the changing room after the Kiss:
- The first one was uploaded by the player Salma Paralluelo on her *"Instagram live, where [the Player] can be seen next to [the Respondent] while he announces a trip to Ibiza to celebrate the title, with everyone celebrating the news, where [the Player] even jokes with him getting married with [her], obviously a joke in which [the Player] participated and at which she overtly laughed"*;
  - The second one was uploaded by the Player herself on her Instagram live. *"The interpretation of this video is particularly damning because the press has decided to extract exclusively the part where she says "I did not like it" but decided to not report that right after that (second 26 of the video), her and another teammate are watching the kiss on another screen and someone asks [the Player] "and what did you say", and she responds "sure, why not", confirming precisely the fact that [the Respondent] asked for permission to give the kiss and confirming that she granted such permission"*.
84. The Respondent insists that he *"regrets profoundly even asking her for permission, he knows that he should not have done it, but the evidence is clear in this respect, he asked [the Player] if he could kiss her, she said, "ok then", and they kissed each other only after she agreed. Therefore, he cannot be accused of sexual aggression or of having kissed [the Player] without her consent"*.
85. The Respondent also emphasised the following:
- Once in the bus with the rest of the team, the Player laughed about the Kiss Incident;
  - In an interview to the national radio, the Player *"confirmed that there was no issue with it"*.

86. The "RFEF was aware of everything that happened, and the attention brought for the investigated facts, and that is why the sexual harassment protocol was activated. That protocol was activated by the Integrity Department of the Federation, and among others, Mr. Javier Lopez Vallejo, psychologist of the National Team and safeguarding and welfare officer of FIFA for the World Cup, provided a report on the 23 August, the day before FIFA informed about the opening of this investigation were confirmed that:

1. That the Player considered it something anecdotal and consequence of the celebration.
2. That [the Respondent] confirmed the same interpretation.
3. That in his expertise there was no concerning attitude from any of them, neither from [the Player] nor from [the Player]";

87. Two experts mandated by the RFEF Integrity department "confirmed the brevity of the kiss, and concluded that (...) [there was]:

- (...) no violent behavior, abuse of power or sexual connotation in the behavior of [the Respondent], as well as behaviors of rejection or disapproval by [the Player], specifically during the kiss at the awards ceremony to the Spanish Women's Football Team in Australia;
- (...) no signs or symptoms of victimization have been observed in [the Player] directly linked to the kiss of [the Respondent] that occurred at the awards ceremony for the Spanish Women's Football Team, in Australia, reactions that are not compatible with the manifesto of the players days later (...)"

### 3. Final remarks and requests

88. The Respondent insists that he "apologizes for letting emotions control his acts, but none of them was done with the intention of harming [the Player], FIFA, the football family, or anyone that might have felt offended by his acts. A peck, which is how everyone referred and talks about the kiss is by definition a short kiss, without further intention, and that is exactly what the evidence available shows, a peck, yes on the lips, between [the Player] and [the Respondent], but nothing else, an act that did not make anyone felt bad, abused, or harassed, or a victim of any kind of violence".

89. The evidence on file confirms that the "facts occurred in the way Mr. Rubiales has explained from the very beginning when he was questioned about those moments". As such, there is "no justification to impose a suspension on Mr. Rubiales, the damage to his reputation and professional career grows every day that passes with him suspended by the football world governing body".

90. The Respondents requests (i) to be provided with "all the original footage recorded of the incidents", and (ii) "the celebration of a hearing before the disciplinary committee to present oral arguments".

## B. Final position

### 1. Preliminary remarks

91. The Respondent will not *"enter again into the analysis of article 13 of the FDC since it was already done in [his] previous explanations"*. As such, he will only *"address the new documentation and the new allegations brought against Mr. Rubiales since then"*.
92. The Respondent highlights that he *"has already expressed his deepest regret at everything that happened"*.
93. In addition to the previously reported incidents (namely *"Ms. Castillo being carried over Mr. Rubiales' shoulder"*, *"the explicit celebration"* and the Kiss), a new incident has been added to the case file, namely *"the kiss that Mr. Rubiales gives to Ms. Carmona"*.

### 2. On the merits

#### a. On the Peck Incident

94. It is *"a little bit surprising, since it is a worldwide shown of appreciation and as it can be easily seen in the images, Mr. Rubiales was very effusive with all the members of the team when they received the medals"*.
95. *"[I]n Spanish culture this pecks on the cheeks are common between men and women"*.
96. *"In the celebration of the Spanish National Men Team victory for the UEFA Nations League's title against Croatia, Mr. Rubiales can be seen also kissing effusively the male players"*. As such, he does *"not consider that there are more explanations needed in this regard"*.

#### b. On the statement of the President of The FA

97. *"It is astonishing to read (...) the amount of prejudice that Ms. Hewitt showed against [the Respondent] which took her, without knowing what he was saying in response, to decide that he was being aggressive. Without providing any evidence"*.
98. The Respondent feels *"the need to point out that Ms. Hewitt, hugged several players even after clearly noticing that they were extending their hands to receive a handshake, which applying the same logic she used, could be understood as a forceful nonconsensual physical contact, or even when greeting the referees, it can be seen Ms. Hewitt touching all of them in their arms, while [the Respondent] limited his interaction to a plain handshake. The hypocrisy is blatant"*.
99. The Respondent reads the words of the President of The FA *"with absolute dismay"*.
100. *"The way she presents a gentle gesture of comfort to all the rivals in the final of the WWC, suggesting that [the Respondent] is some sort of creep is absolutely disgusting. Also, she either purposely or negligently decides to obviate some of crucial facts, first Ms. Coombs was injured during the final, had to receive stitches and was wearing a bandage in her head, reason why [the Respondent] tried to comfort her, and second Ms.*

*Bronze not only plays in Spain, but she was also super cup champion in Spain just few months before in which celebration Mr. Rubiales obviously participated. This conduct was not denounced when on June 18, 2023, he hugged Mr. Luka Modric after the final, precisely for the same reasons he hugged Ms. Bronze".*

