



**GEF 2020/08 AZE - Gymnastics Ethics Foundation v. Mariana Vasileva, Siyana Vasileva,  
Evgeniya Vilyayeva, Natalia Bulanova and the Azerbaijan Gymnastics Federation**

**DECISION**

rendered on 28 October 2024 by the

**GYMNASTICS ETHICS FOUNDATION  
DISCIPLINARY COMMISSION**

sitting in the following composition:

<b>President</b>	Ms Laurence Burger (Switzerland)
<b>Members</b>	Ms Dorothee Schramm (Switzerland) Mr. Maximilien Lehen (Luxembourg)
<b>Ad hoc secretary</b>	Ms Martina Coxova (Canada) / Carola Carrannante (Italy)

In the disciplinary proceedings between:

The **Gymnastics Ethics Foundation**

- **Claimant** -

**and**

**Ms Mariana Vasileva**  
**Ms Siyana Vasileva**  
**Ms Evgeniya Vilyayeva (née Zhidkova)**  
**Ms Natalia Bulanova**  
**The Azerbaijan Gymnastics Federation**

- **Respondent(s)** -



## List of abbreviations

<i>AGF</i>	Azerbaijan Gymnastics Federation
<i>Art.</i>	Article
<i>Arts.</i>	Articles
<i>CAS</i>	Court of Arbitration for Sport
<i>CC</i>	Swiss Civil Code
<i>cf.</i>	Confer (compare)
<i>CHF</i>	Swiss Franc
<i>CO</i>	Swiss Code of Obligations
<i>CoD</i>	FIG Code of Discipline
<i>CoE</i>	FIG Code of Ethics
<i>DC</i>	GEF Disciplinary Commission
<i>e.g.</i>	Exempli gratia (for example)
<i>et seq.</i>	Et sequens (and the following)
<i>FIG</i>	Fédération International Gymnastique
<i>GEF</i>	Gymnastics Ethics Foundation
<i>i.e.</i>	Id est (this is)
<i>IOC</i>	International Olympic Committee
<i>Mr.</i>	Mister
<i>Ms</i>	Miss
<i>NOC</i>	National Olympic Committee
<i>p.</i>	Page
<i>para.</i>	Paragraph
<i>paras.</i>	Paragraphs
<i>pp.</i>	Pages
<i>v.</i>	Versus



## **I. PARTIES TO THE PROCEEDINGS**

### **A. The GEF**

1. The Gymnastics Ethics Foundation (“*GEF*”), the Claimant, is the independent body established by the Fédération Internationale de Gymnastique (“*FIG*”) to safeguard the integrity of Gymnastics worldwide, with headquarters in Lausanne, Switzerland.
2. Claimant is represented in these disciplinary proceedings by Mr. Louis Weston, Barrister, Alexander McLin, GEF Director and Marina Khamitsevich, GEF Investigator.

### **B. The Respondents**

3. On June, 21 2023 the GEF charged the following five subjects, the Respondents, pursuant to Art. 32 of the FIG Statutes, with several alleged infringements of the FIG Statutes, CoD, CoE as well as FIG Policy and Procedure for Safeguarding and Protecting Participants in Gymnastics:
  - a. Ms Mariana Vasileva;
  - b. Ms Siyana Vasileva;
  - c. Ms Evgeniya Vilyayeva (née Zhidkova);
  - d. Ms Natalia Bulanova;
  - e. The Azerbaijan Gymnastics Federation (“*AGF*”).
4. Ms Mariana Vasileva is the former AGF’s Rhythmic Gymnastics Head Coach and currently Azerbaijan’s Deputy Sport Minister and FIG Coach and she is a member of the Executive Committee of the AGF.
5. Ms Siyana Vasileva is Mariana Vasileva’s daughter and currently acts as AGF’s Rhythmic Gymnastics Head Coach as well as member of the FIG Athlete’s Commission and ex officio member of the FIG Rhythmic Gymnastics Technical Committee. Ms Siyana Vasileva was a gymnast during the period covered by part of the complaints put forward by the GEF.
6. Ms Evgeniya Vilyayeva is a coach with AGF and a FIG brevet judge for RGI cat 3 and RGG cat 2.



7. Ms Natalia Bulanova is AGF's Sport Director and coach. She is a FIG brevet judge for RGI and RGG cat 2, as well as FIG Coach.
8. Ms Mariana Vasileva, Ms Siyana Vasileva, Ms Evgeniya Vilyayeva and Ms Natalia Bulanova are represented in these disciplinary proceedings by Ms Michelle Duncan, Barrister, Mr. Rowan Stennett, Barrister and Mr. Bernhard Welten, Attorney-at-law, and are hereinafter referred to as the "Individual Respondents".
9. The AGF is Azerbaijan's Gymnastics National Federation and is represented in these disciplinary proceedings by its Secretary General, Ms Nurlana Mammadzada, Mr. Nick De Marco KC, Barrister and Mr. Stefan Pfister, Attorney-at-law.
10. Claimant and Respondents are hereinafter jointly referred to as the "Parties", each of them as a "Party".

## **II. BACKGROUND TO THE DISCIPLINARY PROCEEDINGS AND PROCEDURAL HISTORY**

11. Below is a summary of the factual background and procedural history of these disciplinary proceedings. In reaching its conclusions, the Panel has carefully reviewed all of the Parties' submissions and has duly taken into consideration all arguments advanced by the Parties therein, although it may not specifically address each of them in the present decision (the "Decision") due to the volume of the record and the limited time available for drafting the Decision.

### **A. History Up to the Constitution of the Panel**

12. On 29 July 2020, the GEF received a complaint addressed to the GEF Safeguarding Manager, Ms Martina Coxova, via an email that was purported to be – but was not – from a group of parents stating that their daughters suffered psychological and physical abuses resulting from the actions of Ms Mariana Vasileva (the "Petition"; GEF Bundle 3 Exhibits, pp. 94-97). The e-mail attached a list of signatures of about 40 persons that came from a different letter (GEF Bundle 3 Exhibits, pp. 90-93, translated in AGF Exhibit 2 to AGF Response dated 5 September 2023) that did not allege abuse and was attached to the email without the signatories' knowledge.
13. The Petition to the GEF further stated that efforts had been made to seek recourse against Ms Mariana Vasileva at national level, which had been, allegedly, unsuccessful. The account is completed by pictures of a gymnast, identified as GEFW7, who presents several bruises on her back as well as the list of signatures.



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14. GEF conducted an investigation which extended over several years and included investigative reports by the company SportRadar, reports from Mr. Paul Scotney, as well as witness statements from Azeri active and retired gymnasts, gymnast parent's and coaches.
  
15. A number of persons were interviewed by Sportradar, including Claimant's witnesses GEFW1 and GEFW10, and Respondents' witnesses RESPW13, RESPW36 and RESPW10. Witness statements arising from those interviews are on record for GEFW1 and GEFW10. In the course of the proceedings, the Panel decided not to admit the videos of the Sportradar interviews of RESPW13, RESPW36 and RESPW10 due to the time when they were offered as evidence, as explained in this Decision.
  
16. In 2022, the GEF retained Mr. Paul Scotney to conduct interviews with, amongst others, the following individuals:
  - a. GEFW2;
  - b. GEFW5;
  - c. GEFW6;
  - d. GEFW7;
  - e. GEFW8;
  - f. GEFW1;
  - g. Nurlana Mammadzada;
  - h. Mariana Vasileva;
  - i. Evgeniya Vilyayeva;
  - j. Siyana Vasileva;
  - k. Natalia Bulanova; and
  - l. RespW41.
  
17. The following persons gave their witness statements in writing:
  - a. GEFW2;
  - b. GEFW3;
  - c. GEFW4;
  - d. GEFW5;



- e. GEFW6;
  - f. GEFW7;
  - g. GEFW8;
  - h. GEFW9; and
  - i. GEFW11.
18. By submission of 21 June 2023, and following the conclusion of its internal review, the GEF Director issued a notice of charges concerning the alleged infringement of multiple provisions of the FIG Statutes, CoE, CoD and Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
19. On the same date, the Disciplinary Commission Panel (the “Panel”) was constituted as follows:
- Ms Laurence Burger, President  
Ms Dorothee Schramm  
Mr. Maximilien Lehnen
20. Pursuant to art. 16 of the FIG CoD, Ms Martina Coxova was appointed as Panel ad hoc secretary.

## **B. Procedural history after the constitution of the Panel**

21. On 5 July 2023, following the notification of the notice of charges, the Parties were addressed by the Panel with the request to submit their response to the statement of claims by 27 July 2023 as well as with the suggestion to hold a hearing over two days starting on 14 August 2023.
22. On 7 July 2023, the Respondents requested the postponement of the deadline for the submission of their response as well as the postponement of the hearing.
23. On 13 July 2023, the Panel recommended 25 and 26 September 2023 as the new hearing dates and if confirmed, set a new deadline for 18 August 2023 for the submission of a written response to the GEF’s statement of claims.



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24. On 20 July 2023, the AGF requested the bifurcation of the proceedings as well as postponement of the hearing and submitted their position on the latter on 25 July 2023. The GEF opposed to the Respondents' request with a submission on 31 July 2023.
25. On 2 August 2023, the Panel dismissed the Respondents' request on bifurcation and confirmed the 25-27 September 2023 as hearing dates. Furthermore, the Panel granted an additional deadline extension for the Respondents' answer until 31 August 2023.
26. On 4 August 2023, the AGF requested once more the postponement of the hearings which was declined by the Panel with a communication dated 7 August 2023.
27. On 9 August 2023, the Panel and the Parties held a case management conference ("*CMC*") online.
28. On 10 August, the GEF reported to the Panel that their witnesses were being contacted by the Azeri Government and asked to sign letters of retraction. On 12 August 2023, the GEF filed a copy of a retraction letter signed by some of its witnesses which they sought to introduce as evidence.
29. On 14 August 2023, the Panel asked for Respondents' comments and requested Respondents to inform the Panel whether they, or someone else with their knowledge, had contacted the GEF's witnesses with regard to these proceedings. If any such contact had taken place, the Panel requested Respondents to stop any further contact with the GEF's witnesses immediately and to share more information about the time, context and circumstances of any contacts that had taken place with the witnesses.
30. On August 14, after the CMC, the Panel decided on the following matters, among others:
  - a. Hybrid form of hearing;
  - b. Hearing dates (25 to 27 September 2023);
  - c. Granting of protective measures for some of the witnesses;
  - d. Length of opening and closing statements;
  - e. Order of witnesses and interpretation; and
  - f. Confirmation of Panel expertise in abuse and harassment cases, as requested by the Respondents.



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31. On 16 August 2023, the GEF informed the Panel that it continued to receive reports from its witnesses that they, and at times their family members, were being contacted by individuals seeking to dissuade them from further participation in these proceedings.
32. On 17 August 2023, the Panel requested that the AGF take appropriate measures to investigate the alleged outreaches towards the GEF's witnesses and reserved its right to draw negative inferences should such outreaches be verified.
33. On 18 August 2023, the Respondents addressed the GEF Council, the FIG and the IOC with a letter claiming the violation of their right to a fair trial. On the same day, they wrote to the Panel and denied the accusations based on a lack of knowledge. They also submitted to the Panel letters from the GEF to witnesses concerning the outreaches. Finally, Respondents requested disclosure from the GEF, an extension of the deadline for the Response to the charges and a cancellation of the hearing.
34. On 22 August 2023, the Panel addressed the Respondents' letters, repeated its request to investigate the alleged outreaches, granted a time extension for Respondents' Response to the charges and denied the cancellation of the hearing.
35. On 24 August 2023, the AGF denied the outreach accusations put forward by the GEF.
36. On the same day, the Individual Respondents complained about a lack of equal treatment between the parties due to the GEF being able to contact the counterparties' witnesses without the Panel drawing negative inferences. On 26 August 2023, the Panel ordered that neither the GEF nor the Respondents contact the other Parties' witnesses.
37. On 28 August 2023, the GEF submitted their position on Respondents' accusations and objected to any disclosure.
38. On 29 August 2023, Respondents asked that Mr. McLin, GEF Director, be fined and excluded from the proceedings pursuant to Art. 26 of the FIG CoD.
39. On 1 September 2023, the Panel dismissed the Respondents' requests for sanctions against Mr. McLin and for disclosure by the GEF.
40. Around the same time, Respondents and the GEF exchanged correspondence concerning appeals filed by Respondents with the GEF against the Panel's procedural decisions dated 14 August 2023.





41. On 5 September 2023, the Respondents submitted their Response to the charges and supporting evidence.
42. On 7 September 2023, the Respondents requested that the Panel cancel the hearing. The Panel dismissed the request on 12 September 2023. In the same communication, the Panel dismissed the requests contained in Respondent's Response of 5 September 2023 to dismiss the proceedings as inadmissible or suspend them.
43. On 11 September 2023, the GEF filed their reply to the Respondents' Responses as well as additional FIG and GEF rules and exhibits.
44. On 13 September 2023, the Respondents objected to the GEF's submission and new evidence, asking the Panel not to accept it. The Respondents furthermore requested, *inter alia*, the postponement of the hearing scheduled for 25, 26 and 27 September 2023. On the same day, the Panel confirmed the admission of the GEF's submission and declined to postpone the hearing. It also addressed the other points raised by Respondents, in particular concerning the willingness of the GEF's witnesses to testify and the examination of the 72 witnesses presented by Respondents,
45. On 15 September 2023, the Individual Respondents applied for Siyana Vasileva and Evgeniya Vilyayeva to be subjected to protective measures and made other procedural requests. On the same day, the Panel dismissed the request and addressed all other requests made by Respondents.
46. On 18 September 2023, in addition to making other procedural requests, Respondents complained about violations of due process and requested that the proceedings be halted and the Panel step down. On 19 September 2023, the Panel dismissed Respondents' requests.
47. On 20 September, Respondents made several procedural request, including a request for protective measures for three of its witnesses. On the same day, the Panel dismissed most of Respondents' requests, but granted protective measures to their witness, RESPW66.
48. Between 21 and 24 September 2023, the Parties and the Panel exchanged correspondence concerning the questions put to witnesses under protective measures and evidentiary and logistical issues concerning the hearing. The Panel addressed procedural requests in that regard.



49. On 25, 26 and 27 September 2023, a hearing was held in hybrid form. The language of the proceedings was set to be English in accordance with Art. 15 of the FIG CoD. Eleven witnesses were examined by video, namely the GEF’s witnesses GEFW1, GEFW3, GEFW10, GEFW8, GEFW6, Mr Paul Scotney, GEFW2, GEFW7, GEFW5, and GEFW4, and Respondents’ witness RESPW3. Ms Mariana Vasileva was examined in person. Since the three days were insufficient to hear all of the witnesses, a second hearing was scheduled for December 2023. The Panel took several procedural decisions during the hearing, some of which it confirmed in writing on 2 October 2023.
50. After the hearing, starting from 3 October 2023, the Parties exchanged correspondence concerning the hearing recording and transcript.
51. On 4 October 2023, in line with the procedure set during the hearing, the AGF requested disclosure of several documents from the GEF. The GEF opposed such request with a submission on 6 October 2023. On 13 October 2023, the AGF sent their answer to the GEF submission and made a formal disclosure application, followed by legal exhibits over the following days. On 20 October 2023, the GEF sent their reply to the AGF’s answer and application. On the same day, it made a request that Respondents disclose certain documents. On 27 October the AGF provided their reply to the GEF’s reply and responded to the GEF’s disclosure request. On 21 November 2023, the Panel rendered its decision on document disclosure. It ordered that the GEF disclose two (2) of the requested documents.
52. On 13 November 2023, the Respondents addressed the GEF Council with a letter, informing them that a criminal complaint for defamation had been filed against Alexander McLin, GEF Director, with the Public Prosecutor’s Office in Lausanne. On 18 November 2023, the Respondents filed a request for withdrawal of Mr. McLin. On 23 November 2023, the GEF submitted their position on the withdrawal request. On 28 November 2023, the Panel decided not to exclude Mr. McLin from the disciplinary proceedings.
53. On 27 November 2023, the GEF informed the Panel that GEFW9 and GEFW11 would not appear at the upcoming hearing. On 10 December 2023, Respondents requested that the GEF withdraw their witness statements.
54. On 1 December 2023, the AGF submitted four (4) additional witness statements. The GEF opposed such submission on 7 December 2023, claiming that the AGF breached their confidentiality when showing the GEF witness statements to their own witnesses. On 14 December 2023, the AGF filed a reply. On the same day, the Parties exchanged further correspondence on the issues. On 18 December 2023, rendered a preliminary decision on the Parties’ related requests. The Parties filed further submissions in that regard on 19 and 27 December 2023 (Respondents) and 21 December 2023 (GEF).



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55. In parallel, in the first half of December 2023 the Parties and the Panel exchanged further e-mails concerning hearing logistics.
56. On 15 December 2023, Alexander McLin, GEF Director, informed the Panel and the Respondents that their legal representative had been hospitalized and consequently requested the postponement of the hearing scheduled for 20-22 December 2023. The Respondents did not object to the postponement. The Panel granted the request for postponement on 15 December 2023. After further e-mail exchanges, a Directions Hearing was held by video on 20 December 2023 where alternative hearing dates were discussed. By e-mail dated 29 December 2023, concerning the postponement, Respondents expressly waived their rights to argue that Article 5 CoD required any sanction to be taken within one year of the opening of the disciplinary proceedings. After further e-mail exchanges, the Panel confirmed on 16 January 2024 the new hearing dates for 17-20 June 2024.
57. On 24 April 2024, the Panel allowed the Respondent to produce one additional witness statement. The Panel confirmed the breach of confidentiality claimed by the GEF and invited the Respondents to disclose which witnesses were shown witness statements filed by the GEF and/or parts of the hearing transcript and by whom. On 10 May 2024, Respondents objected to parts of the order and made certain disclosures.
58. On 10 May 2024, the GEF filed their questions for RESPW54, after Respondent's request for protective measures had been granted by the Panel on 20 September 2023.
59. In the following, the Parties and the Panel exchanged e-mails concerning the hearing schedule and logistics.
60. On 6 June 2024, the Panel communicated to the Parties that Ms Coxova would be replaced by Ms Carola Carrannante in her role as ad hoc secretary.
61. On 15 June 2024, Respondents served an additional witness statement. On 27 June 2024, just before the start of the first hearing day, Respondents submitted procedural requests concerning the absence of GEFW9 and GEFW11.
62. On 17, 18, 19 and 20 June 2024, a hearing was held in hybrid form. 24 witnesses were examined in total. The Individual Respondents (except for Ms Mariana Vasileva) and 17 additional witnesses of the Respondents were examined in person, namely Ms Nurlana Mamedzadeh, RESPW26, RESPW33, RESPW46, RESPW13, RESPW7, RESPW29, RESPW6, RESPW25, RESPW41, RESPW53, RESPW36, RESPW69, RESPW64, RESPW70, RESPW66, and RESPW52. Another four witnesses of the Respondents were



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examined by video, namely RESPW10, RESPW23, RESPW68, and RESPW54. The Panel took several procedural decisions during the hearing.