101. *"She falsely affirms that the players were not participating in the celebration, the images provided by FIFA of the celebration speak for themselves, and that some of them even "moved their heads to avoid the kissing" (on the cheeks). This is blatantly false as can be seen also from the images".*
102. *In relation to the Kiss, "Ms. Hewitt again blatantly lies or at least, speaks from ignorance. The evidence presented in this procedure, but also before Spanish courts and reported by the media, confirm that there was an exchange during which [the Respondent] asked and [the Player] consented".*
103. *The last paragraphs of her statement "are straight forward incomprehensible. First she gives her opinion about the incident in the stands, which she did not witness, or knew about, until reported by the media. Second she misquotes [the Respondent], and proceeds to give her opinion about what happened one week after the final, which, as far as [the Respondent is] concerned, Ms. Hewitt is in no position in this procedure to do, and then moves to affirm that [the Respondent] "blamed" the Player. At no point did [the Respondent] blame the Player, all the explanations of [the Respondent] have been consistent since the very first day, and at no point has he blamed the Player".*
104. *"In summary, the statement provided by Ms. Hewitt is at best a disservice to her position as Chair of the English FA".*

**c. On the statement of the President of the NZF**

105. *"The statement of Dr. Wood is in no way better".*
106. *She is "using the same words of Ms. Hewitt (which is quite odd), affirmed that [the Player] rolled her eyes after the kiss, which is not only false, by the images, but also, it is quite difficult to understand how both Ms. Hewitt and Dr. Wood saw her rolling her eyes from their positions".*
107. *"In the videos provided by FIFA, it can be seen that when [the Player] moved from [the Respondent] to Ms. Hewitt, she was overtly smiling and laughing, no sign of rolling her eyes before she reached Ms. Hewitt, but also, considering Dr. Woods' position in regard to Ms. Hewitt, made it really difficult for her to, while greeting other players, see Ms. Hermoso should have she rolled her eyes before reaching Ms. Hewitt. The image [put forward by the Respondent] shows clearly how it was impossible for Dr. Wood to see the reaction of Ms. Hermoso since probably she was greeting most probably greeting the previous player when it happened".*
108. *The second letter sent by the President of the NZF shall be "removed from the file since it was submitted almost 10 days after the expiration of the deadline, and it is only a list of news' articles publicly available that obviously point in a very particular direction".*

**d. On the video footage of the celebrations**

109. It can be seen on the video that all players “pay careful attention to [the speech given by the Respondent] while smiling at him, nothing out of the ordinary in this kind of celebrations, which also highlights the great relationship between the players and the president, and the normality existing”.

**e. On the communications with Ms Perez**

110. “[I]t can be understood that Ms. Perez could not provide her statements to FIFA but that those provided before the Spanish Courts had been requested”.

111. “It is quite surprising, to say the least, that [the Respondent], has been now granted the last opportunity to comment on the evidence provided, and as part of the evidence is the announcement of a statement that will be provided...”.

112. The investigations conducted by FIFA have exclusively taken into account the evidence that might be considered against the Respondent.

**f. On the interrogatory of the Player**

113. “As explained initially and supported by the evidence available, [the Respondent] asked her for permission, and as she herself confirmed on video, she agreed. We can discuss the moment, if he should even have asked, why he asked her and nobody else, etc. etc. etc. But the truth is that [the Respondent] never acted without consent”.

114. The “tone of the questionnaire provided to [the Player]” is quite “surprising”. “This line of questioning is full of leading questions and statements that would not be permitted in court, but also they contain blatant lies (...). It is astonishing how an interrogatory can direct a person to say what the interrogator wants”.

115. Regarding the coercion of which the Player is accusing the Respondent, the latter points out that:

- “Nowhere in [the messages provided by the Player] anybody can find Mr. Luque coercing or forcing her, threatening her to do something. In fact, the only thing he wanted to do was talk to her for 2 minutes, which she rejected”;
- The Player “affirms also that Mr. Rivera, RFEF’s CMO, acted also to put pressure on her, but at the same time, she was asking him to allow a friend of hers to travel to Ibiza with the team, tickets, swimsuits, reservations, etc., the only conversation he had with [the Player] in regards to the incident allegedly occurred after their arrival to Ibiza when Mr. Rivera asked her several times to call Mr. Garcia Caba (RFEF Integrity director)”.

**3. Final remarks and requests**

116. The Respondent emphasizes that “the FIFA Disciplinary Committee is equivalent to a court of law, we are not here to do what in Spain we call “juicio de telediario”, or “news trial”. We must discuss law, and decide upon it. Coercion is defined as persuading someone to do something by using force or threats. In this case,

*we are still waiting for someone to prove how anyone threatened [the Player] or persuaded her to do something by force. Asking someone to do something, or even insisting on it, is not coercion".*

117. The Respondent requests once again *"the celebration of a hearing before the disciplinary committee to present oral arguments"*.

## IV. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

118. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects, namely, its jurisdiction and the applicable law, before entering into the substance of the matter and assessing the possible breaches committed, as well as the potential sanctions, if applicable, resulting therefrom.

### A. Jurisdiction of the FIFA Disciplinary Committee

119. First of all, the Committee noted that at no point during the present proceedings did the Respondent challenge its jurisdiction or the applicability of the FDC.

120. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of art. 2.1 FDC read together with art. 56 FDC, it was competent to evaluate the present case and to impose sanctions in case of corresponding violations.

### B. Applicable law

121. In order to duly assess the matter, the Committee firstly began by recalling the content and the scope of the relevant provisions of the 2023 edition of the FDC, which was, in its view, the edition applicable to the present issue. In particular, considering that the Match was played on 20 August 2023, the Committee was satisfied that both the merits and the procedural aspects of the present case should be covered by the said edition of the FDC.

122. In continuation, the Committee referred to art. 13 FDC, on the basis of which the present proceedings had been opened and which reads as follows:

#### **Art. 13 FDC – Offensive behaviour and violations of the principles of fair play**

1. *Associations and clubs, as well as their players, officials and any other member and/or person carrying out a function on their behalf, must respect the Laws of the Game, as well as the FIFA Statutes and FIFA's regulations, directives, guidelines, circulars and decisions, and comply with the principles of fair play, loyalty and integrity.*
2. *For example, anyone who acts in any of the following ways may be subject to disciplinary measures:*
  - a) *violating the basic rules of decent conduct;*
  - b) *insulting a natural or legal person in any way, especially by using offensive gestures, signs or language;*

- c) *using a sports event for demonstrations of a non-sporting nature;*
- d) *behaving in a way that brings the sport of football and/or FIFA into disrepute;*
- e) *actively altering the age of players shown on the identity cards they produce at competitions that are subject to age limits.*

123. As can be seen, this provision contains a general obligation for officials (among others) to comply with the regulatory framework of FIFA, but also, to behave properly, in particular by following the general principles of fair play, loyalty and integrity, failing which disciplinary sanctions may be imposed on the person concerned.

### C. Standard of proof

124. The above having been established, the Committee recalled that, as a general rule, the burden of proof regarding disciplinary infringements rests on the FIFA judicial bodies (cf. art. 41 FDC). In other words, the Committee is required to prove the relevant infringement(s).

125. In continuation, the Committee pointed out that, in accordance with art. 39.3 FDC, the standard of proof to be applied in disciplinary proceedings is that of "*comfortable satisfaction*". According to this standard, the onus is on the competent judicial body to establish the disciplinary violation to its comfortable satisfaction, taking into account the seriousness of the allegation(s).

126. In this respect, the Committee recalled that the Court of Arbitration for Sport (**CAS**), which also applies this standard in disciplinary proceedings, has defined it as a higher standard than the civil one of "*balance of probability*" but lower than the criminal "*proof beyond a reasonable doubt*"<sup>6</sup>.

127. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

### D. Merits of the case

#### 1. The issue in review

128. The relevant provisions having been recalled, and the above having been established, the Committee first wished to stress that the incidents at stake occurred during and after the final of the FIFA Women's World Cup, *i.e.* the most important match of FIFA's flagship women's competition. In particular, the Committee pointed out that said match (i) was attended by more 75.000 spectators in the stadium and (ii) broke global audiences record, being watched by an average of 5.6 million people in Spain and more than 10 million people in England<sup>7</sup>.

129. Similarly, the Committee deemed that it should not lose sight that – at the time of the incidents at stake – the Respondent was one of the most prominent officials in the football world, being the

<sup>6</sup> See amongst others CAS 2009/A/1920; CAS 2010/A/2172; CAS 2013/A/3323; CAS 2017/A/5006.

<sup>7</sup> See <https://www.reuters.com/sports/soccer/womens-world-cup-final-draws-record-tv-figures-spain-england-2023-08-21/> and <https://deadline.com/2023/08/2023-womens-world-cup-final-ratings-spain-england-australia-1235524500/>

president of one of the most successful football federations (both in Europe and in the world<sup>8</sup>) but also a member of the UEFA Executive Committee and one of UEFA's vice-presidents<sup>9</sup>.

130. Keeping those elements in mind, the Committee subsequently proceeded to examine the documentation and evidence at its disposal in order to determine the potential violations committed by the Respondent.

131. In this context, and upon a careful analysis of the various footage and photographs contained in the case file, the Committee acknowledged that a series of incidents involving the Respondent occurred during and/or after the Match.

132. More specifically, the Committee could identify the following four incidents in a chronological order:

- The Genitals Incident: in one of the available video footages, the Respondent could be seen grabbing his crotch/genitals in the VVIP area;
- The Kiss Incident: in various videos of the award ceremony – which were widely reported worldwide –, the Respondent is seen hugging the Player, speaking to her before putting his hands on the back of her head and kissing her on her lips.
- The Carrying Incident: in several pictures taken during the post-Match celebrations on the field of play, the Respondent is carrying the Spanish player Athenea del Castillo over his shoulder;
- The Peck Incident: in a further video footage related to the post-Match celebrations, the Respondent can be seen giving a peck on the cheek of the player Olga Carmona.

133. With the foregoing in mind, the Committee was satisfied that all of those incidents had occurred, particularly considering that the Respondent did not deny any of them. Indeed, the Committee acknowledged that the Respondent rather appeared to justify them, having submitted – *in essence* – the following elements:

- In relation to the Genitals Incident: he did not try to disrespect anyone, nor to bring any disrepute to football and/or FIFA, but was rather showing his support to the Head Coach of the women's national team, celebrating his success during the FIFA Women's World Cup;
- In relation to the Kiss Incident: the Respondent requested the Player if he could kiss her, to which she agreed. As such, *"he cannot be accused of sexual aggression or of having kissed [the Player] without her consent"*;
- In relation to the Carrying Incident: this is *"nothing but a happiness expression"* to which the Player did not object since *"at no point she was trying to request Mr. Rubiales to put her down, she does not appear to feel threatened or uncomfortable with the act"*;
- In relation to the Peck Incident: such pecks are common in Spanish culture, and it should solely be seen as a mark of appreciation following the victory.

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<sup>8</sup> As a note, the Committee pointed out that the RFEF was one of the eight associations having already won the FIFA World Cup, said association being ranked, at the time of the Match, #10 in the Men's Ranking (<https://www.fifa.com/fifa-world-ranking/men?dateId=id14079>) and #6 in the Women's Ranking ([https://www.fifa.com/fifa-world-ranking/women?dateId=ranking\\_20230609](https://www.fifa.com/fifa-world-ranking/women?dateId=ranking_20230609)).

<sup>9</sup> See <https://www.uefa.com/insideuefa/about-uefa/news/024e-0f8e67af8c50-37dd140bfd3c-1000--luis-rubiales-currently-suspended/>

134. In the light of this, the Committee went on to analyse if any of the aforementioned incidents (or all of them collectively) could be seen as being contrary to the principles enshrined under art. 13 FDC.