63. On 18 June 2024, during the cross-examination of three of AGF's witnesses, RESPW13, RESPW36 and RESPW10, the GEF sought to introduce, and confront the witness with, new evidence by way of application addressed to the Panel. The new evidence consisted of video recordings of interviews performed by Sportradar with these witnesses, which the witnesses had asked to be kept confidential. The Respondents opposed the GEF's application and made an application for disclosure in return. The Parties exchanged oral arguments and e-mails in that regard. On 24 June 2024, the Panel issued an order agreed by the Parties concerning the Parties' briefing of the Parties' applications.
64. On 4 July 2024, the GEF filed its submission on its application to admit the new video evidence. On 18 July 2024, Respondents filed their submissions in response.
65. On 12 July 2024, the Individual Respondents representative forwarded RESPW13 request to intervene in the proceedings concerning the video interview with Sportradar, in accordance with Art. 9 of the FIG CoD. On the same day, the Respondents made submissions supporting the request. On 17 July 2024, the GEF opposed RESPW13's request and Respondents made further submissions. On the same day, counsel for RESPW13 submitted a power of attorney and requested leave to make submissions.
66. On 18 July 2024, the Panel denied the GEF's request to admit the new video evidence. Consequently, it rejected RESPW13's request to intervene in the proceedings. On 22 July 2024, the Panel provided the reasons for its decision and set the briefing schedule for the decision on liability.
67. On 23 July 2024, upon Respondents' request dated 22 July 2024, the Panel granted Respondents a one-week extension to file written submissions on liability. On 23 July 2024, Respondents confirm that they did not oppose an extension of the deadline for the Panel to render any decision on sanction by an extra week, as granted to Respondents.
68. On 24 July 2024, the Respondents submitted their heads of argument.
69. On 5 August 2024, the GEF submitted their Closing Statement on liability.
70. On 27 August 2024, the Respondents submitted their Closing Submission on Liability
71. On 3 September 2024, the GEF submitted their Closing Reply.



72. On 10 September 2024, the Respondents submitted their Rejoinder.

### **III. OVERVIEW OF THE CHARGES AND THE RESPONDENTS' DEFENCES**

73. The summaries in this section are not exhaustive and any missing point, including any allegation, argument or evidence, does not mean that the Panel did not consider it but only that it did not regard it as sufficiently relevant to the case and/or sufficiently material to its outcome.

#### **A. The Charges brought by the GEF**

74. The GEF brought the following Notice of Charges:

- Complaint 1 That Mariana Vasileva between 1 June 2008 and 31 December 2020 struck or otherwise physically assaulted gymnasts who were training with her.
- Complaint 2 That Mariana Vasileva between 1 June 2008 and 31 December 2020 required gymnasts who were training with her to perform or train when they were not fit or were injured so that they were in unnecessary pain.
- Complaint 3 That Mariana Vasileva between 1 June 2008 and 31 December 2020 orally abused gymnasts who were training with her by threatening and/or abusing them:
- a. as regards their weight, and/or
  - b. as regards their gaining weight, and/or
  - c. alleging that they were promiscuous, and/or
  - d. threatening to prevent their parents working in Azerbaijan and/or
  - e. as regards their wish to leave her control.
- Complaint 4 That Mariana Vasileva between 1 June 2008 and 31 December 2020 withheld monies and/or rewards due to gymnasts who were training with her and/or fined them.



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- Complaint 5 That Mariana Vasileva between 1 June 2008 and 31 December 2020 deprived and/or prevented gymnasts who were training with her from having contact with their families and/or other private communication by depriving them of their mobile phones.
- Complaint 6 That Mariana Vasileva between 1 June 2008 and 31 December 2020 assaulted gymnasts who were training with her by digging her nails into their necks to pierce the skin or to mark the skin, such conduct having been perpetrated against:
- a. GEFW1 and/or
  - b. GEFW7, and/or
  - c. other gymnasts.
- Complaint 7 That Mariana Vasileva between 1 January 2010 and 1 January 2012 assaulted GEFW2 by grabbing her, pushing her against a wall and shouting at her for making a mistake in training.
- Complaint 8 That Mariana Vasileva between 1 January 2015 and 1 January 2016 assaulted RESPW25 by striking her with a mobile phone.
- Complaint 9 That Mariana Vasileva between about 1 January 2015 and 1 January 2016 assaulted GEFW2 following an incident in training, by taking her to a dressing room or side room and beating her face with her hands and then her body with clubs.
- Complaint 10 That Mariana Vasileva between about 1 January 2011 and 1 January 2012 assaulted a gymnast by striking her in the face and pushing her forcefully against a wall.
- Complaint 11 That Mariana Vasileva between about 1 January 2013 and 1 January 2014 assaulted GEFW1 by pushing her to the floor and then kicking her.
- Complaint 12 That Mariana Vasileva between about 1 January 2008 and 1 January 2018 assaulted RESPW26 in Baku by beating her and then throwing her out of the gymnasium.



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- Complaint 13 That Mariana Vasileva between about 1 January 2009 and 1 January 2011 assaulted gymnasts by slapping one in the face and then hitting other gymnasts in the gymnasium.
- Complaint 14 That Mariana Vasileva between about 1 January 2009 and 1 January 2014 assaulted GEFW5 by taking her to a locker room grabbing her by the throat, strangling her and orally abusing her.
- Complaint 15 That Mariana Vasileva and/or Siyana Vasileva between about 1 January 2017 and 1 January 2019 assaulted a gymnast by beating her.
- Complaint 16 That Siyana Vasileva between about 1 June 2008 and 31 December 2020:
- a. assaulted GEFW11 by beating her with a club.
  - b. Assaulted GEFW7 by hitting her with a phone.
- Complaint 17 That Siyana Vasileva between about 1 June 2008 and 31 December 2020 failed to take any action or make any effort to prevent the conduct that she witnesses as alleged against Mariana Vasileva.
- Complaint 18 That Evgeniya Vilyayeva between about 1 January 2014 and 1 January 2017 assaulted by beating:
- a. RESPW12 and/or
  - b. GEFW7.
- Complaint 19 That Evgeniya Vilyayeva between about 1 January 2013 and 1 January 2017:
- a. harassed and/or abused GEFW11 by requiring her to engage in a weighing regime and punishing her if she gained weight.
  - b. harassed and/or abused GEFW7, by monitoring her weight, taking her phone and violating her private communications.



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- Complaint 20 That Evgeniya Vilyayeva between about 1 June 2008 and 31 December 2020 failed to take any action or make any effort to prevent the conduct that she witnesses as alleged against Mariana Vasileva.
- Complaint 21 That Natalia Bulanova between 1 January 2019 and 31 January 2021 orally abused GEFW7.
- Complaint 22 That Natalia Bulanova between about between about 1 June 2008 and 31 December 2020 knowing that Mariana Vasileva had assaulted RESPW26 in Baku by beating her and then throwing her out of the gymnasium, did nothing to stop or to report Mariana Vasileva and/or did nothing to help or assist RESPW26.
- Complaint 23 That the AGF between 1 January 2008 and 31 December 2021:
- a. is responsible for the misconduct alleged in the foregoing complaints, and/or
  - b. failed to act upon complaints made in relation to the conduct of Mariana Vasileva, and/or
  - c. suffered, permitted, or allowed the gymnasts who were being trained by Mariana Vasileva, Siyana Vasileva, Evgeniya Vilyayeva and/or Natalia Bulanova to be:
    - i. beaten or assaulted,
    - ii. orally abused,
    - iii. threatened,
    - iv. to be deprived of contact with their families, and/or
    - v. to be deprived of money and/or rewards.

**B. The Respondents**

75. The Respondents have submitted the following main defences:





- i. Jurisdiction: The GEF lacks jurisdiction to bring the Complaints against the Respondents. The conduct alleged falls to be dealt with by the AGF itself and the Individual Respondents did not submit to the FIG Rules.
- ii. Panel lack of subject-matter expertise.
- iii. Lack of particularization: The Complaints brought against the Respondents are insufficiently/inadequately particularized, and/or have not been demonstrated to the requisite standard of proof.
- iv. Procedural unfairness: The Complaints have been pursued in a manner and by a procedure which has breached the Respondents' rights to be heard and to a fair trial. The Complaints cannot fairly be determined and should be dismissed.
- v. Status of limitations: The Complaints are time-barred.
- vi. Lack of liability:
  - Facts: The allegations made against the Individual Respondents in Complaints 1 to 22 are denied. The alleged conduct did not take place as alleged or at all.
  - Contrary to Complaint 23(a), the AGF is not responsible in law for any of the misconduct alleged against the Individual Respondents in the Complaints. The AGF did not fail to act upon complaints made to it in relation to the conduct of Mariana Vasileva, nor did the AGF suffer, permit or allow any of the conduct alleged in Complaint 23(c).

Respondents' Requests for relief (verbatim)

- i. The complaint(s) filed by the Gymnastics Ethics Foundation on 21 June 2023 shall be dismissed because of lack of admissibility and the present proceedings shall be terminated without issuing any disciplinary measures against the Respondents;
- ii. The complaint(s) filed by the Gymnastics Ethics Foundation on 21 June 2023, if found admissible, shall be sent back for corrections and improvements in accordance with the explanations to follow and the present proceedings shall be suspended in the meantime and no hearing shall be held on 25 to 27 September 2023;



- iii. The complaint(s) filed by the Gymnastics Ethics Foundation on 21 June 2023, if found admissible and not sent back for correction/improvements, shall be dismissed and the present proceedings shall be terminated without issuing any disciplinary measures against the Respondents;
- iv. The Gymnastic Ethics Foundation shall be sentenced to pay the costs of the present proceedings and pay the Respondents’ costs for their legal representation and other expenses.

#### **IV. LEGAL DISCUSSION**

##### **A. APPLICABLE REGULATIONS**

76. The GEF has alleged,<sup>1</sup> and Respondents have not contested, that the following regulations are applicable in these proceedings:
- the FIG Code of Discipline (*see* Section IV.G below regarding the contested question of whether the 2021 Code of Discipline or previous codes apply to the statute of limitations, where this question becomes relevant);
  - the FIG Statutes;
  - the FIG Code of Ethics;
  - the FIG Code of Conduct;
  - the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
77. Pursuant to Article 1 of the FIG Code of Discipline, “in the absence of a specific provision in this Code, in the WADA Code or in other disciplinary provisions of the FIG Rules, the Disciplinary Authority shall rule according to the general principles set out in this Code and according to the general principles of justice, fairness and equality. It shall apply to the general principles of Swiss law, and principles acknowledged internationally”.
78. As explained during the proceedings, the Panel considers that rules of Swiss civil procedure that apply only in civil proceedings before Swiss cantonal courts, but not in other types of civil law proceedings, in particular Swiss domestic and international arbitration, are not applicable in these proceedings. In case of doubt, and where no specific rule exists, the Panel has also taken guidance from procedures generally followed before the CAS, as the CAS would be the final instance in case of an appeal.

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<sup>1</sup> See GEF’s Complaints at para 1.



## B. JURISDICTION

### 1. Over the Individual Respondents

#### *a) Summary of the Parties' arguments*

79. The GEF argues that the Individual Respondents are subject to the obligations contained in the FIG Statutes and codes made under them because in their CVs, all of them have indicated being coaches since before or at the time the Complaints were made, and in their oral evidence, Ms Bulanova agreed she had been bound by the obligations of the FIG and Code of Ethics since 1996, Ms Vilayeva agreed that she had been bound by the rules and obligations of the FIG from 2012, and Ms Siyana Vasileva agreed that she was bound by the obligations of the FIG.<sup>2</sup>

80. Under the FIG Code of Ethics, the requirements applied to all athletes, gymnasts, coaches, judges and other responsible personnel, while under the FIG Policy and Procedures the language used included gymnasts, coaches and judges.<sup>3</sup>

81. Respondents, citing *Legkov v IOC*, argue that the GEF failed to demonstrate adequately that the Individual Respondent were bound by the various FIG Rules at all material times (so-called "subordination"), so that the GEF's demonstration is not sufficient to establish some "overarching scheme of misconduct".<sup>4</sup>

82. Respondents allege in particular that:

- The GEF brought no evidence demonstrating subordination of any of the Individual Respondents between 1 June 2008 and 31 January 2021, the latter being the latest date included in any Complaint made against an Individual Respondent. Statements made in cross-examination are not sufficient to demonstrate subordination.<sup>5</sup>
- On 1 July 2021, therefore after all the Complaints were made, Ms Mariana Vasileva, Ms Siyana Vasileva and Ms Vilayeva agreed in writing to be

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<sup>2</sup> GEF Closing Reply at paragraph 9.

<sup>3</sup> E.g, GEF Closing Reply at paragraphs 10-11.

<sup>4</sup> E.g, Respondents' Closing Submission at paragraph 79.

<sup>5</sup> E.g, Respondents' Closing Submissions at paragraph 83.



bound by the applicable FIG Rules. No such agreement was produced for Ms Bulanova.<sup>6</sup>

- Complaints made against Ms Siyana Vasileva and Ms Vilayeva concern periods of time when they were athletes, not coaches.<sup>7</sup>
- The fact that a coach is engaged on some terms by the AGF does not demonstrate subordination to FIG Rules (*Bruynel v USADA*).<sup>8</sup>

### **b) Findings**

83. The Panel finds that Respondents' reference to Legkov at 718 is incorrect. The issue dealt with in this paragraph relates to the burden of proof of showing a specific wrongdoing by the athlete by his breaching a particular provision. In such a case, the showing of an overarching scheme is not sufficient.
84. In the case at hand however, the issue of "subordination" as addressed by Respondents is not one of burden of proof and of showing the violation of a particular provision (such matter being dealt with at Sections E & F hereunder), but one of jurisdiction, i.e. whether Respondents are subject to the FIG Rules (such Rules encompassing, inter alia, the Statutes, the Code of Ethics and the Code of Discipline).
85. The Panel finds that there it cannot be contested that the Respondents, being active participants in gymnastics, namely as athlete belonging to the Azeri National Team, AGF coaches, judges, and/or official of the AGF, are subject to and bound by the FIG Rules and in particular the FIG Code of Discipline.

## **2. Over the AGF**

### **a) Summary of the Parties' arguments**

86. The GEF argues that it has jurisdiction because it has discretion to keep the case or refer the case to the National Federation ("NF") since one of the perpetrators is a member of the AGF and the NF does not, in the opinion of the GEF, safeguard the gymnasts. The AGF was aware of complaints raised regarding the conduct of Ms Mariana Vasileva and failed to investigate, but instead prosecuted the sources of public reports. Moreover, the GEF has jurisdiction under Art. 28 of the CoD as Respondents conceded that the GEF

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<sup>6</sup> E.g, Respondents' Closing Submissions at paragraph 84.1.

<sup>7</sup> E.g, Respondents' Closing Submissions at paragraph 84.4.

<sup>8</sup> E.g, Respondents' Closing Submissions at paragraph 84.5.



had reason to investigate the complaints received, and under Art. 32 and Art. 42.1 of the Statutes.<sup>9</sup>

87. Respondents argue that the Panel lacks jurisdiction under the FIG Safeguarding Procedures. Under these provisions, the GEF was required to refer the complaints received first to the AGF instead of investigating them directly, as the complaints concerned participants that all belonged to the AGF and the AGF has safeguarding policies and procedures in place. The GEF should have provided, but did not provide, the AGF with an opportunity to investigate the complaints and take disciplinary sanctions, and only would have regained jurisdiction if the AGF had failed to take action after such referral.<sup>10</sup>

### ***b) Findings***

88. The Panel finds that Respondents' jurisdictional objection must be dismissed because it is based on an incorrect interpretation of the Safeguarding Procedures, namely of subsection (i) according to which the GEF has jurisdiction where "an NF which has a policy and procedures for safeguarding participants, does not, in the opinion of the Gymnastics Ethics Foundation, safeguard such participant (e.g. by taking any disciplinary action)".
89. Respondents are correct that in many cases, the GEF would form its view that an NF does not safeguard a participant on the basis that the NF has failed to act after learning of the complaint. However, nothing in the FIG Procedures suggests that this is the only basis on which the GEF could legitimately form this view. Indeed, there may be circumstances where it is obvious from the outset that a NF will not take appropriate action. In such cases, it would turn the purpose of the FIG Safeguarding Procedure on its head if the GEF were required to nevertheless refer the matter first to the NF, which could have serious consequences for those who are meant to be safeguarded. The wording of the Safeguarding Procedures does not require that, and in particular does not require that the NF "has failed to properly safeguard" the gymnast, but only requires that the NF "does not safeguard" them. In its findings on Complaint 23 below, the Panel finds that the AGF failed at multiple occasions to investigate the complaints against Ms Mariana Vasileva and allowed in these proceedings the Individual Respondents, who are accused of having abused gymnasts, to contact those potential victims, without any control or safeguarding measures whatsoever. In light of the circumstances described in the context of Complaint 23 below, it was legitimate for the GEF to conclude that the AGF does not safeguard the gymnasts training under the Respondents.

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<sup>9</sup> GEF Closing Submissions at paragraphs 8-21.

<sup>10</sup> *E.g.*, Respondents' Closing Submissions at paragraphs 65-75.



90. In addition, it is undisputed that Ms Mariana Vasileva, against whom most of the complaints are brought, is a member of the AGF’s Executive Committee. In those circumstances, there is already an institutional reason for assuming that the AGF would not bring serious investigations against her. This is undoubtedly the reason why the FIG Procedures allow the GEF in its discretion to take jurisdiction in such cases “[w]here the alleged perpetrator is a member of a NF which has a policy and procedures in place”.

### **C. COMPETENCE OF THE PANEL**

91. In both their Answers filed on 5 September 2023, Respondents argued that the Panel was not competent because, based on the websites of its members, they lacked experience in sports law and in harassment cases.<sup>11</sup>

92. This argument has not been repeated in the later submissions of the Respondents.

93. In its Decision of 14 August 2023, at paragraph 28, the Panel has confirmed that, as required by Article 29 paragraph 4 of the FIG Code of Discipline, at least one member of the Panel has knowledge and prior experience dealing with harassment and abuse cases.

94. The Panel notes further that it is the choice of some attorneys not to disclose all matters on which that they have worked on their websites. This choice is informed by a concern for the parties’ confidentiality, in particular in cases of harassment and abuse, which in their view require heightened secrecy.

95. In any event, the Panel reconfirms that two members of the Panel, including the President, have knowledge and prior experience dealing with harassment and abuse cases.