## 2. The incidents at stake in light of art. 13 FDC

135. As previously emphasised, art. 13 FDC contains a general obligation for officials (among others) to behave properly in accordance with the principles of fair play, loyalty and integrity. In particular, art. 13.2 FDC provides for a (non-exhaustive) list of behaviours that would be contrary to those principles. Such list includes for instance violating the basic rules of decent conduct, using offensive gestures or behaving in a way that brings the sport of football and/or FIFA into disrepute.

136. In this respect, the Committee was of the opinion that any particular behaviour should be analysed from the perspective of a *"reasonable and objective observer"*<sup>10</sup> in order to determine as to whether it may be contrary to art. 13 FDC.

137. In particular, the Committee endorsed the considerations made by the Panel in CAS 2019/A/6967 and emphasised that *"it is not important how a specific social group might interpret [a specific behaviour]. It may well be true that certain social groups or nationalities are more resilient or willing to put up with worse behaviour than others. However, this cannot be the decisive threshold. Instead, [such behaviour] must be interpreted and assessed from the viewpoint of an objective third person, not least in order to ensure equal treatment of all stakeholders"*<sup>11</sup>.

138. In addition to the above, the Committee noted that in CAS 2013/A/3324 & 3369 and CAS 2022/A/9078, the Panels made it clear that *"in the law, context is everything" to determine whether words, chants gestures or other behaviour constitute [a misbehaviour – racial insults in casu] all the circumstances must be considered; who is saying what to (or about) whom, when, what, how and against what background"*. In other words, while the notion of *"reasonable and objective observer"* should be applied to determine whether the incidents fall under art. 13 FDC, the Committee considered that it was equally important to take into account the context in which those incidents occurred when assessing them.

139. With those elements in mind, and upon analysing how the incidents were reported worldwide after the Match (specifically with respect to the Genitals Incident and the Kiss Incident), the Committee first wished to point out that the Respondent's overall behaviour during and after the Match was considered improper, indecent and/or offensive by most (if not all) objective observers, such behaviour being vindictively condemned by various international organisations and/or individuals (including but not limited to the Spanish Prime Minister<sup>12</sup>, the United Nations and UNICEF<sup>13</sup>, the

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<sup>10</sup> Specifically, the Committee pointed out that said principle, initially developed by CAS with respect to crowd disturbance (cf. CAS 2015/A/3874 Football Association of Albania v. UEFA & Football Association of Serbia), was of particular relevance in the analysis of the present matter.

<sup>11</sup> CAS 2019/A/6367 Paris Saint-Germain & Neymar Da Silva Santos Junior v. UEFA

<sup>12</sup> <https://www.politico.eu/article/spain-pm-sanchez-condemns-football-chief-luis-rubiales-kissing-world-cup-winner/>

<sup>13</sup> [https://www.elespanol.com/deportes/futbol/20230828/onu-unicef-suman-criticas-rubiales-comportamientos-abusivos-inaceptables/790171090\\_0.html](https://www.elespanol.com/deportes/futbol/20230828/onu-unicef-suman-criticas-rubiales-comportamientos-abusivos-inaceptables/790171090_0.html) and <https://www.youtube.com/watch?v=T8wdvsmmDoE>

European parliament<sup>14</sup>, the Players' unions Futpro<sup>15</sup> and FIFPRO<sup>16</sup>, other football players<sup>17</sup> or athletes<sup>18</sup>).

140. Notwithstanding the above, and for the sake of good order, the Committee decided to address the aforementioned incidents separately.

#### **a. The Genitals Incident**

141. As stated above, the Respondent was seen celebrating the Spanish victory by grabbing his crotch/genitals in the VIP area of the stadium during the Match.

142. In this context, the Committee acknowledged that the Respondent explained that such gesture was not meant to *"disrespect anyone or to bring any disrepute to football and or FIFA"* but was rather a *"celebration"* gesture towards the head coach of the national team *"meaning "olé tus huevos", a typical Spanish expression, meaning "way to go"*. Specifically, in the Respondent's words, in Spain, such gesture *"is a very popular way to say, "you are the best"*.

143. The Committee might convene that one explanation for the gesture could be that the Respondent was touching his genitals to show his support to the coach, as an expression of a cultural gesture in Spain. However, the Committee was convinced that this gesture belongs to a different period/era in Spain, probably from decades ago, but cannot be associated with the current cultural context of this country, *i.e.* that of the 21<sup>st</sup> century. Today, Spain stands as an example of gender equality and its commitment to this fight, as shown by its women's national football team, especially in the context of the present disciplinary proceedings. This gesture is definitely tarnishing the image of Spain and the general understanding of Spanish culture.

144. Also, and following the explanations of the Respondent, the Committee stressed that the gesture at hand reflects a misogynistic attitude whereby bravery and courage are defined by men's genitals. Certainly, this gesture combined with its message and said background are unacceptable, especially at the world's most important women's sporting event.

145. In this regard, the Committee was left unconvinced by the explanations provided and pointed out that the *"crotch-grab"* is a taunting gesture<sup>19</sup>, almost exclusively done by males, and, as such, widely perceived as misogynist and sexist<sup>20</sup>.

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<sup>14</sup> <https://thediplomatinspain.com/en/2023/09/european-parliament-condemns-rubiales-embarrassing-non-consensual-kiss-with-hermoso/>

<sup>15</sup> [https://twitter.com/futpro\\_es/status/1695152679855477023](https://twitter.com/futpro_es/status/1695152679855477023) and <https://elpais.com/deportes/2023-08-23/jenni-hermoso-condena-la-conducta-de-rubiales-a-traves-de-un-sindicato-y-pide-medidas-ejemplares.html>

<sup>16</sup> [https://www.instagram.com/p/CwpmxZas54G/?utm\\_source=ig\\_embed&ig\\_rid=eeeeaf31d-ec4e-4a56-9243-a732a905f29c&img\\_index=1](https://www.instagram.com/p/CwpmxZas54G/?utm_source=ig_embed&ig_rid=eeeeaf31d-ec4e-4a56-9243-a732a905f29c&img_index=1) and <https://fifpro.org/en/who-we-are/what-we-do/foundations-of-work/players-worldwide-stand-with-jennifer-hermoso/>

<sup>17</sup> <https://www.theguardian.com/football/2023/sep/04/spain-mens-team-luis-rubiales-statement-unacceptable-behaviour> and <https://twitter.com/alexmorgan13/status/1695106005175279779>

<sup>18</sup> <https://euathletes.org/eu-athletes-statement-luis-rubiales-the-rfef-president/> and

<https://www.eurohoops.net/en/fibawc/1550871/pau-gasol-sue-bird-2026-fiba-women-basketball-world-cup-press-conference/>

<sup>19</sup> [https://en.wikipedia.org/wiki/Crotch\\_grab](https://en.wikipedia.org/wiki/Crotch_grab)

<sup>20</sup> See for instance [https://www.espn.co.uk/football/story/\\_/id/38239813/rubiales-behavior-signals-deep-misogyny-sexism-rapinoe](https://www.espn.co.uk/football/story/_/id/38239813/rubiales-behavior-signals-deep-misogyny-sexism-rapinoe)

146. Put differently, and regardless of the justification behind it, it remains that, from the perspective of any reasonable and objective observer, the gesture performed by the Respondent can only be seen as an insulting and/or offensive gesture contrary to the basic rules of decent conduct.
147. In addition to the above and focusing on the context surrounding this incident, the Committee recalled that such incident occurred in the VVIP area of the stadium (*i.e.* the most exclusive section of the stadium), next to the Spanish Queen Letizia and her 16-year-old daughter, Princess Infanta Sofia<sup>21</sup>. Keeping in mind that all football and political dignitaries are present in this area, any person seating there is expected to demonstrate an irreproachable and exemplary standard of behaviour.
148. This is even more the case for any president of an association (as is the case of the Respondent) in so far that they are representing their country on the global-scale, and as such could not, in any capacity, find excuse(s) to somehow justify their inappropriate or indecent conduct(s).
149. On account of the above, the Committee concluded that the Genitals Incident undoubtedly constituted a breach of art. 13 FDC in so far that it was contrary to the very basic rules of decent conduct. In addition, and while putting in perspective the media coverage of such gesture, the Committee also deemed that, by grabbing his crotch in one of the most exclusive areas of the stadium, in the presence of the most prominent dignitaries and during the most important match of the competition at stake, the Respondent clearly behaved in a way that brings the sport of football and/or FIFA into disrepute

#### ***b. The Kiss Incident***

150. Following on the above, the Committee went on to analyse the most controversial and most concerning incident, *i.e.* the Kiss Incident. By way of reminder, the Committee reiterated that, during the award ceremony, the Respondent hugged the Player, spoke to her briefly, then put his hands on the back of her head and kissed her on her lips.
151. In this respect, and as a preliminary remark, the Committee found it essential to emphasise that such a kiss – emanating from the president of an association towards a player (of the opposite sex) of one of the national team under his leadership and responsibility – was completely unacceptable. This, regardless of whether or not it would have been consensual. As a matter of fact, by representing an entire country – that had just won the most prestigious women's tournament – and by holding the highest position within the association, its president is expected to behave with the highest level of composure and discernment. In other words, it is expected to adopt an irreproachable attitude, far from that displayed during the award ceremony at stake.
152. In continuation, the Committee wished to stress that contrary to the Respondent's allegations, the matter at hand did not revolve on whether the Respondent could be "*accused of sexual aggression*". Indeed, the Committee rather had to assess whether the Respondent's behaviour in relation thereto complied with the basic principles enshrined under art. 13 FDC.

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<sup>21</sup> <https://www.dailymail.co.uk/sport/football/article-12438939/Luis-Rubiales-Spain-caught-grabbing-crotch-Queen-daughter-World-Cup-Final-celebrations.html>

153. In this context, the Committee held that, upon analysing the incident at stake, it should not lose sight that, the Respondent was the president of the association to which the Player belongs, creating a *de facto* hierarchy between them. In the Committee's view, such (hierarchical) link presumably created a feeling of superiority on the part of the respondent towards the player and an implicit way for him to exert (moral) pressure towards her, during the sequence leading to the Kiss but also during the events that followed it.
154. With those elements in mind, the Committee nonetheless pointed out that the incident had – once again – to be assessed from the perspective of a reasonable and objective observer. Nevertheless, the Committee deemed that it could not ignore the perspective of both protagonists, particularly considering that they appear to have different views of the incident, the Respondent essentially claiming that the kiss was consensual and the Player refuting it.
155. In particular, the Committee noted that, according to the Respondent, *"when [the Player] reached his position after receiving the gold medal the exchange was pretty quick, but she hugged him lifting him in the air, they expressed their admiration for each other and [the Respondent] told her to forget about the penalty (...), she replied by saying "you are the best", then he asked "can I kiss you?", she said "ok then" and then the peck kiss occurred, very quick, after which she left with a pat on his ribs. The whole exchange including the kiss lasted around 3 seconds"*.
156. Against such background, and upon reading the Player's statement(s), the Committee observed that she made it clear that, despite the Respondent's allegations, she *"never gave him permission or consented to it"*. In fact, the Committee regretfully observed in particular that, from her perspective, said incident was *"totally unexpected"* and *"humiliating"*. Indeed, according to her, *"[e]verything happened very quickly, but in fact [she] approached him because it is part of the protocol to greet the personalities who were at the stand. [She] remember[s] that he hugged [her] tightly, that he jumped up and climbed on top of [her], straddling [her] with his legs wide open, and [she] had to hold him up. [She] told him "what a mess we've made" and he said something like "we've won this World Cup thanks to you" (you could hardly hear anything over the atmosphere and the music) and when he got off, holding [her] with his arms and hugging [her] head, he grabbed [her] with his hands on [her] ears and kissed [her]"*.
157. After careful analysis of both statements, as well as of all documents on file, the Committee was comfortably satisfied that:
- the Player and the Respondent were not involved in a personal and/or sentimental relationship, their relationship being purely professional, a fact that has been confirmed by both of them;
  - there was no agreement between them – neither before or during the award ceremony – on a potential kiss;
  - the Player's behaviour and the overall circumstances prior to the kiss did not in any way imply that she might want to or consent to be kissed by the Respondent.
158. In view of the above, the Committee wished to emphasise that it was particularly concerned that the incident at hand occurred without the Player's consent, as clearly confirmed by the latter.
159. In continuation, the Committee acknowledged that two witnesses, *i.e.* the Presidents of the NZF and of The FA, provided their description of the Incident. Their expressed views as well as their perception