96. Therefore, the Panel dismisses the Respondents’ argument.

### **D. RIGHT TO BE HEARD**

97. The Individual Respondents have argued that their right to be heard and fair trial was violated due to short time limits, and in particular based on the fact that their counsel Mr Bernhard Welten could not attend the September 2023 hearing because he went on vacation instead. The Individual Respondents argue that consequently, they were

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<sup>11</sup> See Response filed by Mr Pfister at paras 17-22; Response filed by Mr Welten at paras 12-18.



unrepresented during the September hearing, where Ms Mariana Vasileva was cross-examined.

98. The GEF points out that the Panel confirmed on 9 August 2023 the hearing dates of 25 and 26 September 2023, having postponed these dates on 13 July 2023 upon request of Respondents' counsel (the dates initially proposed were 14-16 August 2023). Mr Welten contended that he was unreachable because he was on holiday, whilst he was only on a flight for 8 hours and could, therefore, have attended the rest of the hearing remotely, as the hearing was held in a hybrid manner, with some participants appearing in person and other via video-conference.
99. The Individual Respondents did not object to his absence; moreover, they could have instructed another legal representative, as they have done for the June 2024 hearing, where Mr Welten was absent as well, this time without any notice or reason.
100. The Panel notes that the Parties were invited to indicate their availabilities for the September hearing by no later than 20 July 2023 (see Panel's email of 13 July 2023). Mr Welten addressed on that date a letter to Mr McLin, alleging the lack of a clear and complete list of facts allowing Respondents to answer and asking for a postponement of the hearing, without mentioning any holiday absences. It was only after the Panel, noting that it had not received any objection from the Respondents, confirmed the proposed hearing dates that Mr Pfister, writing on his behalf and on behalf of Mr Welten, asked that the hearing dates be postponed (without offering alternative dates) and alleging that Mr Welten would be on holidays on these dates.
101. Pursuant to Article 12(a) of the Lawyers' Act<sup>12</sup>, all lawyers practicing law in Switzerland must do so diligently and conscientiously.
102. The obligation to act in good faith (Art. 2 of the Swiss Civil Code) attaches both to the duties of Article 12(a) FMLA and to the exercise of the right to be heard.
103. In particular, the right to be heard is not violated when the party could have found another representative, or when the party's representative could have made arrangements to be present at the hearing.
104. In this respect, Article 6 of the Swiss Code of Deontology requires that lawyers be available.

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<sup>12</sup> FMLA; SR 935.61



105. The Panel notes in this respect that up until the time when the hearing dates were fixed, Mr Pfister and Mr Welten each sent communications on behalf of both the AGF and the individual Respondents, without distinction. It was only after Respondents attempted to postpone the hearing on account of Mr Welten's holidays that Mr Pfister and Mr Welten started to address the Panel separately.
106. It appears to the Panel that the reason behind this sudden distinction was to emphasize that the Individual Respondents could not be represented by Mr Pfister or Mr De Marco at the hearing.
107. The Panel notes also that Mr Welten sent at no time any evidence of this allegedly scheduled absence (flight ticket, hotel booking, etc).
108. The September hearing, announced well in advance, was outside any court holidays. Professional counsel can be expected to organize themselves so that they can join a hearing in an important matter outside of any court holidays rather than give priority to their holidays and expect a hearing with a large number of participants to be adjourned on that basis.
109. Finally, the Panel notes from the hearing testimony of the Individual Respondents at the June 2024 hearing that the Individual Respondents did not seem to really know Mr Welten, did not know that he was not coming, nor seemed to care.
110. The Panel finds therefore that the Individual Respondents' right to be heard was not violated. This complaint was clearly designed as a formal ground to attack the decision, and the Panel does not consider this to have been done in good faith.
111. As for Respondents' more general complaint about not having enough time, the Panel notes that this complaint has no basis, given the multiple opportunities Respondents had to make written and oral submissions in these proceedings, of which they fully availed themselves. Even if one were to consider only the Respondents' Responses to the Complaints dated 5 September 2023, Respondents cannot seriously allege that they were lacking time and opportunity to put together a defense within the 2.5 months since receiving the Complaints, especially considering that Respondents managed to file a total of 77 written witness statements with their Responses – one for each Individual Respondent, one by the AGF's Secretary General, and 72 additional witness statements.

## **E. STANDARD OF PROOF**

### **1. Summary of the Parties' arguments**





112. Respondents argue that the standard of proof in the present proceedings is the comfortable satisfaction standard and not the balance of probabilities as provided by Article 18 of the 2021 FIG Code of Discipline.
113. Respondents base this argument on the fact that:
- (a) it is the GEF's case that the proceedings concern charges of a criminal nature;
  - (b) the normal standard imposed on regulatory authorities is that of comfortable satisfaction (relying on *UCI v Contador*).<sup>13</sup>
114. The comfortable satisfaction standard is higher than the mere balance of probabilities but lower than "beyond a reasonable doubt".<sup>14</sup>
115. Respondents, relying on the CAS decision *Naydena v PTIOs*, argue that the standard of preponderance of the evidence is more likely to be appropriate where the misconduct being investigated is inherently concealed, which is not the case here.<sup>15</sup>
116. The normal standard of proof relied upon in CAS proceedings is applicable rather than the lower standard of proof of Article 18 FIG Code of Discipline because the GEF has not demonstrated that the Individual Respondents agreed to submit to the various FIG Rules invoked against them.<sup>16</sup>
117. Respondents argue that should the Panel apply the balance of probabilities standard, it should, in line with *Kollerer v ATP*, have nevertheless a high degree of confidence in the quality of the evidence. Particularly cogent evidence is needed to prove allegations of the utmost seriousness. The CAS authorities put the standard at "at least 51% of likelihood of occurrence", and Respondents do not have to put forward any other competing scenarios.<sup>17</sup>
118. According to the Respondents, the GEF must actively substantiate its allegations with convincing evidence.

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<sup>13</sup> Respondents' Closing Submissions at paragraph 114.

<sup>14</sup> Respondents' Closing Submissions at paragraph 114.2.

<sup>15</sup> Respondents' Closing Submissions at paragraph 114.3.

<sup>16</sup> Respondents' Closing Submissions at paragraph 114.4.

<sup>17</sup> Respondents' Closing Submissions at paragraph 123.



119. The GEF replies that the Panel has no reason not to apply the balance of probabilities.

## 2. Findings

120. At the outset, the Panel notes that the present proceedings are of a disciplinary nature, and it is not the task of the Panel, nor is the Panel competent to decide upon whether the acts at the basis of the Complaints are of a criminal nature or not.

121. The Panel notes that in *Naydena*, the Panel, relying on CAS cases, indicated that an international association has discretion to determine the applicable standard of proof if (i) there is no overarching mandatory regulation and (ii) subject to mandatory national or international rules of public policy.<sup>18</sup>

122. In *UCI*, the Parties were in dispute as to how the term burden of proof was to be understood and what obligations derived therefrom.<sup>19</sup> However, after an analysis of the requirements of Swiss law (as the *lex causae* in the case decided), the Panel determined that the evidence had to be reviewed under the light of the balance of probabilities.<sup>20</sup>

123. In the case at hand, Article 18 of the FIG CoD states clearly and specifically that “[t]he standard of proof in all matters under this Code shall be the balance of probabilities (a standard that implies that on the preponderance of the evidence it is more likely than not that an infringement of this Code has occurred).” The Panel considers that Respondents have not convincingly established that Article 18 of the 2021 FIG Code of Discipline is not an overarching mandatory regulation in the present case. Quite to the contrary, the entire proceedings rely upon this Code of Discipline – and Respondents extensively rely on it when it suits them, so that it is unclear why the provisions of the CoD should not be applicable in this particular situation.

124. Moreover, as evidenced by *Naydena*, Swiss law also applies the balance of probabilities. In any event, Respondents have not established any mandatory national or international rules of public policy. In particular, it would not even violate Swiss international public policy if the Panel completely reversed the burden of proof (see the decision of the Swiss Federal Supreme Court in case no. 4A\_522/2016 of 2 December 2016, reason 3.2.1, according to which the rules regarding the burden of proof are not part of public policy; the same must all the more be true for the rules regarding the standard of proof).

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<sup>18</sup> *Naydena v PTIOs*, CAS 2020/A/7596 at 179.

<sup>19</sup> *UCI v. Contador*, CAS 2011/A/2384 at 91

<sup>20</sup> *UCI v. Contador*, at 90



125. Consequently, the Panel finds that no sufficient reason was adduced to derogate from the application of the balance of probabilities standard in Article 18 of the FIG CoD.

## F. LACK OF PARTICULARISATION

### 1. Summary of the Parties' arguments

126. Respondents allege that the Complaints brought by the GEF remain unparticularized and vague, to such an extent that the Panel must dismiss them, because Respondents' ability to prepare their defences to the Complaints has been improperly restricted.<sup>21</sup>

127. As a result:

- This makes it impossible to ascertain whether complaints No. 6, 18, 20 and 21 are time-barred.
- Complaint 15, which turns on the untested evidence of GEFW9, ought to have been withdrawn once it became apparent that GEFW9 would not cooperate with the GEF;
- GEFW11's evidence shall also be disregarded because she failed to appear at the hearings;
- The case is also too poorly particularized with respect to Complaints 10 and 13 so that it is not possible to ascertain what particular FIG Rules are said to have been breached.
- With respect to Complaint 17, Ms Siyana Vasileva could not have been bound by the Safeguarding Policies which had not come into force at the time.
- Complaint 20 is too vague.

128. The GEF replies that the Complaints are clearly and adequately particularized.

129. In particular, the GEF highlights that it is unsurprising that a witness who is giving evidence about traumatic events in their childhood will raise new points in their evidence.

### 2. Findings

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<sup>21</sup> See, e.g., Respondents' Closing Submission at paras 127 *et seq.*



130. The Panel does not consider that lack of particularization should be a specific claim on which to dismiss evidence.
131. Evidence is examined and ascertained by the Panel with the applicable standard of balance of probabilities in mind.
132. Particularization of a claim comes as a duty of the party who bears the burden of proof. Therefore, if a complaint is deemed too vague by the Panel, it will dismiss it on the basis of not meeting the standard of proof.
133. Equally, the Panel will keep in mind whether a complaint is only supported by a witness whose written testimony could not be tested due to their failure to attend the hearing. It is usually admitted that the Panel may also draw negative inferences of the unjustified absence of a witness at hearings (see for instance, IBA Rules on Taking of Evidence, Article 9 paragraph 7). That being said, given the fact that the witnesses in question are not under the control of the GEF and that testifying against the Respondents in these proceedings is a very difficult thing to do, as further explained below, the Panel does not consider the absence of GEFW9 and GEFW11 as inferring that their evidence would be adverse to the complaints brought by the GEF.
134. Therefore, the Panel will, where appropriate, ascertain whether a claim is sufficiently particularized and supported by evidence to satisfy the Party's burden of proof.

## G. LIMITATIONS PERIODS

### 1. Summary of the Parties' arguments

#### *a) Respondents' Heads of Arguments and prior submissions*

135. Up until (and including) the *Heads of Arguments*, the Respondents have relied on Article 6(1) of the European Convention on Human Rights and general principles of justice, fairness and equality to argue that it would be wrong to apply the limitation periods prescribed in the 2021 Code of Discipline.

#### *b) GEF's Closing submissions*

136. Against this, the GEF argued in its *Closing submissions* that:



- The earliest date in the Complaints is 1 June 2008, so that none of the complaints is time-barred under the 15-year statute of limitations period of the 2021 Code of Discipline.
- If an earlier Code of Discipline applies, then even under that earlier Code of Discipline acts of a criminal nature do not have a commencement of limitation periods until conviction.
- The principle *tempus regit actum*, which prohibits retroactivity in respect of substantive rules, has no application to procedural rules (citing CAS 2000/A/274 *S v Fina* and CAS 2018/+/6072 *Kwest Nyantakyi v FIFA*).
- When the Respondents agreed to be bound by the FIG Code of Discipline 2021, they agreed to these limitation periods. It is not unfair or contrary to a rule of the ECHR to apply these limitation periods when (i) the Respondents' coaches concealed the abuse; (ii) the AGF did not investigate any of the Complaints; (iii) the victims of the abuse were children unable to act, and themselves beneficiaries of the Convention under Articles 3 and 8.

### ***c) Respondents' Closing submissions***

137. In their *Closing submissions*, Respondents alleged that the GEF received the initial complaint which prompted its investigation in July 2020, so that at the time, the proceedings were governed by the 2019 FIG Code of Discipline.
138. Citing *Volkov v Ukraine* (ECtHR App No 21722/11, 27 May 2013), Respondents argue that it is not open to the Panel to apply Article 5(e) of the 2021 Code of Discipline, because the purpose of limitation periods is to ensure legal certainty and finality, protect potential defendants from stale claims which might be difficult to counter and prevent any injustice which might arise if courts were required to decide upon events which took place in the distance past on the basis of evidence which might have become unreliable and incomplete because of the passage of time.
139. Respondents rely on *Andrianova v ARAF* (CAS 2015/A/4304) as authority for the proposition that by relying on allegations that were already time-barred prior to the entry into force of the 2021 Code of Discipline, the GEF disregards the principle of legal certainty and the rights of the Respondents under the ECHR.
140. In application of this decision, Respondents argue that:



- The 15-year time-period implemented in the 2021 Code of Discipline can only apply to Complaints which were not time-barred when the 2021 Code of Discipline entered into force on 26 May 2021.
  - Before that date, cases of abuse and harassment had to be brought within 5 years of their occurrence.
  - Therefore, any complaint concerning an incident alleged to have occurred on or before 25 May 2016 was time-barred under the 2021 Code of Discipline.
141. With respect to the GEF's argument that the complaints concern criminal conduct, Respondents argue that:
- Where there is no conviction, and thus no proven criminal act, the provision does not apply;
  - The GEF's submission is incorrect because it would lead to the wrong conclusion that no limitation period would ever apply to an offense that was never prosecuted (and thus would never lead to a conviction).
  - The GEF has never made any attempt to demonstrate that the Complaints are act of a criminal nature.
142. Respondents then provide a "Limitation Table", which indicates whether a Complaint is, in its opinion, time-barred.

**d) GEF's Closing Reply**

143. In its *Closing Reply*, the GEF argues that:
- In criminal proceedings, the ECtHR decision *Coëme and others v Belgium* stands for the propositions that (a) changes in periods of limitation are matters of procedure taking effect immediately and (b) a change to a limitation period during the currency of a limitation period is no infringement of Article 7 ECHR.
  - In civil proceedings, the ECtHR decision in *Zielinski and Pradal and Gonzalez and others v France* stands for the principle that procedural retroactivity is not prohibited.
  - The decision *Vegotex Internal SA v Belgium* stands for the proposition that in a non-criminal case of tax liabilities retroactive legislation was not a violation of Article 6 ECHR where it was introduced on compelling grounds of general interests.
  - The principle set forth in *Stubbings v the United Kingdom*, that historic cases of abuse may require special provision, carries over without difficulty to the administration of sports. Were it otherwise, the FIG and the GEF would be obliged to stand by and



ignore serious allegations of historic abuse of children revealed only when those children have reached their majority.

- The GEF criticizes the reliance on the *Andrianova* decision saying that the issue was not before the sole arbitrator because the IAAF ADR rules prohibited the extension of a limitation period unless it took place within the running of the limitation period; and that “the fact that the sole arbitrator accepted that an extension to limitation could take place within a pre-existing live period of limitation, would have the same effect”, which is “that the period of limitation can be extended indefinitely”.
- The ability of a sports governing body to amend retrospectively procedural issues is clear.
- The abuse of children demands lengthy periods of limitations: under the Swiss Criminal Code Art. 97, offences under Article 122 committed against a child have limitation periods running until the child reaches 25.
- The allegations are of criminal nature; if the intention of Article 5 (c) was to apply to cases only where there had been a criminal conviction, the article might be expected to say that. It cannot be seriously contested that beating a child and other matters are not of criminal nature.
- If any part of any charge is barred by limitation, the consequences are not to render the evidence inadmissible, only the determination of that part of the allegation, because “evidence of abuse in the past is evidence of a propensity to continue that abuse later and there is in the wider sporting context no objection to considering the evidence of past misconduct” (citing the Swiss Olympic Statutes on Ethics in Swiss Sport Art 8 and 8.3).

#### ***e) Respondents’ Closing Rejoinder***

144. In their *Closing Rejoinder*, Respondents address first the submissions made by the GEF about ECHR and CAS authorities.
145. With respect to *Andrianova*, Respondents argue that:
- i. the issue of whether it was compatible with human rights to retrospectively apply a longer limitation period to a time-barred offence was, indeed, before the sole arbitrator.
  - ii. Reviewing the case law cited by the GEF to argue that *Andrianova* was wrong, Respondents argue as follows:
    - a. Citing *Vegotex* and *Advisory Opinion on the Applicability of Statutes of Limitation*, Respondents argue that Article 7 ECHR precludes the revival of a prosecution in respect of an offense time-barred under domestic law, on account of the absence of a valid legal basis.



- b. Concerning the GEF's argument that limitation periods can be extended regardless where it is accepted that an extension can permissibly take place whilst the limitation period is ongoing, Respondents note that whilst extending an ongoing limitation period is permissible, reviving an allegation in respect of which limitation has lapsed is not, or else the limitation period would be pointless.
  - c. *Coëme and others v Belgium* does not help the GEF because this decision concerns precisely the extension of a time-period when the relevant offences have never become subject to limitation.
  - d. *Zielinski and Pradal and Gonzalez and others v France* concerns retrospective legislative intervention in ongoing proceedings being incompatible with Art. 6 ECHR, and thus differs from the matter at hand.
  - e. *Vegotex* concerns a legislative intervention following a ruling of the Belgian Court of Cassation that overturned an administrative practice. According to the ECtHR, the revival of criminal responsibility after the expiry of a limitation period is incompatible with the overarching principles of legality and foreseeability (*Advisory Opinion P16*). In *Vegotex* however, the retrospective extension of limitation was clearly signaled in advance by the legislature and restored legal certainty by overturning an unexpected development in the case-law.
  - f. The position in *Advisory Opinion P16* is similar because in this case, the ECtHR found that, notwithstanding the absolute prohibition on torture in international law, it was incompatible with the principle of legality to revive criminal responsibility after the expiry of a limitation period.
- *Stubbings* recognized that there was no uniformity in approach to limitation periods for historical abuse, but in any case *Advisory Opinion P16* makes clear that the principle of legality has primacy over such considerations.
  - Swiss criminal law is of no assistance because the proceedings at hand are not criminal proceedings; moreover Swiss criminal law also adheres to the principle that time-barred offenses remain time-barred and cannot be revived retroactively.
  - Safeguarding, as provided by the FIG Statutes, became a key focus only in 2019 and does not justify the retrospective application of time periods implemented in the 2021 FIG Code of Discipline.
  - The prohibition of the extension of limitation to revive time-barred offences does not prevent historic abuse of children to be prosecuted, because it is permitted under the Safeguarding Procedures to refer serious allegations of abuse to the police.