of the Kiss Incident support the way in which the Player described it: *“He put both his hands on the back of her head and kissed her fully and forcibly on the mouth. There was no evidence that this kiss was consensual and her body language immediately after (including rolling her eyes) implied that she was uncomfortable. It left [the Presidents of the NZF and The FA] feeling uncomfortable too”.*

160. For the sake of good order, the Committee stressed that it had no reason to question or doubt about their objectivity considering that (i) they had no (personal) interest in the case at hand and its outcome, and (ii) they were both present on stage when the Kiss Incident occurred. In fact, and contrary to the Respondent’s allegations, it is hard to believe that those individuals (amongst the highest ranked officials within football<sup>22</sup>) would tarnish their reputation by *“blatantly [lying]”* or *“speak[ing] from ignorance”*, particularly considering that the events were also witnessed by millions of spectators on TV. Put differently, the Committee considered that those statements could be considered as a description of the incident by *reasonable and objective observers*.
161. In the light of this, while also considering the vast majority of media articles reporting such incident, the Kiss could not be seen as having been consensual from the perspective of a reasonable and objective observer.
162. In this regard, the Committee emphasised that kissing a player, more importantly without their consent, undoubtedly constituted a behaviour contrary to the very basic principles contained under art. 13 FDC. This, even more when taking into account the previously described hierarchical link between the Respondent and the Player.
163. This said, and for the sake of good order, the Committee stressed that, even had the Player given her consent to such kiss *quod non*, it would remain that such a behaviour would not be the one expected from the President of an association having won the World Cup and would still be seen as contrary to the basic rules of decent conduct. Indeed, the image of a man, president of a football association, grabbing the head of a female player and kissing her during the Women’s World Cup Final cannot be tolerated and is in total contradiction with the tournament’s aim to unite and inspire people around the world through the power of the FIFA Women’s World Cup and women’s football. Put differently, the Committee found that this Incident constituted an indecent behaviour by a powerful man towards a female player – *under a hierarchical link* –, which any reasonable and objective observer who watched the Match would surely find totally disrespectful.
164. With this established, the Committee was also astonished by the various subsequent events in relation to the Kiss. In particular, the Committee pointed out that the Respondent’s attitude after the incident was also very concerning.
165. As a matter of fact, the Committee first underlined that the Respondent:
- never apologised to the Player, neither publicly nor at least in private. At best did he somehow recognise that *“it should not have happened and (...) that because of his position as President of the RFEF he should have maintain the highest level of composure”*;

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<sup>22</sup> Both of them being members of the FIFA Council (see <https://www.fifa.com/about-fifa/organisation/fifa-council>)

- does not appear to express any genuine remorse in relation to the Incident, the former rather trying to hide behind an alleged “consent” from the Player;
- issued various public statement explicitly claiming that the Player was the one having initiated the Kiss, having approached and lifted him, thereby trying to depict her as the one responsible for it. In relation to this, the Committee found it important to state that, upon analyzing all video footage at its disposal, it appeared to be clear that the Respondent is trying to distort reality in his favour, given that there is no image to back up such position, quite the contrary.

166. In addition, and upon reviewing the entirety of the case file, the Committee established to its comfortable satisfaction that:

- The Respondent publicly insulted “*all those who saw this incident differently*” than “*a kiss between two friends celebrating something*”, naming them “*idiots and stupid people*”<sup>23</sup>;
- The Respondent denied all accusations during the General Assembly of the RFEF, insisting that he was the victim of a witch-hunt and that the kiss was mutual and consensual;
- The Respondent made use of his position as president of the RFEF to publish – in the name of the RFEF – (i) statements using quotes of the Player that were not written or authorised by her, and (ii) an official statement (which was subsequently deleted) threatening the Player (amongst others) of legal actions<sup>24</sup>;
- The Respondent and/or his entourage pressured and/or (emotionally) coerced the Player on numerous occasions in order to make her speak and take position in his favour.

167. All those elements (subsequent to the Kiss) put together undoubtedly denoted, in the Committee’s view, a behaviour incompatible with the general principles of fair play, loyalty and integrity enshrined under art. 13 FDC. This particularly considering that it emanates from the then-president of one of the most prestigious member associations of FIFA.

168. Summarising the above, the Committee was comfortably satisfied that the Respondent’s attitude in relation to the Kiss Incident (that is to say, the Kiss in itself, but also all subsequent events as highlighted *supra*) undoubtedly tarnished the image of football and/or FIFA, bringing both into disrepute. Indeed, the Committee held that, from the very first moment it initiated the Kiss to the moment the present decision has been rendered, the Respondent repeatedly and continuously violated the basic rules of decent conduct, thereby infringing art. 13 FDC.

### ***c. The Peck and the Carrying Incident***

169. Lastly, the Committee went on to assess the two incidents that occurred on the field of play, after the awards ceremony, namely the Peck Incident and the Carrying Incident.

170. In relation thereto, the Respondent pointed out the following:

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<sup>23</sup> Cf. para. 9 *supra*

<sup>24</sup> Such statement *inter alia* reading as follows: “(...) Ms Jennifer Hermoso lies in every statement she makes against the president. (...) we are going to take the corresponding legal actions against all those people who are falsifying reality and committing very serious crimes” (cf. para. 15 *supra*).