- The purpose of limitation periods is to prevent that individuals are being tried on the basis of historic evidence which becomes impossible to counter, not to ensure that individuals are only charged with allegations of facts they recognize as being prohibited.
- By the time the 2021 Code of Discipline was implemented, the GEF must have appreciated that the allegations it was considering were time-barred.
- With respect to the GEF's submissions based on Article 5 (c) of the Code of Discipline:
  - i. Respondents argue that the GEF does not explain which complaints are crimes under which legal systems;
  - ii. Where there is no conviction, time does not begin to run and the provision does not apply;
  - iii. There is no perversity in having a limitation for a certain number of years in relation to allegations of abuse, whilst a separate 12-year period runs from the date of conviction for actual cases of criminal conduct.
- With respect to the GEF's propensity argument, Respondents argue that (i) it is not supported by any authority; Art. 8.1(3) of the Swiss Olympic Statutes makes clear that imposing sanctions for statute-barred abuses is ruled out, but applications may still be submitted for measures to redress and put an end to abuses.

## **2. FINDINGS**

### **a) *Applicable time period***

#### ***i. Under Art. 5(e) of the FIG Code of Discipline***

146. Articles 5(e) of the 2011 and 2018 Codes of Discipline provide for a 5-year statute of limitations from the date of occurrence for abuse and harassment, whilst Article 5(e) of the 2021 Code of Discipline provides for a limitation period of 15 years from the date of occurrence or, where the victim is a minor, 15 years from the date he/she attains the age of 18.

147. The 2021 FIG Code of Discipline does not indicate whether it applies retroactively. Article 38 provides that it replaces the version approved by the FIG Congress in December 2018, and that "the changes enter into effect immediately" at the time when the FIG Council updated the Code of Discipline, i.e. May 2021 (more specifically, according to the website of the FIG, 26 May 2021<sup>22</sup>).

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<sup>22</sup> <https://www.gymnastics.sport/site/rules/> (last visited on 24 September 2024).



148. It follows from the arguments summarized above that (1) there is agreement that the longer limitation period under the 2021 Code of Discipline applies to complaints that were not yet time-barred at the time when it entered into force; and (2) the Parties do not contest the general application of the principle of *tempus regit actum*, i.e. the principle of non-retroactivity of laws. What is debated, however, is whether this principle applies to limitation periods that have already lapsed by the time the new rules with longer limitation periods enter into force.
149. In accordance with Article 1 of the FIG Code of Discipline, this issue must be decided in accordance with the general principles set out in the FIG Code of Discipline, with the general principles of justice, fairness and equality, the general principles of Swiss law, and principles acknowledged internationally.
150. Respondents have decided not to discuss the precedents of *S v Fina* and *Kwesi Nyantaki v FIFA*, relied upon by the GEF for the proposition that the prohibition against retroactivity applies to substantive rules, but not to procedural rules, and that a limitation period is a not substantive rule to which the presumption of non-retroactivity applies.
151. However, under Swiss law, limitation periods are substantive law (decision of the Swiss Supreme Court (“DSC”) 118 II 447; DSC 75 II 66; DSC 74 II 36). Accordingly, it is a general principle of Swiss law, as confirmed by authorities relating to civil law, administrative law, and criminal law, that longer limitation periods under a new law do not retroactively apply to events that were already time-barred at the time the new law entered into force.<sup>23</sup>
152. In that context, the Panel notes that also the position of Article 5 within the 2019 and 2021 Codes of Discipline suggests that limitation periods are considered to be substantive rather than procedural in nature. Article 5 is contained in Chapter II, along with the provisions on infringements and on the liability of federations (and others). All of these provisions are substantive in nature, unlike those who are contained in the following chapters.
153. *Coëme and others v Belgium* at paragraph 148, the case law cited by the GEF for the proposition that changes in limitation periods are matters of procedure taking effect immediately, refers specifically to Belgian law (“*The Court notes that the solution adopted*

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<sup>23</sup> For example, Article 49(1) of the Final Title (Commencement and Implementing Provisions) of the Swiss Civil Code; Swiss Federal Supreme Court, 21 November 2018, ATF 144 II 427 reason 9.2.1 (p. 452) for administrative law (tax law); Martin Schubarth, Erlöschen der Strafgewalt zufolge Verjährung – Konsequenzen für die Rechtsnatur der Verjährung und für Fragen der Auslieferung, ZStrT-RPS 129/2011, pp. 71-75 for criminal law (including for provisions concerning sexual abuse of children).



*by the Court of Cassation was based on its case-law to the effect that laws modifying the rules on limitation were henceforth to be regarded in Belgium as legislation on matters of jurisdiction and procedure. It accordingly followed the generally recognized principle that, save where expressly provided to the contrary, procedural rules apply immediately to proceedings that are under way”).*

154. The Panel is of the opinion that the ECtHR confirming the decision of the Belgian Court of Cassation based on specifics of Belgian law, cannot be found to be binding ECHR law when applicable to other legal systems such as Swiss law where limitation periods are considered substantive in nature.
155. The Panel is not convinced by the GEF's argument that accepting an extension to a still running period of limitation has the same effect as accepting an extension to an already expired limitation period, namely that the limitation period can be extended indefinitely. As shown above, under principles of Swiss law, there are clear differences between extending a still running limitation period (which is commonly done) and extending a limitation period that has already expired (which is considered inadmissible retroactivity).
156. Indeed, as shown by Respondents, the GEF's proposition is not finding support in any of the case law cited by the GEF.
157. Moreover, if the FIG had meant to extend already expired limitation periods, at the very least it should have expressly said so when enacting the 2021 Code of Discipline, which it did not do.
158. The fact that there is no uniformity in approach to limitation periods for historical abuse does not allow a decision-taking body to disregard the text of the law (*Advisory Opinion P16*).

***ii. Under Art. 5(e) of the FIG Code of Discipline***

159. The Panel is not convinced by the GEF's argument that Article 5(c) must apply to any allegations that are of a criminal nature, so that the statute of limitations starts running only after a conviction and does not run as long as there is no conviction.
160. Quite to the contrary, the Panel understands that Article 5(c) means that in order for the statute of limitations to be extended to a period of 12 years after the conviction, a prosecutor must have decided that the acts were of a criminal nature and conducted a criminal procedure that ultimately led to a conviction of the culprit.



**iii. Under Article 8.1(3) of the Swiss Olympic statutes  
("propensity" argument)**

161. The Panel finds that the GEF's "propensity" argument cannot lead to sanctions or measures taken with regard to conduct that is time-barred.
162. Under Article 8.1.3 of the Swiss Olympic Statutes (invoked by the GEF), measures to redress and put an end to abuse may still be taken after the period for sanctioning abuses has run out, although imposing sanctions for such abuses are ruled out. In these proceedings, the Panel is not asked to take redress measures, but to impose disciplinary sanctions, which are not admissible even under Article 8.1.3 of the Swiss Olympic Statutes.
163. That being said, the statute of limitation does not render evidence supporting time-barred allegations inadmissible. The Panel can still consider and assess such evidence, for example in the context of determining the general credibility of witnesses.<sup>24</sup>

**b) Cut-off date**

164. Respondents first argued in their Responses of 23 September 2023 that the cut-off date for the statute of limitations is 21 June 2018.<sup>25</sup>
165. This date was corrected in their Closing Submissions to 25 May 2016.<sup>26</sup>
166. The GEF does not address this point.
167. The Panel agrees with Respondents' calculation of the cut-off date.

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<sup>24</sup> CAS 2014/A/3598 - 3599 – 3618, Partial Award dated 24 October 2018, at para 642, where the CAS goes even further: « For the purpose of determining the appropriate length of sanctions for Messrs Bruyneel, Maiif and Celaya, the Panel agrees with WADA that it may consider the totality of the evidence, including the evidence of their conduct which occurred outside of the limitations period. There is no provision in the Code or UCI ADR which suggests that the Panel may not consider all misconduct by athlete support personnel in the penalty phase of the proceedings. »

<sup>25</sup> See AGF Response at para 49,

<sup>26</sup> See Respondents' Closing Submissions at para 102.3.



168. The question that has to be answered is: “which offenses were already barred at the date of entry into force of the 2021 FIG Code of Discipline (*i.e.*, 26 May 2021)?”. Given the statute of limitations of 5 years provided by the 2019 FIG Code of Discipline, these are offences that occurred more than five years prior to the entry into force, *i.e.*, on or before 25 May 2016.

169. In conclusion, any offense that took place on or before 25 May 2016 is time-barred.

**c) Time-bar of the various complaints**

170. As regards the time-bar of the various Complaints, the Panel finds as follows:

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|---------------------|---|
| <u>Complaint 1</u>  | Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.        |
| <u>Complaint 2</u>  | Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.        |
| <u>Complaint 3</u>  | Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.        |
| <u>Complaint 4</u>  | Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.        |
| <u>Complaint 5</u>  | Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.        |
| <u>Complaint 6</u>  | Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.        |
| <u>Complaint 7</u>  | Alleged to have taken place between 1 January 2010 and 1 January 2012, therefore entirely time-barred.                                  |
| <u>Complaint 8</u>  | Alleged to have taken place between 1 January 2015 and 1 January 2016, therefore entirely time-barred.                                  |
| <u>Complaint 9</u>  | Alleged to have taken place between 1 January 2015 and 1 January 2016, therefore entirely time-barred.                                  |
| <u>Complaint 10</u> | Alleged to have taken place between about 1 January 2011 and 1 January 2012, therefore entirely time-barred.                            |
| <u>Complaint 11</u> | Alleged to have taken place between about 1 January 2013 and 1 January 2014, therefore entirely time-barred.                            |
| <u>Complaint 12</u> | Alleged to have taken place between about 1 January 2008 and 1 January 2018, therefore time-barred between 1 June 2008 and 25 May 2016. |



- Complaint 13 Alleged to have taken place between about 1 January 2009 and 1 January 2011, therefore entirely time-barred.
- Complaint 14 Alleged to have taken place between about 1 January 2009 and 1 January 2014, therefore entirely time-barred.
- Complaint 15 Alleged to have taken place between about 1 January 2017 and 1 January 2019, therefore not time-barred.
- Complaint 16 Alleged to have taken place between about 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.
- Complaint 17 Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.
- Complaint 18 Alleged to have taken place between about 1 January 2014 and 1 January 2017, therefore time-barred between 1 January 2014 and 25 May 2016.
- Complaint 19 Alleged to have taken place between about 1 January 2014 and 1 January 2017, therefore time-barred between 1 January 2014 and 25 May 2016.
- Complaint 20 Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.
- Complaint 21 Alleged to have taken place between 1 January 2019 and 31 January 2021, therefore not time-barred.
- Complaint 22 Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.
- Complaint 23 Alleged to have taken place between 1 June 2008 and 31 December 2020, therefore time-barred between 1 June 2008 and 25 May 2016.

## **H. TRANSLATIONS**

171. In their Responses to the Complaints dated 5 September 2023, both the AGF and the Individual Respondents requested that all documents of the GEF, particularly the witness statements, should be disregarded in relation to any statute of limitations, if the original versions were not submitted along with the complaints of 20 June 2023.
172. This request was motivated by a concern for the reliability of the translations as, according to the Individual Respondents, “[i]t is crucial that the Respondents speaking Azerbaijani and Russian will be able to read the original statement to check if the translation was done in a correct way and if the English documents provided are credible at all” (at para 36).
173. Pursuant to Art.15 §3 of the Code of Discipline, “All documents submitted and correspondence sent by and between the Parties must be in English”.



174. Even though this article does not require either party to communicate the original text, a party who so requests must, to preserve its rights of defence, obtain the original version of the translated document in order to verify the accuracy of the translation.
175. That is why the Panel ruled in its decision of 12 September 2023 that “the GEF is requested to submit the witness statements in their original language by Wednesday 13 September 2023”. The GEF did so on 12 September 2023. This sufficiently safeguarded Respondents’ rights.
176. As Respondents provided themselves a translation of the so-called “Undated Letter” (Main Bundle, Tab B-17-Exhibit 11) and as another document containing an agreed translation of the signature pages (file name “Agreed translation of Signature Pages.pdf”) was provided to the Panel on 9 July 2024, the Respondents’ interests have not been harmed.
177. No other incident on this point was raised by the parties in their final submissions, so that the Panel considers the Respondents’ claims on this point to be either abandoned or moot.

## V. FINDINGS ON THE COMPLAINTS

### A. CREDIBILITY OF WITNESSES

178. The present case turns primarily on the credibility of the witnesses offered by the Parties. The Panel therefore starts with the bigger picture of how the Panel sees the general credibility of the Parties’ witnesses, also in the context of the conduct shown by the AGF, before discussing further details in the context of the individual complaints.

#### **a) *Credibility of the GEF Witnesses***

179. The GEF presented written statements of twelve witnesses. Out of those twelve witnesses:
- (a) seven witnesses were victims, of whom six testified orally by video;
  - (b) three witnesses were coaches, who all testified by video;
  - (c) One witness was a parent, who did not testify by video; and
  - (d) One witness was an investigator, who testified by video.
180. According to Respondents, the GEF witnesses testified against them as part of a conspiracy that was initiated by GEFW9, the GEF’s parent witness, and IND1. According to Respondents, IND1 and GEFW9 orchestrated baseless allegations by using the GEF’s three coach witnesses, who had long been opposed to the AGF’s decisions, and the



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seven victims, five of whom are from difficult family relationships and two are currently coaching at [REDACTED].<sup>27</sup>

181. The Panel accepts that IND1, GEFW9, and the GEF's three coach witnesses (GEFW3, GEFW10, and GEFW4) had motives for causing difficulties for Marina Vasileva, such as financial motives, revenge, envy, or a desire to take over her job.
182. Specifically, the Panel accepts that IND1 and other people who own or manage sports clubs like [REDACTED] had a financial motive for keeping gymnasts in their own clubs, rather than sending them to the National Team to train there for free.
183. The Panel also finds it credible that GEFW9, IND1, and the GEF's three coach witnesses (GEFW3, GEFW10, and GEFW4) feel resentment against Marina Vasileva. That being said, Respondents' attempts to make GEFW9 out as an extreme villain lacks credibility. In this context, the Panel finds it concerning and misleading that the Individual Respondents attributed Facebook comments made by third parties to GEFW9 and even failed to translate the comment that was actually from GEFW9.<sup>28</sup> Even for a person who does not read Cyrillic, it is obvious that most comments were made by different people and not by GEFW9. While counsel submitted that the people whose statements were allocated to GEFW9 were his friends, no evidence was presented for this allegation. The only evidence is that GEFW9 commented on an unknown post from an unknown person, and that other people commented on the same post as well. This does not establish any friendship between those who commented.
184. The Panel finds it credible that the GEF's three coach witnesses, who testified about what happened to gymnasts, were unhappy with Mariana Vasileva's arrival and work at the AGF, did not want to lose their status within the federation, and did not like the new rules that were being set up. Parts of their written and oral testimony revealed their emotions about how they perceived their treatment under Mariana Vasileva and the disciplinary sanctions that had been taken against them. The testimonies of GEFW3, GEFW10, and GEFW4 left the impression that their feelings about Mariana Vasileva were not driven by true concerns about abuse, but were rather driven by more personal motives. This affects their credibility.
185. Importantly, while the motives of IND1, GEFW9, GEFW3, GEFW10 may affect their credibility, this does not mean that the victims themselves are lying. Some of the victims testified that they were not contacted by IND1 or GEFW9 about the case (GEFW1,

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<sup>27</sup> E.g., AGF's Response, at para 69 *et seq.*; Individual Respondents' Response to the Complaint, at para 41.

<sup>28</sup> Individual Respondent's Exhibit 7; *see* Transcript June Hearing, Day 3, 3:00:02 through 3:08:58, with the comment that is actually from GEFW9 translated at 3:08:41.





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GEFW8, GEFW6), and those who had contact with one of them were open and forthcoming about it (GEFW2, GEFW7, GEFW5).

186. In any event, even if, for their own personal reasons, IND1 and GEFW9 had tried to instrumentalize the victims, the Panel finds it difficult to believe that the victims would simply make up serious allegations of abuse that never happened. It would have been obvious to them, at the time and now, that doing so would alienate not only Mariana Vasileva, but also the AGF. It is more credible that any encouragement given to the victims, and even any pressure put on victims (if there were any pressure), would have been simply aimed at the victims speaking up, which the victims may not have otherwise done. Indeed, speaking up and testifying in these proceedings would not have been an easy and obvious thing to do for a gymnast or ex-gymnast, for at least three reasons:

- (a) At the time when most of the victims trained under Mariana Vasileva, there was no focus on safeguarding within the AGF and no specific person to talk to.<sup>29</sup> This did not make it likely for victims to speak up against those in power.
- (b) The abuse allegations made against GEFW3 and the fact that none of the testifying coaches reported the abuse they allegedly witnessed indicate that the testifying coaches either used similar methods themselves or that such methods were widespread. The more widespread and “normalized” emotional and physical abuse is, the less likely victims are to speak up.
- (c) It is obvious, and would have been obvious to the victims, that it is a deeply unpleasant experience to have Mariana Vasileva and the AGF as adversaries in disciplinary proceedings, as further discussed below.

187. The Panel is mindful of the fact that it is difficult to judge whether the victims’ testimony, given by video through an interpreter, correctly reflects the events at the time, given that there is little “hard” evidence supporting the allegations. The “hard” evidence that exists (in particular photos of GEFW7 and a video of RESPW13 prior to a performance) is discussed elsewhere in this decision. The lack of more “hard” evidence is not of the victims’ making but is due to the nature of the events, which took place in settings where it would not have been easy or obvious to record them. In that context, the Panel notes that, unlike the gymnasts, the AGF had access to video recordings of the arena, but either did not look at them or did not submit them in this proceeding.<sup>30</sup>

188. The Panel has judged the victims’ testimony overall credible and has seen specific indications that their testimonies were truthful. Such indications include the following:

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<sup>29</sup> Many of Respondents’ witnesses did not know to whom they could have reported safeguarding issues. Also Ms Bulanova and Ms Siyana Vasileva did not seem sure to whom at the Federation they would have reported any safeguarding concerns before RespW41 was appointed Safeguarding Manager in 2020; see Transcript June Hearing, Day 1, 01:04:29 through 01:05:01 (Natalia Bulanova) who stated in the following that she would have told the AGF Secretary General; Day 1, 01:55:15 through 01:57:50 (Natalia Bulanova).