- On the Peck Incident: this gesture, common between men and women in Spanish culture, was simply a mark of appreciation, considering that the Respondent was *“very effusive with all members of the team”*;
- On the Carrying Incident: the Respondent, being *“overcome by joy and happiness”* took the player concerned on his shoulders and it must be noted that she *“does not appear to feel threatened or uncomfortable with the act”*.

171. On that basis, the Committee first wished to express its concerns on the fact that, similarly to the previous incidents, the Respondent once again tries to minimise the impact of his behaviour.

172. In this respect, while conceding that those two incidents did not bear the same seriousness as the first two incidents (*i.e.* the Genitals Incident and the Kiss Incident), the Committee contended that they nonetheless constituted behaviours incompatible with the principles of art. 13 FDC.

173. As a matter of fact, and as previously emphasised, the Respondent was – at the time of those incidents – the highest ranked official in Spanish football, and held prominent positions within European football. As such, the latter was expected to behave with the highest level of discernment and professionalism, particularly while engaging (in controversial physical contact) with players of the opposite gender.

174. In essence, these two incidents were further examples of the completely unacceptable conduct the Respondent adopted towards women and/or female players. In fact, while putting them in perspective with the previously analysed incidents, the Committee was of the view that the Respondent appeared to have abused its position as president of the RFEF to approach and/or treat players in a completely intolerable and outrageous manner.

175. The circumstances and various statements at hand clearly demonstrated that the Respondent's relationship with the different players concerned was purely professional, thereby not justifying by any means any of the incidents at stake. In sum, the Committee considered that the Respondent simply displayed an attitude whereby he seemed to treat the players under his responsibility like common objects, allowing himself to kiss them as he pleases without worrying about their agreement/consent, or, at the very least, without any concern about how they might feel in such circumstances.

#### ***d. Summary: the behaviour of the Respondent***

176. Summarising all above developments, the Committee affirmed that all incidents at stake, analysed separately, undoubtedly constituted individual breaches of art. 13 FDC in so far that they related to failures by the Respondent to comply with the principles enshrined under art. 13 FDC, the latter having on several occasions violated the basic rules of decent conduct, used offensive gestures or behaved in a way that brought football and/or FIFA into disrepute.

177. Having said that, the sequence of the incidents also seems to indicate that they were all inextricably linked, one leading to the other. Indeed, all incidents assessed collectively (together with the Respondent's position in relation to them) appear to reveal a sense of complete impunity on the part

of the Respondent within the football environment<sup>25</sup>. This is further reinforced by the fact that the Respondent never publicly apologised for his demeanour both during and after the Match. At best, did he recognise in his submissions that none of the incidents "*should ever have happened*", further "*acknowledg[ing] his responsibility as President of one of the only 5 countries that proudly wear the star of the champions in their jerseys and recogniz[ing] that he should have known better*". In the Committee's view, such an attitude is, without the shadow of a doubt, contrary to all the moral values advocated by FIFA and, as such, goes against the very basic principles contained in art. 13 FDC.

178. In this regard, the Committee wished to emphasise, once again, that the Respondent's behaviour during and after the Match has been widely condemned (cf. also para. 139 *supra*).

179. The media coverage that followed the incidents and the reactions caused by the Respondent's behaviour are sufficient in themselves to demonstrate that the latter behaved in a way that brought the sport of football and/or FIFA into disrepute. As a matter of fact, the worldwide attention was focused on the (inappropriate) conduct of the Respondent and unfortunately not on the (first) victory of the Spanish team and/or the success of the tournament.

180. As a result of the foregoing, the Committee had no other option but to conclude that the Respondent had behaved in a manner contrary to the principles enshrined under art. 13 FDC, both during and after the Match, and should therefore be sanctioned accordingly.

### 3. The determination of the sanction

181. To begin with, the Committee stressed that the Respondent is a natural person, and as such is subject to the sanctions described under arts. 6.1 and 6.2 FDC.

182. For the sake of good order, the Committee underlined that it is responsible to determine the type and extent of the disciplinary measure(s) to be imposed in accordance with the objective and subjective elements of the offence(s), taking into account both aggravating and mitigating circumstance(s) (cf. art. 25.1 FDC).

183. As established above, the Respondent was found responsible for having behaved in a manner contrary to the principles enshrined under art. 13 FDC. As previously mentioned, the Committee identified different incidents, all of them (individually and collectively) constituting breaches of said provision. Put differently, the Committee held that the case at hand related to concurrent breaches, the Kiss Incident being the most serious one.

184. In this context, the Committee pointed out that, contrary to other provisions of the FDC, art. 13 FDC does not provide for specific and/or minimum sanctions in case of corresponding infringement. Therefore, the different disciplinary measures listed under art. 6 FDC could be imposed upon the Respondent in this respect – this, whilst keeping in mind that the sanction(s) thereby imposed must be proportionate to the offence(s) committed and have the appropriate deterrent effect upon the Respondent relative to the sanctionable conduct(s).

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<sup>25</sup> The latter *inter alia* adopting clear misogynist gestures (cf. the Genitals Incident) and kissing a player without her express consent (cf. the Kiss Incident).