<sup>30</sup> See Transcript June Hearing, Day 1, 6:06:33 through 6:08:39 (Nurlana Mamedzadeh).



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- (a) Some victims, in particular GEFW7 and GEFW8, found the experience of testifying against the Respondents visibly distressing and seemed to struggle with a certain sense of loyalty towards their former coaches and sports federation. Testifying was visibly not easy for them, and the Panel sees no motive for why these victims would put themselves through this experience to lie about events that did not happen.
- (b) GEFW7’ evidence in this proceeding was in line with what she had already told others at the time of the events. Specifically, Respondent’s witness RESPW64 was GEFW7’ roommate and noted in her written statement that GEFW7 told her at the time that she was beaten and bullied.<sup>31</sup>
- (c) GEFW6 testified about physical abuse of GEFW7, but said that she personally was not physically abused.<sup>32</sup> If she had made up the physical abuse, it would be incomprehensible why she would not have bolstered that story by also alleging own physical abuse.
- (d) When GEFW2 was confronted with a question about having pretended to be tired or sick in order to avoid training, she refused to answer.<sup>33</sup> While her refusal may indicate that she might actually have pretended to be tired or sick in order to avoid training, this would not be inconsistent with abuse (but, to the contrary, could be a motive for punishing GEFW2). Either way, if GEFW2’s testimony was made up, as Respondents allege, she simply could have lied in response to that question. Instead, she refused to answer the question, although this was uncomfortable for her.
- (e) The hearing testimony of GEFW2 and GEFW7 about staying in Mariana Vasileva’s house was credible. They testified independently of each other, and only when asked, that Mariana Vasileva invited them to stay at her house in order to control their weight and that they ate the same food as the rest of Mariana Vasileva’s family, but received less food. The Panel considers it unlikely that GEFW2’s and GEFW7’ testimony about being invited to stay to control their weight and being given less food had been orchestrated between them. That is because they testified directly one after the other and addressed the reason for their stay and the quantity of food only after repeated questions rather than trying to get their story out as early as possible.<sup>34</sup> The fact that their stay in Mariana Vasileva’s house was not included in their written statements does not affect the credibility of GEFW2 and GEFW7, as the Panel finds it credible that they had simply been answering questions put to them.

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<sup>31</sup> Statement of Respondents’ witness no. 64 (RESPW64), pdf-p. 4.

<sup>32</sup> GEFW6’s statement, GEF Bundle 2 [Evidence], pdf-p. 26, at para 4.

<sup>33</sup> Transcript September Hearing, Day 2 Part 2, 00:27 (GEFW2).

<sup>34</sup> Transcript September Hearing, Day 2 Part 2, 0:20:41 through 0:23:53 (GEFW2) and 1:25:51 through 1:29:09 (GEFW7).



- (f) GEFW5 was very forthcoming about seemingly “bad facts”, such as her contacts with GEFW9 and IND1, and her sister’s outreach to a witness, which GEFW5 reported immediately to the GEF.<sup>35</sup> The same is true for GEFW7’ admission that she has some difficult character traits, that she sometimes provoked Ms Zhidkova and that sometimes Ms Zhidkova’s “violence was deserved”.<sup>36</sup> The fact that the witnesses were forthcoming about seemingly “bad facts” indicates the truthfulness of their testimony and makes their testimony significantly more credible than that of Respondents’ witnesses.
- (g) Some incidents that were reported by the victims were confirmed by Respondents or their witnesses, such as the incident in Minsk in 2013 where GEFW11 tried to jump out of a window, or GEFW2’s mother coming to the arena to show Mariana Vasileva a virginity certificate for her daughter.<sup>37</sup> While Respondents and their witnesses alleged different motives for these incidents, those motives are not credible (the virginity certificate is discussed further in the context of Complaint 3 below); as for the Minsk incident in 2013, GEFW1’s testimony that GEFW11’s desperation was related to weight<sup>38</sup> is more credible than the allegation that her parents’ divorce and worries about the competition would cause such a reaction. In particular, several witnesses confirmed that GEFW11 had weight issues, and RESPW52 testified that the window incident happened “almost immediately” after the gymnasts had gone to their rooms after learning that GEFW11 had gained 2kg.<sup>39</sup> Also RESPW52’s testimony about the unusual fact that the gymnasts (including GEFW11) carried their own individual scales with them<sup>40</sup> attests to the pressure they were under regarding their weight.

189. The Panel notes that some of the victims’ accounts about specific events were missing details that the Panel would have found helpful. However, this was not the case for all of the testimony and, in any event, does not exclude the credibility of the victims’

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<sup>35</sup> Transcript September Hearing, Day 2 Part 2, 2:53:49 and 4:51:34 through 4:55:32 (GEFW5).

<sup>36</sup> GEFW7’ statement, GEF Bundle 2 [Evidence], pdf-p. 36, a at para 48; Transcript September Hearing, Day 2 Part 2, 1:43:22 (GEFW7).

<sup>37</sup> GEFW2’s statement, GEF Bundle 2 [Evidence], pdf-p. 11, at para 12; Transcript September Hearing, Day 2 Part 2, 0:42:44 (GEFW2); Transcript September Hearing, Day 3, 2:57:04 through 2:58:58 (Mariana Vasileva).

<sup>38</sup> GEF Complaint, Bundle 2 (Evidence), pdf-p. 3 (statement of GEFW1), at para 14. During the Hearing, GEFW1 clarified that she had been told about this incident by friends; Transcript September Hearing, Day 1, 01:46:30 through 01:47:48 (GEFW1). *See also* GEF Complaint, Bundle 2 (Evidence), pdf-p. 50 (statement of GEFW11), at para 15.

<sup>39</sup> Statement of Respondents’ witnesses no. 52 (RESPW52), pdf-p. 5. Confirmed at Transcript June Hearing, Day 4, 0:22:33 (RESPW52). While RESPW52 at the Hearing also spoke about a phone call from GEFW11’s mother, the Panel is not convinced of that part of her testimony, which left the impression of being prepared.

<sup>40</sup> Transcript June Hearing, Day 4, 0:18:49 through 0:19:43 (RESPW52).



testimony, given that (1) a lot of time has passed since the incidents described by the victims, and (2) the victims’ testimony is that the incidents described by them were standard practice, which would make it harder to remember the specifics of any individual occasion.

190. The Panel also finds that the fact that some victims added further details during the hearing compared to their written statements, or that they did not address certain things in their statements (for example that they had sometimes stayed at Mariana Vasileva’s home), does not exclude their credibility. The Panel finds it credible that the written statements were prepared on the basis of interviews with the victims, and the questions that the victims were asked during those interviews are not necessarily the same as those asked during the hearing.
191. The Panel notes that Respondents and their witnesses attempted to destroy the victims’ credibility by making various allegations against them. These allegations do not affect the Panel’s assessment of the credibility of the victims’ allegations of abuse. In that regard, the Panel notes in particular the following:

- a) Many of Respondents’ witnesses alleged bad behavior on the part of victims, but had difficulties giving specific examples of such behavior. The examples mentioned would not seem to deserve the negative conclusions drawn from them.<sup>41</sup> While it is obvious that teenage girls around the age of puberty will not always behave like angels, the Panel is not convinced of the level of negativity used to describe the victims. The Panel got the impression that the real reason for their negative description was the fact that the victims made complaints, as was indicated by Respondents’ witness RESPW6 (Question: “GEFW8. GEFW6. GEFW5. GEFW7. *Is your position generally that all of them are just bad people?*” Answer: “*No, why? Maybe they’re good. It’s just [...] It just turned out that they were -- [...] They had some complaints.*”<sup>42</sup>).
- b) The Panel was similarly puzzled by the allegation that GEFW2 stole a mobile phone from Mariana Vasileva’s house. While GEFW2 denied the allegation<sup>43</sup> and no “hard” evidence was offered for it, it is striking that several of Respondents’ witnesses testified about that theft, while they could not have had any first-hand knowledge nor indicated any basis for their allegation.<sup>44</sup>

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<sup>41</sup> See, for example, the allegations against GEFW7 at Transcript June Hearing, Day 2, 0:47:44 through 0:51:02 (RESPW26), Transcript June Hearing, Day 2, 3:58:43 through 3:59:17 (RESPW7), but in contrast the testimony of Ms Vilayeva, who described GEFW7 as strong-willed, skipping school at times, and otherwise an ordinary girl: Transcript June Hearing, Day 2, 2:32:25 through 2:34:59 (Evgeniya Vilayeva).

<sup>42</sup> Transcript June Hearing, Day 3, 1:11:19 through 1:12:00 (RESPW6).

<sup>43</sup> Transcript September Hearing, Day 2 Part 2, 00:25:14 (GEFW2).

<sup>44</sup> Statement of Natalia Bulanova, at para 15; Statements of Respondents’ witnesses no. 13 (RESPW13 and 29 (RESPW29)).



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- c) One common complaint made against the victims was that they trained badly or avoided training. The Panel has some doubts about the seriousness of that problem, especially since some of the victims seemed determined to go to the Olympics (GEFW6) and/or knew that succeeding in gymnastics presented real opportunities for them that they would otherwise not have due to their family situation (GEFW1). Be that as it may, the Panel considers it perfectly possible that some or all of the victims may not have been training as hard as their coaches wanted them to (for example GEFW2, who refused to answer the question). This does not call into question their credibility, but makes it even more plausible that Mariana Vasileva would put pressure on them to train harder or punish them if they avoided training intentionally. Such pressure is particularly plausible because, at least at certain times, the pool of gymnasts was not very big, and every gymnast counted.<sup>45</sup>
- d) In any event, even if some or all of the victims had more difficult characters and/or behaved more badly than other gymnasts, this would not exclude abuse. The descriptions of the alleged misbehavior (for example smoking, drinking, meeting boys, skipping school or training, faking illness to avoid training, losing one's nerves, using bad language, etc.) do not indicate untruthful testimony in a disciplinary proceeding. To the contrary, any such problems would make the victims more prone to punishment by the coaches. In that regard, the allegation made by several of Respondents' witnesses that the victims misbehaved but that the coaches did not tell them off and treated them only with patience seems unrealistic in a high-pressure environment like professional gymnastics.

192. In the Panel's assessment, the fact that the victims did not leave and did not report any abuse at the time does not destroy their credibility. It is undisputed that the AGF did not have a safeguarding officer until 2020, and also Respondents' witnesses did not know which individual they would have had to contact with any safeguarding concerns. While the Panel was not convinced of the thoroughness of Mr Scotney's investigations, it found his testimony that victims told him about their fear of retribution to be credible.<sup>46</sup> Also the testimony of victims that they were afraid of getting punished, of not getting into or being kicked out of the National Team, or of having further professional opportunities blocked is credible,<sup>47</sup> in light of the imbalance of power between Mariana Vasileva and the coaches on the one hand and the gymnasts on the other hand.

193. In the Panel's assessment, also the social media posts written by the victims (such as GEFW8's post that "we are a big family forever, in ups and downs") and personal messages sent by the victims to some of the Respondents are not inconsistent with the

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<sup>45</sup> Transcript September Hearing, Day 1 Part 1, 01:38:00 (GEFW1); Transcript September Hearing, Day 3, 05:18:51 (Mariana Vasileva).

<sup>46</sup> Transcript September Hearing, Day 1 Part 2, 01:00:46, 01:01:27, 01:04:28 (Paul Scotney).

<sup>47</sup> *E.g.*, Transcript September Hearing, Day 1 Part 1, 01:45:37 and 01:39:52 (GEFW1); Transcript September Hearing, Day 1 Part 1, 07:05:06 (GEFW6); Transcript September Hearing, Day 1 Part 1, 05:55:00 (GEFW8).



victims’ allegations of abuse. As for the social media posts, it is obvious that the gymnasts of the National Team would present themselves in public as smiling winners, given their role as representatives of their country. They also had obviously a strong group feeling, given that they were spending their lives together and these lives were pretty intense. Moreover, it is important to understand that the individual Respondents were close to the victims and very important in their lives, and also did many things that were good and helpful for them (as further discussed below). In this complex relationship between coach (or the head coach’s daughter) and gymnast, writing personal messages of the type presented to the Panel is not inconsistent with abuse.

194. Importantly, the Panel does not see any motive as to why all of the victims would lie about the abuse suffered. The motives presented by the Respondents are not convincing, in particular the following:

- a) The Panel does not believe that the victims would bring abuse allegations in order to inherit Mariana Vasileva’s position or help others replace her. Some of the victims are abroad and/or have nothing to do with gymnastics anymore, and it seems far-fetched that they would put themselves through the experience of testifying against Mariana Vasileva just to support the professional ambitions of others. For example, GEFW1 is on maternity leave in Germany and has no direct contacts with [REDACTED]; GEFW8 has been living in Turkey for five years; GEFW2 is a coach in London; and GEFW7 is a fitness coach in Ukraine. For those who are still involved in gymnastics in Azerbaijan, it is not credible that they would hope to score any points with the AGF by bringing abuse allegations against Mariana Vasileva. To the contrary, the best way to achieve professional ambitions would be to stay close to her, rather than risking a lot by testifying against her.
- b) This would leave revenge as the only other possible motive for lying about the abuse, which raises the question of what the victims would seek revenge for in such a drastic way. Nobody alleged that the victims were forced out of the National Team because they did not want to follow the rules. It is well possible that some of the victims were not as successful as they may have wanted to be, or that they were made to train harder than they wanted to. However, it is not plausible that such factors would make anyone so lastingly angry that all of the victims would make up stories of abuse and testify many years later against Mariana Vasileva, thereby effectively cutting all ties to her and the AGF.

195. For all of these reasons, on the balance of probabilities, the Panel considers the abuse allegations by the victims to be credible.

### ***b) Credibility of the Respondents***

196. The Panel has carefully listened to the individual Respondents’ testimony and did not find it credible on key points. While the following general observations apply to all



individual Respondents in varying degrees, the Panel will focus on examples from Mariana Vasileva’s testimony, as she is the person in the centre of the allegations.

197. As a first point, the Panel was struck by the absolutism of the denials, which significantly tainted the credibility of the testimony. For example:

- a) Mariana Vasileva’s denial that she had ever caused a gymnast pain is not credible.<sup>48</sup> Ms Vasileva adjusted her testimony only after she had confirmed with one of the panel members that he understood gymnastics.<sup>49</sup>
- b) Mariana Vasileva’s reaction to the video of a warm-up,<sup>50</sup> in particular her laughing denial that she caused the gymnast any pain and that she struck her,<sup>51</sup> is also not credible. The Panel is aware of the receptors invoked by Ms Vasileva, and it carefully studied the videos of other preparation rituals submitted by Respondents.<sup>52</sup> The level of intensity of Mariana Vasileva’s slapping and pulling the gymnast’s ears is very different from what was shown in the other videos filed by the Respondents. The Panel disagrees with Mariana Vasileva’s statement that what the other coaches were doing at those occasions “was pretty much the same” as what she did.<sup>53</sup> Specifically, the treatment by the other coaches was a lot gentler and visibly did not cause the gymnast any pain, different from the treatment by Ms Vasileva. To be clear, the Panel does not believe that this warm-up in itself rises to the level of physical abuse, and it would not have caused any bystander to step in. However, the video does indicate that Mariana Vasileva’s “baseline” of treating gymnasts is significantly harsher than that of other coaches. The hearing testimony of the gymnast in question that she was not in pain, despite her facial expressions clearly showing the contrary, is not credible.<sup>54</sup> Her repeated statement that this treatment would bring her to her senses<sup>55</sup> left the impression that this was something she had been told to explain the unpleasant treatment she experienced.
- c) Mariana Vasileva’s denial that she knew anything about the incident in Minsk where the gymnast GEFW11 wanted to jump out of a window is not credible.<sup>56</sup> Ms Vasileva accepted that this should have been reported to

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48 Transcript September Hearing, Day 3, 01:34:54 through 01:35:16 (Mariana Vasileva).

49 Transcript September Hearing, Day 3, 04:58:30 through 05:01:11 (Mariana Vasileva).

50 “Video WC Stuttgart warm up”, in Bundles 2020\_08 AZE.

51 Transcript September Hearing, Day 3, 01:35:22 through 01:45:49 (Mariana Vasileva).

52 AGF’s Exhibit 50 to the Reponse dated 5 September 2023; Individual Respondents’ Exhibit 34 to the Reponse dated 5 September 2023.

53 Transcript September Hearing, Day 3, 03:47:27 through 03:56:25 (Mariana Vasileva).

54 Transcript June Hearing, Day 2, 02:04:44 through 02:09:36 (RESPW13).

55 Transcript June Hearing, Day 2, 04:08:40 and 04:14:00; see also 02:04:44 (RESPW13).

56 Transcript September Hearing, Day 3, 02:37:21 through 02:39:36 (Mariana Vasileva).



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her,<sup>57</sup> and it is imperceivable that it was not brought to her attention, especially since her own daughter pulled the gymnast back from the window. Given the seriousness of the allegation, it equally defies belief that Ms Vasileva, as she testified,<sup>58</sup> did not ask her daughter whether the description of this incident was true even when she received the Complaint where the incident was described.<sup>59</sup>

- d) Ms Bulanova’s absolute statement that “no one ever upset the gymnasts”<sup>60</sup> and her denial that anyone was ever rude to GEFW7,<sup>61</sup> is not credible. This is in particular because Ms Bulanova accepted later that she was often not in the hall, although she believes that she would have been told about any oral abuse.<sup>62</sup>
- e) As a final example, some Respondents testified that there had been no safeguarding concerns whatsoever prior to the appointment of the AGF Safeguarding Officer in 2020.<sup>63</sup> Also this absolutism defies belief, especially given that the incident in Minsk where GEFW11 wanted to jump out of the window happened during the time where there had allegedly not been any safeguarding concerns.

198. As a second point, the Panel notes that in response to a number of questions, Mariana Vasileva went into long theoretical essays, for example about weight, nutrition, training with injuries, and supervision of gymnasts living in the arena. This phenomenon was also found in the testimony of the other Respondents. Those parts of the Respondents’ testimony left the impression of well-rehearsed parts of a best-practices handbook rather than a credible account of something that was actually lived that way.

199. Third, the Panel believes that Mariana Vasileva, as the head coach of the national team, was faced with powerful motivators to do everything she could to force performance and results by the gymnasts. In particular, the Panel believes that Ms Vasileva must have felt pressure to show results, and that her denial of any pressure was not credible.<sup>64</sup> Ms Vasileva confirmed that the main resources for the AGF came from sponsoring by three or four sponsors (other than the maintenance of the arena, which was done by the government).<sup>65</sup> Sponsors typically want to see results for their investments. The same would be true for the Azerbaijani government, which had just

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<sup>57</sup> Transcript September Hearing, Day 3, 05:39:23 through 05:39:39 (Mariana Vasileva).