185. With these elements in mind, the Committee subsequently went on to analyse the various circumstances of the matter at hand, namely to define the potential aggravating and/or mitigating factors to be taken into account when deciding upon potential sanction(s) that were to be imposed upon the Respondent.
186. Against this framework, to begin, the Committee turned its attention to the case file before it and acknowledged that the Respondent appeared to present a clean record in relation to similar incidents.
187. Notwithstanding this, the Committee wished to stress that a series of aggravating circumstances needed to be taken into account.
188. First of all, the Committee pointed out that the behaviour of the Respondent was particularly indefensible in relation to the incidents at stake, specifically considering the extent of his experience in the football world, but also in view of his positions as (i) President of one of the most prestigious member associations, (ii) member of the UEFA Executive Committee and (iii) one of the UEFA vice-presidents. In other words, in such a context, it was absolutely and categorically expected of him to maintain and embody the highest levels of professionalism, beyond the usual standards, especially at a moment where his country was at the apex level of women's football. In this regard, the Committee could not stress enough that – regardless of the emotional state he was in during and after the Match – the Respondent's behaviour was inexcusable and unacceptable, especially considering his high rank within the football ecosystem at the time.
189. More fundamentally, the Committee was particularly concerned by the attitude and actions of the Respondent following the incidents, and considered that it specifically needed to take into that, although he conceded in his position that *"it should not have happened and (...) that because of his position as President of the RFEF he should have maintain the highest level of composure"*, the Respondent (i) does not appear to have expressed any genuine remorse in relation to the incidents and/or his behaviour and (ii) never apologised for his behaviour during and after the Match.
190. In the same line, the Committee submitted that the fact that the Respondent (i) exercised a hierarchical link towards the players concerned, and (ii) appeared to have abused its position to engage in (inappropriate) physical contacts with those players, undoubtedly constituted significant aggravating factors.
191. More fundamentally, and focusing on the Kiss (i.e. the most serious incident), the Committee considered that, upon determining the sanction to be applied, it had to bear in mind the following elements:
- The Respondent failed to present any apology to the Player, neither publicly nor at least in private;
  - The Respondent persisted in his denial (publicly and within the context of the present proceedings), maintaining (against the Player's unambiguous) statement that the Kiss was consensual;
  - The Respondent publicly insulted *"all those who saw this incident differently"* than *"a kiss between two friends celebrating something"*, naming them *"idiots and stupid people"*;

- The Respondent made use of his position as president of the RFEF in an aggressive and completely inappropriate manner to:
  - publish – in the name of the RFEF – (i) statements using quotes of the Player that were not written or authorised by her, and (ii) an official statement (which was subsequently deleted) threatening the Player (amongst others) of legal actions;
  - use the general assembly of the RFEF as a forum to defend himself and distort the reality of the Kiss in his favour;
- The Respondent and/or his entourage pressured and/or (emotionally) coerced the Player on numerous occasions in order to make her speak and take position in his favour;
- The Respondent has been subject to criminal proceedings in Spain as a result of the Kiss.

192. Similarly, the Committee stressed that it could also not ignore the impact of the Respondent's actions on the Player's mental health and her career, the latter having emphasised that (i) she (still) feels *"really humiliated by everything that has happened and the media exposure and public scrutiny that [she and her] family have been subjected to"*, (ii) *"[she has] been in contact with the psychologists of Club Pachuca as well as with a psychologist [she] trusts"* and (iii) *"[she has] been used to steal the limelight from a team and it makes [her] feel bad for [her] teammates and [her] country"*.

193. In continuation, the Committee underlined that given that the incidents occurred in the context of the final match of the most prestigious women's competition, the above-described conduct of the Respondent has unfortunately found a significant international media echo. Indeed, instead of focusing on the international success of the FIFA Women's World Cup™ or on the (first victory) of the Spanish national team in said competition, the focus was – due to the Respondent's actions – regrettably brought on a series of incident depicting a behaviour clearly incompatible with every single value defended by FIFA and which football should encompass. Through such behaviour, the Respondent regrettably spoiled the experience of the world cup to many, starting with the Player and her teammates that had just become world champion for the first time in their history.

194. The Committee was thus firmly convinced that the Respondent, through his respective behaviour, brought the sport of football and/or FIFA into disrepute at global level. As such, the sanction(s) to be imposed on him shall reflect all the aforementioned (aggravating) circumstances.

195. Taking into account the foregoing and after careful consideration of the entirety of the evidence at its disposal, the Committee determined that a ban on taking part in any football-related activity was the most appropriate and proportionate measures with which to sanction the Respondent in view of the offence(s) committed. In particular, while taking into account the undeniable media impact of the Respondent's behaviour and its repercussions on the reputation of football as well as of FIFA, but also and more importantly, on the Player's mental state, the Committee considered that a ban for a duration of three (3) years was justified in the present circumstances.

196. In this context, the Committee wished to stress that it was tempted to impose more severe sanctions in view of the seriousness and gravity of the incidents at stake as well as of the profound negative impact that the Respondent's actions had on the image of FIFA, women's football and women's sport in general. However and even with strong hesitations, the Disciplinary Committee was satisfied that the imposition of such a measure would serve the necessary deterrent effect upon the Respondent given his established (prohibited) behaviour(s), but also the category of the competition in which the

incident(s) had occurred and the significant impact of those. In fact, the Committee was hopeful in its outlook that such sanction, as previously mentioned, would serve to have the necessary deterrent effect upon the Respondent in order to avoid the occurrence of any similar incident(s) in the future.

## **V. DECISION OF THE DISCIPLINARY COMMITTEE**

**Mr. Luis Rubiales Bejar is banned from taking part in any football-related activity for a duration of three (3) years for having behaved in a manner contrary to the principles enshrined under art. 13 of the FIFA Disciplinary Code.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION

**Jorge Iván PALACIO (Colombia)**

Chairperson of the FIFA Disciplinary Committee

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**NOTE RELATING TO THE LEGAL ACTION:**

This decision can be contested before the FIFA Appeal Committee (cf. art. 61 FDC). Any party intending to appeal must announce its intention to do so in writing *via* the FIFA Legal Portal within three (3) days of notification of the grounds of the decision. The appeal brief must then be given in writing *via* the FIFA Legal Portal within a further time limit of five (5) days, commencing upon expiry of the first time limit of three (3) days (cf. art. 60.4 FDC).

The appeal fee of CHF 1,000 is payable upon submission of the appeal brief at the latest (cf. art. 60.6 FDC), either in Swiss francs (CHF) (to account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J) or in US dollars (USD) (to account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U), with reference to case number above mentioned.

**NOTE RELATING TO THE SANCTION:**

Consistently with art. 51.3 FDC, the duration of the provisional suspension imposed on 26 August 2023 may be deducted from the above final disciplinary sanction.