<sup>58</sup> Transcript September Hearing, Day 3, 05:33:37 (Mariana Vasileva). In the following, Ms Vasileva suggested that the complaints were discussed together in a group, but she maintained that she did not discuss this incident with her daughter.

<sup>59</sup> GEF Case Summary of June 2023, at para 45(e)(iii), 78, 79(a) and (b).

<sup>60</sup> Transcript June Hearing, Day 1, 01:09:13 (Natalia Bulanova).

<sup>61</sup> Transcript June Hearing, Day 1, 00:47:24 through 00:49:11 (Natalia Bulanova).

<sup>62</sup> Transcript June Hearing, Day 1, 01:31:15 through 01:34:41 (Natalia Bulanova).

<sup>63</sup> Transcript June Hearing, Day 1, 01:07:02 through 01:07:40 (Natalia Bulanova); Transcript June Hearing, Day 1, 01:58:10 through 01:58:42 (Evgeniya Vilayeva).

<sup>64</sup> Transcript September Hearing, Day 3, 04:54:59 through 04:56:02 (Mariana Vasileva).

<sup>65</sup> Transcript September Hearing, Day 3, 04:47:46 through 04:52:38 (Mariana Vasileva).





financed a brand-new arena and would have wanted to further the young country’s reputation. Finally, performance by the gymnasts would also enhance Mariana Vasileva’s own standing and influence. All of these factors are powerful motivators to obtain results at all cost.

200. In that context, the Panel found Mariana Vasileva’s statement not credible that she and Mr Gayibov have no political power.<sup>66</sup> Ms Vasileva is a member of the AGF’s Executive Committee and Deputy Minister of the Azerbaijan Youth and Sport Ministry, while Mr Gayibov is the ex-Secretary General of the AGF and current Minister of the Azerbaijan Youth and Sport Ministry. Not only their positions and competences, but also the fact that Ms Vasileva and Mr Gayibov were rising together from AGF officials to being members of government attest to the power that they have.
201. The Panel wishes to stress that physical and emotional abuse of gymnasts in a high-intensity, high-pressure environment does not necessarily indicate a bad relationship between coach and gymnast. Nor does it indicate that the coach does not care about or does nothing helpful for the gymnasts. Even parents can be abusive to their children, and such parents may still love their children, and may still be loved back and visited by their children. The Panel believes that Mariana Vasileva and the other individual Respondents have done many good things for the gymnasts (such as taking them on trips or providing them with professional opportunities), had close personal relationships with them, and exchanged positive and warm messages with them. All of that does not mean, however, that the allegations against the Respondents are made up. Someone who may be warm when in a good mood and outside a stressful situation can be entirely different when angry or stressed. It is not uncommon that people who physically or emotionally abuse their charges can be at times affectionate and at times violent to them, and that the change from one to the other can be quick. In any event, if the relationship between Ms Vasileva and the victims had been as purely loving and positive as Ms Vasileva alleged, it would be difficult to understand why the victims would make serious allegations against her.
202. As a final comment, the Panel also wishes to stress that a person’s environment can have an important impact on their perception of abusive conduct. If the coaches themselves were subjected to a certain level of harshness and/or violence in younger years (as may have been the case especially for the younger Respondents), this can change their perception of the border between acceptable hard training and unacceptable abuse.

***c) Credibility of the Respondents’ Witnesses***

203. The Panel has carefully listened to the testimony of the numerous witnesses of Respondents that were called for oral testimony. Overall, on the balance of probabilities, the Panel did not find this testimony credible. The most obvious reasons are as follows.
204. First, the Panel is not convinced that the written witness statements reflect the witnesses’ own, uninfluenced recollection of events. Most witnesses testified orally that they wrote their witness statement themselves, without any instructions, and in one single draft that was not edited afterwards. This is irreconcilable with the fact that there were

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<sup>66</sup> Transcript September Hearing, Day 3, 01:15:45 through 01:19:45 (Mariana Vasileva).



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remarkable similarities between the written witness statements, both in terms of format and content.<sup>67</sup> This is particularly surprising given that some witnesses testified that the meetings or informal encounters where they were told about the issue were allegedly very short, namely around 15-20 minutes.<sup>68</sup> It is not credible that after such a short conversation, these witnesses would sit down and address the exact topics and the gymnasts testifying for the GEF without any further outside input.

205. In the instance of two witnesses, one paragraph of their statements was even identical, with content that would not be obvious, namely:

“Every summer we go to the beach and have a really good time. We go to the cinema. This is all organized by the gymnastics federation, as the federation is worried about our emotional health.”<sup>69</sup>

and

“Every summer we go to the beach and have a really good time. We go to the cinema. This is all organized by the federation, as the federation is concerned about our emotional health.”<sup>70</sup>

206. When being questioned about this paragraph, both witnesses maintained that they wrote their statement themselves. The first one insisted that it could not have been exactly the same language (which is evidently wrong),<sup>71</sup> while the second one explained that she considered it normal that they wrote similar things because they had gone together and experienced the same thing.<sup>72</sup> This explanation defies belief. It is clear that the witnesses either wrote this part together or that this sentence in both statements was suggested by someone else. Either way, the witnesses’ testimony in that regard is clearly not truthful.

207. In a similar vein, the Panel notes that some of Respondents’ witnesses testified orally that they were not given a list of people to comment on or were not even told who the complainants were.<sup>73</sup> In light of this, it is remarkable that those witnesses addressed in their written statements the specific gymnasts who testified for the GEF, as opposed to any other teammates or gymnasts. This indicates, again, that their testimony on these

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<sup>67</sup> For examples of similar content, see GEF PHB, at para 94.

<sup>68</sup> Transcript June Hearing, Day 2, 05:39:47 (RESPW29); Day 3, 01:08:40 (RESPW6); Day 3, 03:34:04 (RESPW53).

<sup>69</sup> Statement of Respondents’ witness no. 66 (RESPW66), pdf-p. 4.

<sup>70</sup> Statement of Respondents’ witness no. 64 (RESPW64), pdf-p. 3.

<sup>71</sup> Transcript June Hearing, Day 3, 05:21:19 (RESPW64).

<sup>72</sup> Transcript June Hearing, Day 3, 07:02:42 (RESPW66).

<sup>73</sup> Transcript June Hearing, Day 3, 04:07:53 through 04:10:41 (RESPW68); Day 3, 04:52:51 through 04:53:04 (RESPW69); Day 3, 05:09:26 through 05:10:40 (RESPW64); Day 3, 05:26:18 through 05:28:50 (RESPW70).



points was not truthful and that the content of the statements was suggested to the witnesses more than they wanted to admit.

208. The Panel has already mentioned in the context of discussing the credibility of the victims the fact that many of Respondents' witnesses alleged bad behavior on the part of victims, but had difficulties giving specific examples of such behavior, and that some witnesses were talking about the theft of a mobile phone of they could not have first-hand knowledge.
209. The Panel was further struck by the absolutism of the witnesses' statements, which does not make them credible. For example, instead of simply testifying that they had not witnessed any abuse, Respondents' witnesses stated categorically that such allegations were "lies", that abuse "never happened", or that nobody ever beat GEFW7 (although RESPW64 confirmed in her written statement that GEFW7 had told her of beatings even at the time<sup>74</sup>).
210. Likewise, Respondents' witnesses painted the Respondents at times almost like saints. According to Respondents' witnesses, the victims were behaving very badly, but the coaches never got upset, did not tell them off, and treated them only with patience.<sup>75</sup> In this absoluteness, such testimony is not realistic in a high-performance and high-pressure environment like professional gymnastics.
211. The Panel does not discard the possibility that the overall experience of the Respondents' witnesses was better than that of the victims. As the Panel has stated above, there would have been both good things and bad things about training with the AGF and Mariana Vasileva, and certainly some gymnasts were treated better and/or could bear harsh treatment better than others. All of this does not negate the abuse reported by the victims.
212. It was striking that the testimony of Respondents' witnesses was often so overly glowing about the Respondents that it was difficult to see them as factual accounts of reality. It is obvious that doing gymnastics at that level is an intense and at times painful activity, rather than the type of holiday camp that Respondents' witnesses often made the experience out to be. The lack of credibility of the witnesses' testimony comes in large parts from their over-the-top positivity and the lack of any real engagement with the realities of a high-performance sport, in which it is normal that stressful situations happen and will at times trigger, for example, reprimands that can be perceived as harsh.
213. The Panel cannot see any likely and realistic explanation for the testimony of the Respondents' witnesses other than their wish to protect Mariana Vasileva, the AGF, and the other coaches. The reasons for that can be manifold: a sense of loyalty to their coaches, federation or country; hope for more support and/or professional opportunities in case of a positive testimony; or fear of repercussions in case of a negative testimony. This ties in with the last part of the Panel's general thoughts about credibility below, namely the pressure being mounted by the AGF.

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<sup>74</sup> Statement of Respondents' witness no. 64 (RESPW64), pdf-p. 4.

<sup>75</sup> For example: Transcript June Hearing, Day 2, 00:46:27 through 00:47:19 (RESPW26); Day 2, 03:58:15 through 03:58:42 (RESPW7).



214. Before turning to this last part, the Panel wishes to note that it would have been helpful for its assessment of the credibility of Respondents’ witnesses to also see the videos or transcripts of the interviews of RESPW13, RESPW36 and RESPW10 with Sportradar that the GEF offered during the June hearings. On 18 July 2024, the Panel decided not to admit this new evidence because of concerns about a possible argument by Respondents based on the time limit in Article 5 paragraph 2 of the Code of Discipline, as explained in the Panel’s reasoned decision dated 22 July 2024. In that context, the Panel wishes to stress what it has already said in its decision, namely that its July decision does not mean that these interviews can never be produced in this matter. In case of an appeal against the Panel’s decision, the CoD imposes no further time limits for subsequent steps, as Article 5 paragraph 2 CoD does not apply to the appeal tribunal. The procedural rules in Chapter IV of the CoD apply (Article 33 paragraph 2), including its rules on evidence and hearings (Articles 18, 20 and 33), and the appeal procedure are not limited to evidence that was already filed before the first instance (see Articles 30 paragraph 4 and 33 paragraph 4 CoD). Therefore, the previous interviews can still be brought before the appeal tribunal, which will not be bound by the Panel’s decision not to admit the evidence in July 2024 in light of the time limits applicable to the first instance.

**d) Pressure by the AGF**

215. The Panel is convinced that the AGF put a lot of pressure on witnesses, either directly or indirectly, through the way of how it conducted itself in the past, which presents a significant deterrent for any witness crossing them.

216. First, the Panel is convinced that the AGF has direct leverage over those witnesses who still work for the AGF (which are a number of Respondents’ witnesses) or are dependent on a license from the AGF (in particular all witnesses who are still gymnasts or coaches in Azerbaijan). This *de facto* leverage also extends to people who do not work for the AGF. The Panel notes that this point was particularly illustrated by Respondents’ witness RESPW23, who referred to the AGF’s choreographer RESPW29 as “his head choreographer”, although Mr Guliyev works at the AGF and RESPW23 works at a club.<sup>76</sup>

217. The *de facto* leverage of the AGF is also illustrated by how the GEF’s witnesses GEFW9, GEFW5, GEFW6, GEFW3, GEFW10, and GEFW11 suddenly withdrew all allegations against the AGF in a signed letter of August 2023. In that letter, the six witnesses praised the AGF, noting that

“the leadership of the Azerbaijan Gymnastics Federation has an exceptional role in the recognition of Azerbaijani athletes in the world, in the development of gymnastics in our country, including the regulator organization of a large number of international level competitions in Baku. We, as athletes, have always received attention and care from the Azerbaijan Gymnastics Federation, especially from the persons in the federation’s management.”<sup>77</sup>

<sup>76</sup> Transcript June Hearing, Day 3, 00:42:46 through 00:45:03 (RESPW23).

<sup>77</sup> Letter attached to the GEF’s e-mail to the Panel dated 12 August 2023 [bundle C, no. 6].



218. The Panel considers it credible that the witnesses only intended to withdraw any allegations against the AGF rather than the individual Respondents.<sup>78</sup> This ties in with the striking emphasis by some of the GEF’s witnesses during their oral testimony about how great the AGF is or how they are not acting against it.<sup>79</sup> For the Panel, the overall impression of the letter’s content and the testimony by the witnesses was that of fear of the AGF and its *de facto* power. The letter signed by the witnesses illustrates the *de facto* character of the AGF’s power also because the individuals who were, according to the witnesses, organising this letter (IND1 and GEFW9)<sup>80</sup> have no direct links to the AGF.
219. Second, there have been several instances where the AGF put significant pressure on those it perceived to be contrary to its interests, namely:
- a) After GEFW3, GEFW10 and GEFW4 gave press interviews at the end of 2016 that included abuse allegations against Mariana Vasileva, the AGF did not carry out any investigation into these allegations.<sup>81</sup> Instead, it carried out fast-track disciplinary proceedings against the three coaches for defamation where, as Ms Mamedzadeh put it, the coaches “had the chance to provide evidence against Mariana [...] and to prove that it was not defamation.”<sup>82</sup> Those disciplinary proceedings are addressed in more detail in the context of Complaint 23 below. It suffices to say here that the pressure that was put on the coaches for defamation without any investigation whatsoever would certainly have had a deterrent effect on anyone else.
  - b) On 4 September 2020, the AGF Safeguarding Manager informed the GEF that AGF coaches and staff members were collectively going to sue GEFW9 for writing discrediting and slandering posts.<sup>83</sup>
  - c) In these disciplinary proceedings, the AGF and the individual Respondents filed a criminal complaint against the Director of the GEF, Alex McLin, again for defamation, based on e-mails sent to the Panel.<sup>84</sup> This unusual move was clearly designed to increase the pressure on the GEF regarding the present disciplinary proceedings.

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<sup>78</sup> Transcript September Hearing, Day 1 Part 1, 02:51:18 and 04:05:17 (GEFW3); Transcript September Hearing, Day 1 Part 1, 06:27:44 and 06:30:59 through 06:36:05 (GEFW10); Transcript September Hearing, Day 1 Part 2, 03:09:15 through 03:09:46 (GEFW5).

<sup>79</sup> For example, Transcript September Hearing, Day 1 Part 2, 03:42:42 (GEFW5); Day 2 Part 2, 05:07:18 through 05:07:46 (GEFW4).

<sup>80</sup> Transcript September Hearing, Day 1 Part 1, 04:04:29 (GEFW3); Transcript September Hearing, Day 1 Part 2, 03:09:49 (GEFW5).

<sup>81</sup> Transcript June Hearing, Day 1, 05:33:19 through 05:40:21 (Nurlana Mamedzadeh).

<sup>82</sup> Transcript June Hearing, Day 1, 05:38:53 through 05:39:01 (Nurlana Mamedzadeh).

<sup>83</sup> Exhibit 8 to the Individual Respondent’s Response dated 5 September 2023, p. 1.

<sup>84</sup> Letter from Respondents to the GEF Council dated 13 November 2023, p. 1.



220. Overall, the AGF's approach has a deterrent effect on anyone to make allegations against the AGF and its officers, as it is clear that doing so can lead to disciplinary, legal or other problems for the person concerned.
221. As a final comment, the Panel considers that the *de facto* power of the AGF and/or Mariana Vasileva would be confirmed by the extreme reaction of RESPW26 in 2015 even if Respondents were correct that she was not beaten. It is common ground that RESPW26 fainted outside the arena during a competition. RESPW26 said she became unconscious because of a mistake that she had made during her introductory announcements and that earned her a warning by the AGF Secretary General Mr Gayibov.<sup>85</sup> Someone who faints just because they made a mistake is clearly scared of repercussions. If the environment at the AGF had been as supportive, patient and positive as Respondents and the witnesses made it out to be, making a mistake could not possibly cause such an extreme reaction.

## B. FINDINGS IN RESPECT OF EACH COMPLAINT

222. Because of the time-bar attaching to events prior to 26 May 2016, the Panel has endeavored to determine the time at which each fact or set of facts that led to the Complaint took place, despite the dates of many such facts not being stated in the Complaints.
223. However, the Panel notes that even when dates of events are unclear, the many testimonies heard lead it to believe in the existence of a general environment of violence and psychological pressure that permeates these proceedings regardless of the dates of the events.
224. Since 2001, the FIG Code of Ethics expressly prohibits violations of the physical and intellectual integrity of participants in gymnastics as well as physical, moral, professional or sexual harassment.<sup>86</sup> These prohibitions are repeated more specifically in the FIG Code of Ethics since 2017.<sup>87</sup>

### ***a) Beatings and assaults on gymnasts (Complaints 1, 6-16, 18)***

#### ***i. MARIANA VASILEVA (Complaints 1, 6-15)***

225. Of the Complaints about beatings and assaults on gymnasts by Ms Vasileva, Complaints 7-11, 13 and 14 are entirely time-barred and will therefore not be addressed. Complaints 1, 6 and 12 are not time-barred for the period as from 26 May 2016; and Complaint 15 is not time-barred at all.

#### ***a. Assaults and Beatings of Gymnasts (Complaint 1)***

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<sup>85</sup> Transcript June Hearing, Day 2, 00:15:10 through 00:20:08 and 00:35:37 through 00:36:15 (RESPW26).

<sup>86</sup> GEF's Complaints, para 4 (c).

<sup>87</sup> GEF's Complaints, para 6 (a).



226. Complaint 1 concerns assaults and beatings of gymnasts between 2008 and 2019. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
227. This Complaint rests on general evidence of witnesses, as well as statements by: (a) GEFW3 in a 9 December 2016 interview; (b) GEFW1 in a 27 April 2021 interview; (c) GEFW2 regarding an incident of beatings of GEFW1 and two others; (d) GEFW10 who describes beatings in 2009, 2010 and 2011; (e) GEFW4, who describes an athlete running from the gym screaming “she will kill us”; (f) GEFW9, who describes Ms Mariana Vasileva screaming and humiliating athletes in 2014/2015; (g) GEFW11 who describes being slapped as well as beatings of GEFW5 in 2012/2013, and RESPW25 being beaten; (h) GEFW7 who describes being beaten for putting on weight around 2017-2018, for having a phone message in January 2020, as well as seeing RESPW25 being beaten in 2014 and seeing Ms Mariana Vasileva strike gymnasts with calisthenic sticks so hard that they broke; (i) GEFW5 who describes abuses as of 2010, and being hit in the face in 2011 or 2012, as well as GEFW11 being beaten in 2012 by both Ms Mariana Vasileva and Ms Siyana Vasileva; and (j) GEFW8 who describes being beaten from 2012-2013, hit at various occasions in 2014, and struck in May 2017 when she announced her departure.
228. (a) In her witness statement, GEFW3 does not indicate the dates of the facts that she spoke about during her 9 December 2016 interview.<sup>88</sup> However, she mentions the beatings of RESPW12 in 2014. Therefore, the Panel finds that the GEF has not sufficiently particularized the dates to which GEFW3’s statements relate to show that they took place after 26 May 2016. The Panel finds therefore that it is most likely that the events referred to by GEFW3 took place before 26 May 2016, so that the complaint is time-barred in that regard.
229. (b) GEFW1 does not indicate during which years the beatings took place, so that the Panel is left to try to compare dates to determine whether the facts are time-barred. In the SportsRadar interview, given in 2021, GEFW1 indicates that the beatings lasted for about 5 years.<sup>89</sup> She also relates in her witness statement events that took place in 2011-2013, date at which she left the team.<sup>90</sup> The Panel finds therefore that the events related by GEFW1 likely took place before 2016. In the absence of evidence to the contrary, the complaint based on GEFW1’s statements is, therefore, time-barred.
230. (c) The events referred to by GEFW2 regarding beatings of GEFW1 took place in 2011 and the complaint is therefore time-barred in that regard. The other incidents are not dated and therefore not particularized enough for the Panel to make findings on any specific incidents that are not time-barred. The GEF has not met its burden of proof in that regard.

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<sup>88</sup> GEFW3’s Witness Statement, at paragraph 8.

<sup>89</sup> GEF Bundle Exhibit 3 – page 4

<sup>90</sup> GEFW1’s Witness Statement, at paragraph 36.



231. (d) GEFW10 describes beatings that took place in 2009, 2010 and 2011. She mentions that beatings were more frequent in 2009 and became less frequent in 2018.<sup>91</sup> She indicates that she heard that children were beaten up at the Rio de Janeiro Olympic Games in April 2016. It appears therefore that the facts relied upon by GEFW10 are time-barred, even what concerns 2016, because it was in April. Therefore, the Panel finds the complaint regarding GEFW10's statements to be time-barred.
232. (e) GEFW4's statements are generally undated. The ones that are dated all relate to the years 2007-2008.<sup>92</sup> The Panel finds the complaint covered by GEFW4's statements to be time-barred.
233. (f) GEFW9's statement covers facts taking place after 2016. However, these descriptions do not mention the victims by name. Given the lack of particularization of GEFW9's statements, and the fact that he did not agree to testify at any of the hearings, the Panel does not find that it can rely on GEFW9's statement.
234. (g) The slapping mentioned by GEFW11 took place in 2010 and the related complaint is therefore time-barred.<sup>93</sup> GEFW11 left the team in 2014, so that all events that relate to her are time-barred,<sup>94</sup> and all events that she witnessed are also time-barred.
235. (h) GEFW7 describes being beaten for putting on weight around 2017-2018, and for having a phone message in January 2020. The complaint with regard to these events is not time-barred. GEFW7' weight problems have been acknowledged by her<sup>95</sup> and referred to by other athletes. On the balance of probabilities, the Panel is convinced by the evidence of punishments for putting on weight by Ms Mariana Vasileva, as explained in the section on the credibility of witnesses. The complaint related to GEFW7' testimony of seeing RESPW25 being beaten in 2014 is time-barred. GEFW7' testimony of seeing Ms Mariana Vasileva strike gymnasts with calisthenic sticks so hard that they broke is undated and as a result, not particularized enough for the Panel to make a finding of the timing, and hence of any liability that is not time-barred. The GEF has not met its burden of proof in that regard.
236. (i) In her evidence, GEFW5 describes abuses as of 2010, and being hit in the face in 2011 or 2012, as well as GEFW11 being beaten in 2012 by both Ms Mariana Vasileva and Ms Siyana Vasileva. The complaint related to this evidence is time-barred.
237. However, GEFW5 describes in her Witness Statement that when she announced, two years before writing her statement, that she was leaving the AGF, Ms Vasileva grabbed her by the throat while calling her a traitor.<sup>96</sup> Her Witness Statement is dated 12 May 2023, so that two years before is 2021. This incident is therefore not time-barred.

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<sup>91</sup> GEFW10's Witness Statement, at paragraph 28.

<sup>92</sup> GEFW4's Witness Statement, at paragraphs 3 & 5.

<sup>93</sup> GEFW11's Witness Statement, at paragraphs 6&7.

<sup>94</sup> GEFW11's Witness Statement, at paragraphs 19.

<sup>95</sup> September Hearings Day 2 Part 2 at 1:13:32

<sup>96</sup> GEFW5's Witness Statement, at paragraph 29.





238. It is undisputed that GEFW5 told Mariana Vasileva in 2021 on the training carpet that she would leave her coaching position at AGF to join another club, namely a club that Mariana Vasileva feels strongly negative about.
239. Mariana Vasileva testified that she was upset and “expressed her disappointment”. Siyana Vasileva testified that she did not see the incident. Ms Valiyeva said that she saw “a distressed Mariana Vasileva in tears” (confirmed by Ms Bulanova) who “wished GEFW5 all the luck and that she could always come back”.
240. By contrast, the Panel finds it striking that Respondents and their witnesses give very different accounts about GEFW5’s response:
- (i) Ms Valiyeva does not report any aggressive behavior by GEFW5, and neither does Ms Bulanova;<sup>97</sup>
  - (ii) This is in complete contradiction to the 2nd Witness Statement of RESPW46, who stated that “GEFW5 was very aggressive towards Mariana during the gathering, especially when Mariana said that GEFW5 would be welcome to come back. GEFW5 shouted at her, saying something like, “No, I have made up my mind; I am leaving”. GEFW5’s cousin, IND2, who was also a member of the coaching team at that time and who was a little older than GEFW5, was trying to calm her down and stop her aggressive behaviour.”<sup>98</sup>
  - (iii) RESPW33 said that GEFW5’s attitude was “ridiculous, to be true. She was not polite at all. And she act[ed] herself very ridiculous[ly]. This is not correct way of speaking with her colleagues, with her boss, etcetera.”<sup>99</sup>
241. GEFW5 was interrogated at length during the first hearing about this event and the Panel is convinced that Respondents’ testimony about the event is not truthful. Their own witnesses report a strong reaction by GEFW5, which makes it very unlikely that everyone just wished her good luck, as Respondents allege. On the contrary, the Panel is convinced about the truthfulness of her testimony, which coincides with the Panel’s impression of Ms Mariana Vasileva’s temper.
242. The Panel is further convinced that this was not an isolated incident. Also GEFW8 stated that on the day when she announced that she would leave, Ms Mariana Vasileva hit her several times.<sup>100</sup> This incident happened in 2017 and is not time-barred.
243. Notwithstanding the fact that many elements of Complaint No. 1 are time-barred, the Panel finds the evidence of various mistreatment by Mariana Vasileva against athletes convincing. The Panel is convinced that the specific incidents addressed in this decision were not isolated incidents, but the detailed accounts of the gymnasts who were willing to come forward reflect a general climate of physically abusive behavior and violence, which is not justified by the inherent difficulties and harshness of gymnastics training.

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<sup>97</sup> Transcript June Hearing, Day 1, 3:17:29 – 3:18:25 (Evgenya Valiyeva)

<sup>98</sup> RESPW46’s Second Witness Statement dated 4 June 2024, submitted by Respondents on 15 June 2024, at paragraph 8.

<sup>99</sup> Transcript June Hearing, Day 2, 1:07:10 (RESPW33).

<sup>100</sup> Witness statement of GEFW8, GEF Bundle 2 (Evidence), pdf-p. 39, at para 13.



244. The findings of the Panel are based not only on the testimonies of the victims (and supporting testimonies of the Respondents' witnesses, to the extent they were credible), but also on the attitude of Ms Vasileva both during her testimony and generally when present at the hearings. In this respect, the Panel found Ms Vasileva able to put on a friendly face for the public, but generally very self-aware with an aura of harshness surrounding her. The Panel could gather from some of her reactions during the hearings that Ms Vasileva was quick to judge in a negative way.

***a. Assaults by Piercing and Marking the Skin (Complaint 6)***

245. Complaint No. 6 is partially time-barred, so that only events that have taken place on or after 26 May 2016 can be taken into consideration by the Panel.

246. The Panel has already addressed the physical assault on GEFW7 in 2017/2018 under Complaint 1. GEFW7' additional allegations in paragraph 23 of her statement of Mariana Vasileva scratching or marking gymnasts' skin are not dated, so that it is impossible for the Panel to determine whether the beatings took place before or after 26 May 2016. The GEF has not met its burden of proof in that regard, and the complaint related to this evidence must thus be considered time-barred. The same is true for the incidents described by GEFW1, which must have taken place prior to 26 May 2016, as explained above.

***b. Assaults on RESPW26 (Complaint 12)***

247. Complaint No. 12 is partially time-barred, so that the Panel has considered only events that have taken place on or after 26 May 2016.

248. Like her sister's Gulsum, RESPW26's mistreatment was reported in GEFW9's witness statement,<sup>101</sup> but denied by RESPW26 herself.

249. The event related in GEFW9's Witness Statement is not dated. However, if the chronological structure of the statement is to be followed, this event took place before or in 2015. RESPW26 testified in her statement that it was during the test tournament "Baku Prepares" of the Baku 2015 European Games. It would therefore be time-barred, even if the Panel were to rely on GEFW9's statement at all despite the fact that he did not agree to testify at any of the hearings.

***c. Assault on a Gymnast (Complaint 15)***

250. The Panel finds Complaint 15 not to be time-barred, but not particularized enough to warrant a finding of liability.

251. The name of the assaulted gymnast is not provided. Moreover, the evidence was brought by GEFW9, who did not agree to testify at any of the hearings. In these circumstances, the Panel finds it inappropriate to rely solely on his written statement.

252. The Panel finds that even if the gymnast did not want to come forward and testify, the name of the gymnast could have been disclosed. As such, the Panel is in no position to verify the allegations, in particular because GEFW9 could never be examined.

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<sup>101</sup> GEFW9's Witness Statement at paragraph 4.



253. Consequently, Complaint 15 is dismissed.

**ii. SIYANA VASILEVA**

254. Complaint 15 (assault of a gymnast by beating her) is not time-barred, but dismissed for the reasons provided above for the same Complaint as brought against Ms Mariana Vasileva.

255. Complaint 16 (assault of a gymnast by beating with club and hitting with phone) is partially time-barred, so that the Panel has only considered events that have taken place on or after 26 May 2016.

256. This Complaint relates to two incidents. The first one is related by GEFW1 who describes Siyana Vasileva striking GEFW11 with a club/mace when she was a senior gymnast.<sup>102</sup> If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.

257. This statement is not dated. However, GEFW1 mentions that it took place when Siyana Vasileva moved to the seniors.<sup>103</sup> It appears that Siyana Vasileva started competing in international competitions in 2011, so we can assume that is the time when she moved to the seniors.<sup>104</sup> This was also the time when GEFW1 moved to the seniors.<sup>105</sup> GEFW1 testified that she left completely rhythmic gymnastics in 2013.<sup>106</sup> Therefore, she could not have witnessed incidents after that date. Consequently, the complaint related to the first incident is time-barred.

258. The second incident is described by GEFW7 and took place in January 2020. Therefore, this incident is not time-barred.

259. As indicated above in the section on the credibility of witnesses, the Panel finds GEFW7' testimony credible. In particular, given that GEFW7 was believed to be promiscuous and to have affairs with boys (see the explanations on Complaint 3 below), the Panel finds it credible that Ms Siyana Vasileva took GEFW7' phone to check it. GEFW7' recollection of this event, of giving the phone to Ms Siyana Vasileva who started to review its contents, seemed truthful to the Panel, as did GEFW7 statement that Ms Siyana Vasileva then started to hit her with the phone.<sup>107</sup>

260. Consequently, the Panel finds Ms Siyana Vasileva liable of hitting GEFW7 with a phone.

**iii. EVGENYA VALIYEVA**

261. Complaint 18 (assault on RESPW12 and/or GEFW7) is partially time-barred, so that the Panel will only be considering events that have taken place on or after 26 May 2016.

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<sup>102</sup> GEFW1's WS, at para. 26

<sup>103</sup> Id.

<sup>104</sup> See Individual Respondents Exhibit 17.17, CV of Siyana Vasileva.

<sup>105</sup> September Hearings Day 1, part 1, at 01:35:07

<sup>106</sup> September Hearings Day 1, part 1, at 01:35:07

<sup>107</sup> September Hearings Day 2, part 2, at 01:39:48



262. This Complaint relates to allegations made by GEFW7 at paragraphs 30 and 32 of her Witness Statement. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
263. The allegations made at paragraph 30 are not dated. Therefore, the Panel finds that the allegations are not sufficiently particularized to allow it to make a finding of the timing, and hence of any liability that is not time-barred. The GEF has not met its burden of proof in that regard.
264. The allegations made at paragraph 32, for which GEFW7 references the photographic evidence of her back, are said to have taken place during the training for the 2016 European Championships. The Panel found that 2016 European Championships took place in Holon (Isr) from 17 to 19 June 2016. The cut-off date for the time-bar is 25 May 2016, so that anything that took place as of 25 May 2016 is not time-barred.
265. There again, the Panel finds that the claim is not particularized enough regarding the timing. GEFW7 did not say whether the beating took place before or after 25 May 2016. Consequently, the Panel dismisses the Claim based on the statute of limitations, although the Panel is convinced that the pictures of the bruised back and shoulders of GEFW7 are the result of a physical assault. The Panel does not believe that the bruises come from training, at least not the lacerations on the side of arm below the shoulders. In this respect, the evidence provided by Respondents at Exhibit 49 actually shows that bruises could be gained from training – mainly on the legs and arms, only one picture showing a neck bruise which is actually higher than the one of GEFW7 and more consistent with catching a loop – but not lacerations such as those exhibited by GEFW7.

***b) Perform/training despite injuries (Complaint 2)***

266. Complaint 2 is partially time-barred so that the Panel will only consider events that have taken place later than 26 May 2016.
267. This complaint relates to allegations that Mariana Vasileva required gymnasts who were training with her to perform or train when they were not fit or were injured so that they were in unnecessary pain. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
268. According to the case summary provided on 20 June 2023, the GEF considers Complaint 2 to be supported and evidenced by the witness statements of GEFW2, GEFW5, GEFW4, GEFW6 and GEFW8,



269. None of the statements made by GEFW2, GEFW5, GEFW4 or GEFW8<sup>108</sup> in relation to the allegations of Complaint 2 are related to events that happened later than 26 May 2016 and may therefore not be subject to sanctions.
270. In their closing submissions of 5 August 2024, GEF refers to the statement of RESPW70 who would describe “IND3 as being injured and training on without the coaches knowing (XX Day 6 53123) [...]”<sup>109</sup>. It seems that the statement of RESPW70 is related to events that are time-barred as they happened during the preparations of the 2015 European Championships.
271. GEFW6 stated<sup>110</sup> that she suffered from serious health issues (i.e. eye conditions that blurred her vision, exhaustion, underweight). According to GEFW6, Mariana Vasileva not only failed to comply with her personal doctor’s instructions regarding GEFW6’s recovery, but she also ridiculed the symptoms and health problems presented by the gymnast.
272. RESPW69 confirmed that GEFW6 complained during the training that she couldn’t breathe but was still training<sup>111</sup>. According to RESPW69, GEFW6 was “constantly complaining that she didn’t want to train and how she couldn’t endure it” in 2019 when the team was preparing for the World Championships. RESPW69 relates GEFW6’s attitude not to health issues but to “her laziness and unwillingness to train”<sup>112</sup>.
273. Given the fact that GEFW6’s statement on her health issues and on the attitude of her fellow gymnasts and her coaches has been confirmed by RESPW69, the Panel is convinced that GEFW6’s statement is truthful. In addition, GEFW6’s determination to participate in World Championships is incompatible with RESPW69’s reproaches of GEFW6 being lazy or unwilling to train.
274. Finally, previous conduct by Mariana Vasileva, while time-barred and not subject to sanctions itself, further confirms the credibility of GEFW6’s testimony. Specifically, Mariana Vasileva and other witnesses confirm that GEFW5 had scoliosis and health problems, and Ms Vasileva testified that GEFW5 had to train in a corset, could not do many exercises and could not handle the pressure of being a senior gymnast. Nevertheless, Ms Vasileva put GEFW5 into the group team just weeks before international competitions in France and Portugal, despite knowing how much training and repetition that would require. Her testimony that she did that solely to give a chance to GEFW5 and that she tried to protect her from more loads in the individual program is not convincing. Due to GEFW5 health issues, such a move would seem unfair to the rest of the group as it means that the group cannot meaningfully train when a member is missing or cannot properly train. Ms Vasileva’s reasoning is also at odds with Respondents’ allegation that GEFW5 was lazy when being put from the individual program to the group program. Putting GEFW5 in the group team would only make sense

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<sup>108</sup> GEFW8’s statement, GEF Bundle 2 [Evidence], pdf-p. 38 : The relevant events happened during the preparations of the World Cup in Sofia in 2016 which took place during 27-29 May 2016 in Sofia.

<sup>109</sup> GEF’s closing submissions, p. 38

<sup>110</sup> GEFW6’s statement, GEF Bundle 2 [Evidence], pdf-p. 26

<sup>111</sup> June Hearings Day 3, at 4:55:17

<sup>112</sup> RESPW69’s statement, Respondent’s Exhibit 15, n°69



if Ms Vasileva thought she could make GEFW5 train hard enough, which is not how Ms Vasileva and her witnesses describe GEFW5's careful health-conscious training. Ms Vasileva's disregard for the gymnast's health and priority she gave to achieving results at all cost supports the truthfulness of GEFW6's testimony.

275. Consequently, the Panel finds Ms Mariana Vasileva liable of requiring GEFW6 to perform or train when she was not fit to do so, so as to put the gymnast's wellbeing and health at risk.

***c) Oral abuse/weight shaming/ threats (Complaint 3)***

276. Complaint 3 is partially time-barred so that the Panel will only consider events that have taken place later than 26 May 2016. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.

277. a and b (weight-shaming): The Panel is not convinced by Ms Vasileva's testimony that she did not monitor the athletes' weight and that the athletes were not required to have a certain weight.<sup>113</sup> Also her statement that she would only monitor her own weight is not credible.<sup>114</sup> Nor is the testimony of Respondents and their witnesses credible that, on the one hand, weight is very important, but that, on the other hand, every young gymnast was responsible to control it at such a young age and was not monitored by coaches.

278. Respondents contradicted themselves in this respect as Ms Mariana Vasileva testified that the coaches did not know that gymnasts tried not to put on weight by vomiting after eating. However, Ms Siyana Vasileva said that the coaches did know.<sup>115</sup>

279. Natalia Bulanova said in her witness statements that the gymnasts were hiding food (at para 12), but she could not explain at the hearing why they would do that, as she testified that they were allowed to bring food. The only reason why gymnasts would hide food would be that eating was prohibited or would trigger reprimands.

280. The Panel believes the testimony of Respondents' witness RESPW47 that she was being weighed daily in front of doctors,<sup>116</sup> which is similar to the statement of Respondents' witness RESPW12 that she weighed herself every day under the supervision of a doctor.<sup>117</sup> The difference is only semantic, as a person always steps onto a scale themselves, even if directed to do so. These testimonies confirm the testimony of the GEF's witnesses about weight monitoring.

281. The Panel has no doubt that there has always been food in the cafeteria and no one would control the gymnasts there. However, such control would not be necessary if

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<sup>113</sup> Transcript September Hearing Day 3, 2:21:17

<sup>114</sup> Transcript September Hearing Day 3, 2:17:09

<sup>115</sup> At para 9 of WS Siyana Vasileva

<sup>116</sup> Witness statement of RESPW47(statement no. 47), pdf-p. 2.

<sup>117</sup> Witness statement of RESPW12 (statement no. 12), pdf-p. 2.



enough pressure was put on the gymnasts regarding their weight. The Panel found GEFW6's testimony that the canteen had enough food but that the gymnasts were scared to eat because of being weighed every day to be credible.

282. In the eyes of the Panel, only extreme pressure on the gymnasts regarding their weight explains the drastic behaviors of the gymnasts that are confirmed by Respondents and their witnesses, such as:

- vomiting after eating<sup>118</sup>,
- self-starving for days in order to lose weight<sup>119</sup>,
- running for hours after long training sessions<sup>120</sup>, often wearing hot clothes during high temperatures<sup>121</sup> (in this regard, the Panel notes that RESPW70's testimony that the running was the idea of GEFW8, a 14-year old, without being told by coaches to do so, is at odds with Respondents' witnesses' description of GEFW8 as lazy.<sup>122</sup> Even if true, this would only attest to the pressure the gymnasts were under);
- carrying their own individual scales to a competition abroad;<sup>123</sup>
- trying to jump out of a window (as described above in the Section about the credibility of witnesses).

283. The Panel was convinced by the testimonies of GEFW2 and GEFW7 that Ms Vasileva took them to her house to control their weight, as explained above in the Section about the credibility of witnesses.

284. However, it appears from her answers to Mr Lehnen's questions that Ms Vasileva did not care to safeguard the athletes by preventing them from training in case of unhealthy weight-loss and weight-loss practices, such as vomiting and refraining from drinking enough water.

285. Not only is the Panel convinced that an inappropriate degree of pressure was put on the gymnasts regarding their weight, but the Panel is also convinced that those who gained weight were subjected to weight shaming and oral abuse by Ms Mariana Vasileva. The Panel found in particular the testimony of GEFW2, GEFW5 and GEFW7 credible and convincing. GEFW7 testified about weight-related physical abuse in 2017/2018 and 2020 and the Panel is convinced that the weight shaming she reported was not limited to individual incidents, but was widespread, happened also at those times and would therefore not be time-barred. By contrast, the Panel found it not credible that in case of weight gains, the coaches would simply, and without further reprimand or pressure, reduce the training plan (as testified by Ms Siyana Vasileva and Ms Evgeniya Valiyeva).

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<sup>118</sup> At para 9 of WS Siyana Vasileva and hearing; WS [RESPW7] (Evidence 7) ; RESPW53 (Evidence 53)

<sup>119</sup> RESPW26 (Evidence 26).

<sup>120</sup> RESPW70 (Evidence 70).

<sup>121</sup> GEF Bundle 2 [Evidence], pdf-p.38, ¶16 (GEFW8)

<sup>122</sup> Witness statements of RESPW69 (statement no. 69) pdf-p. 4, RESPW67 (statement no. 67) pdf-p. 2, RESPW31 (statement no. 31) pdf-p. 1.

<sup>123</sup> Transcript June Hearing, Day 4, 0:18:49 through 0:19:43 (RESPW52).



286. c (promiscuity): The Panel is convinced by the evidence adduced that Ms Vasileva orally abused the athletes with respect to their private lives.
287. During her testimony, Ms Vasileva confirmed that a girl's virginity has nothing to do with gymnastics and that it is a sensitive private issue the discussion of which is frowned upon in Azerbaijani culture. Therefore, the presence of GEFW2's mother in the training hall to bring a virginity certificate to the head coach – a fact that is admitted by Ms Vasileva - convinces the Panel that this was in reaction to an insult directed at GEFW2.<sup>124</sup> The fact that GEFW2's mother had to face Ms Vasileva's anger because a mother is not allowed to come to the hall indicates even more that GEFW2's mother thought it was really important to prove her daughter's virginity to Ms Vasileva.
288. Ms Vasileva's explanation that GEFW2's mother brought the certificate because Ms Vasileva had called GEFW2's mother to inform her of [GEFW2]'s absence from training and that "it turned out that she was with a boy" is not convincing. This might trigger the visit to the gynecologist, but this alone would not make a mother go straight to the head coach to show the certificate. This incident may have happened before 26 May 2016 (given that [GEFW2] would have been already 20 in that year), and the GEF has not proven that it is not time-barred. In any event, even if time-barred, it further corroborates the testimony of GEFW7 that also she was called a person of easy virtue and had her virginity test taken in January 2020, which must have been in reaction to such statements.<sup>125</sup> This incident is not time-barred.
289. The fact that two minor girls took this test convinces the Panel that they were faced with a shaming situation and orally abusive statements that forced them to take this drastic measure.
290. d (threatening to prevent their parents working in Azerbaijan): The Panel finds that there is not enough evidence adduced with respect to this complaint.
291. e (athletes' wish to leave Ms Vasileva's control): The Panel is convinced by the GEF's allegations that the athletes who wished to leave Ms Vasileva's control were physically and/or orally abused. While most of the submissions by the GEF are insufficiently particularized, including regarding timing, one specific example of oral abuse for an athlete's wish to leave was the incident of Ms Mariana Vasileva calling GEFW5a traitor for leaving the AGF. This incident is described in detail in Complaint 1 above.

***i. EVGENYA VALIYEVA (Complaint 19)***

292. Complaint 19 (harassment and abuse of GEFW11 and GEFW7 regarding their weight) is partially time-barred, so that the Panel will only be considering events that have taken place on or after 26 May 2016.

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<sup>124</sup> GEFW2's statement, GEF Bundle 2 [Evidence], pdf-p. 11, at para 12; Transcript September Hearing, Day 2 Part 2, 0:42:44 (GEFW2); Transcript September Hearing, Day 3, 2:57:04 through 2:58:58 (Mariana Vasileva).

<sup>125</sup> Transcript September Hearing, Day 2 Part 2, 1:39:23 through 1:45:16 (GEFW7).





293. The incident relating to GEFW11 seeking to jump out of a window took place in 2013. As a result, the complaint relating to this incident is time-barred.
294. With respect to GEFW7, she indicated that she went to the selection for the national gymnastics in 2014<sup>126</sup>. The weight monitoring by Ms Valiyeva and her taking GEFW7’ phone in that context, which are referred to at paragraphs 33, 40-41 are either undated or reference 2015 as a start-time. However, in paragraphs 15-16 of her statement, GEFW7 also references an incident where Ms Valiyeva harassed her regarding her weight in 2017/2018. Therefore, the Panel considers that Complaint 19 is time-barred regarding Ms Valiyeva taking GEFW7’ phone (in the absence of particularization of the timing), but not time-barred with respect to harassment by Ms Valiyeva against GEFW7 concerning her weight.
295. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
296. As explained above, the Panel finds GEFW7’ testimony credible, and the Panel has heard several witnesses who confirmed that GEFW7 had a weight issue, despite Ms Vilayeva’s denial. Ms Vilayeva was GEFW7’s coach, and the Panel believes that she took part in harassing her about her weight.

**ii. NATALIA BULANOVA (Complaint 21 – oral abuse of GEFW7)**

297. Complaint 21 is not time-barred.
298. Complaint 21 relates to the allegation that Ms Bulanova orally abused GEFW7 between 1 January 2019 and 31 January 2021. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
299. The Panel has seen insufficient evidence for the alleged oral abuse. The complaint is based entirely on the written testimony of GEFW7, which is limited to the following general statement:

“Natalia BULANOVA humiliated me the most. BULANOVA could verbally humiliate and sometimes even raise her hand against someone, but she never raised her hand against me personally. [...]”<sup>127</sup>

300. While the Panel has no reason to doubt the truthfulness of GEFW7’ testimony, these statements are not sufficiently specific for the Panel to conclude that Ms Bulanova committed oral abuse. Ms Bulanova testified that she was not GEFW7’ coach (as apparently assumed by the GEF), but that her only interactions with GEFW7 related to her education and her refusal to study.<sup>128</sup> Without any specificities being provided by GEFW7, the Panel considers it perfectly possible that GEFW7 could have felt humiliated

<sup>126</sup> Witness Statement GEFW7 paragraph 2

<sup>127</sup> GEF Complaint, Bundle 2 (Evidence), pdf-p. 33 (statement of GEFW7), at para 31.

<sup>128</sup> Transcript June Hearing, Day 1, 00:40:49 through 00:47:20 (Natalia Bulanova).



in her interactions with Ms Bulanova about her education without Ms Bulanova necessarily crossing the line to oral abuse.

**d) Withholding of monies/fines (Complaint 4)**

301. Complaint 4 is partially time-barred so that the Panel will only consider events that have taken place later than 26 May 2016.
302. This complaint relates to allegations according to which Ms Mariana Vasileva withheld monies and/or rewards due to gymnasts who were training with her and/or fined them. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
303. The events described in their Witness Statements by GEFW1, GEFW4, GEFW2, GEFW11, GEFW5 in relation to this complaint are time-barred.
304. Nevertheless, even if Ms Mariana Vasileva can no longer be held responsible for time-barred events, the declarations provided by the above-mentioned witnesses can corroborate the statement of other witnesses like GEFW7.
305. In her statement<sup>129</sup>, GEFW7 described an incident that deprived her, during four days, of her money, her phone and even food. The timing of this incident is not known and the GEF has not met its burden of proof regarding time-bar.
306. In any event, a similar incident has been described by GEFW8 when she was travelling, after the Islamic Games, to the 2017 European Championships. First, Mariana Vasileva deprived GEFW8 of her reward and of a bank card certain Azeri gymnasts were provided with as a reward by the Ministry of Sports. Afterwards, GEFW8 only was given a portion of her reward, being told by Mariana Vasileva that the prize money would be always shared between the gymnast and every other person that has a professional link to the team (i.e. doctor, housekeeping).
307. After the 2014 European Championship and in consideration of her results, AGF granted GEFW8 a wage of about 400 manats per month. GEFW8 was only paid during the first six months. Afterwards and until she left AGF in 2017, Ms Vasileva decided that GEFW8 should not be paid. Although, due to her personal situation well known to Mariana Vasileva, GEFW8 was in a serious need of the money, Ms Vasileva deprived her of it for various reasons (i.e. weight gain of the gymnast, insufficient performance during training).
308. GEFW8 stated that a fellow gymnast, IND4, encountered the same problem.
309. During the September hearing, GEFW8 testified about a specific incident where she met both Mariana Vasileva and the accountant when Ms Vasileva instructed the accountant that there would be no salary for GEFW8.<sup>130</sup> This corroborates the GEF witnesses' testimony that the reason they were refused to get paid was provided by Ms

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<sup>129</sup> GEF Complaint, Bundle 2 (Evidence), pdf-p. 33 (statement of GEFW7), at para 37

<sup>130</sup> Hearing Day 1, Part 1, 05:58:13.



Mariana Vasileva. The Panel is convinced that Ms Vasileva had a decisive influence on the payments.

310. Although Ms Vasileva may no longer be held liable for events that are time-barred, the incidents described by GEFW1, GEFW4, GEFW2, GEFW7, GEFW11, GEFW5 in relation to complaint 4 are similar to those described by GEFW8 so that the Panel considers her statements to be true.
311. In their closing submissions, Respondents highlight that Azerbaijani law does not entitle gymnasts to receive a salary but only a “monthly benefit” that would be paid at AGF’s sole discretion.
312. The Panel points out that Respondents admit that gymnasts may receive allowances. The qualification or denomination of this financial remuneration is of little importance, so that the initial complaint is sufficiently precise on this point.
313. Furthermore, even if AGF is free to withdraw this financial compensation, Ms Mariana Vasileva should not take this decision on the basis of criteria such as weight gain or training performance, especially as the text cited by the Respondents refers solely to “winner and prize-winners of the Olympic Games, World and European Championships”. By doing so, Ms Vasileva abused her position and power.
314. In consideration of the above, the Panel finds Ms Mariana Vasileva liable for withholding monies and/or rewards due to GEFW7 and GEFW8.

**e) Deprive of contact with families (Complaint 5)**

315. Complaint 5 is partially time-barred so that the Panel will only consider events that have taken place later than 26 May 2016.
316. This complaint relates to allegations according to which Ms Mariana Vasileva deprived and/or prevented gymnasts who were training with her from having contact with their families and/or other private communication by depriving them of their mobile phones. If proven, this complaint constitutes violations of the FIG Code of Ethics as well as of Article 3 of the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics.
317. The Witness Statements made by GEFW2 and GEFW1 refer to events that happened before 25 May 2016 and are therefore time-barred.
318. The events referred to by GEFW7 regarding the deprivation of her mobile phone during four days happened on 8-10 January 2020<sup>131</sup>. GEFW7 stated that a fellow gymnast was requested by Ms Siyana Vasileva to tell her where she can find GEFW7’ mobile phone. Once the fellow gymnast provided her with that information, Ms Siyana Vasileva took GEFW7’ phone and forced GEFW7 to unlock it. On this occasion, Ms Siyana Vasileva looked through GEFW7’ conversations and found the conversation she had with her boyfriend. After Ms Siyana Vasileva showed this conversation to her mother, Ms Mariana Vasileva deprived GEFW7 of her phone after having slapped GEFW7 in the

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<sup>131</sup> GEF Complaint, Bundle 2 (Evidence), pdf-p. 31-32 (statement of GEFW7), at para 17



face. During four days, GEFW7 not only had no access to her phone but was denied to leave her room which made it impossible for her to get in touch with her relatives or friends during that period.

319. Similar incidents are reported in the Witness Statements made by GEFW2<sup>132</sup> and GEFW1<sup>133</sup>. Especially, in the Witness Statement of GEFW2, the Panel notes the similarity of the modus operandi according to which Ms Siyana Vasileva looked through the conversations on the phone of GEFW2 and reported then to Ms Mariana Vasileva. This corroborates the credibility of the testimony of GEFW7 about the 2020 incident.
320. As a consequence, the Panel finds Ms Mariana Vasileva liable for depriving and/or preventing GEFW7 from having contact with her families and/or other private communication by depriving her of her mobile phone.

**f) Failing to take action by Individual Respondents (Complaints 17, 20 & 22)**

321. Complaints 17, 20 and 22 relate to the reproach directed against Ms Siyana Vasileva, Ms Evgenya Valiyeva and Ms Natalia Bulanova in failing to take any action or make any effort to prevent the conduct by Ms Mariana Vasileva that they witnessed.
322. Given the similarity of these complaints, they are dealt with in the same section of the Panel's Decision.
323. Complaint 17, 20 and 22 are partially time-barred so that the Panel will only consider events that have taken place later than 26 May 2016.
324. Before turning to the substance of the complaints, it is necessary to analyze the applicability of the provisions invoked by GEF.
325. The GEF first invoked Article 5 of the FIG Code of Discipline 2007 (from 1.1.2007) which provides that Article 5 is violated by "behavior, words or deeds, discredits gymnastics, the FIG or its members;" and by "Anyone who seriously undermines the dignity of a person or a group of people, in any way whatsoever, in particular because of their color, race, sex, disability, religion or their ethnic origin;".
326. The Panel considers that this article is not applicable to complaints 17, 20 and 22 as it refers to positive acts and not passive behavior as alleged by the GEF. The same observation applies to Article 3 of the FIG Code of Discipline 2011 (from 1.1.2011).
327. The situation is different regarding Article 6.4 of the FIG Policy Procedures for Safeguarding and Protecting Participants in Gymnastics (from 3.9.2018), which provides that:
- Everyone has a responsibility to ensure that the gymnastic sport environment is free from non-accidental violence;

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<sup>132</sup> GEF Complaint, Bundle 2 (Evidence), pdf-p.9 (statement of GEFW2), at para 4

<sup>133</sup> GEF Complaint, Bundle 2 (Evidence), pdf-p.3 (statement of GEFW1), at para 15



- Everyone must not engage in, allow, condone, or ignore incidents of harassment and abuse and be supportive of other participants who report concerns;
  - Any participant in gymnastics who has reason to believe that another participant has or is experiencing harassment and abuse in the sport has a duty to report it to the Gymnastics Ethics Foundation.
328. In the same context, reference should be made to FIG Code of Conduct 2019 (from 1.1.2019) which provides as obligations
- Under part 3: To challenge abusive, bullying or threatening language or behaviour and report it.
  - Under part 5 :
    - o To reduce risk of injury to participants and maximize their holistic development.
    - o To fulfill the duty of care with regards to athletes with injury management and the return to training.
    - o To ensure that any physical contact with another athlete is appropriate to the situation and necessary for the athletes' skill development and/or safety.
329. The FIG Policy Procedures for Safeguarding and Protecting Participants in Gymnastics is only applicable since 3.9.2018. The FIG Code of Conduct 2019 has taken effect on 1.1.2019.
330. Insofar as only the provisions of the FIG Policy Procedures for Safeguarding and Protecting Participants in Gymnastics and FIG Code of Conduct 2019 are applicable, the Panel will only consider events occurring on or after 3 September 2018.
331. However, the Panel notes that GEF has not sufficiently particularized its complaints as the only events that GEF referred to are:
- an incident with „a gymnast raising an issue with SV who replied nothing would be done“<sup>134</sup>
  - an incident reported by GEFW9 who stated that he witnessed Natalia Bulanova remaining completely passive when RESPW26 was lying on the pavement near the Olympic arena in Baku while being unconscious<sup>135</sup>.
332. It is not the responsibility of the Panel to make up for the GEF's failure to identify incidents that may be subject to disciplinary proceedings.
333. In addition, the GEF failed to establish that the aforementioned events took place after 3 September 2018.
334. As a consequence, the Panel finds that the GEF has not met its burden of proof regarding Complaints 17, 20 and 22.

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<sup>134</sup> GEF Case Summary of 20 June 2023, §72

<sup>135</sup> GEF Case Summary of 20 June 2023, §84



**g) Complaint 23 – failure to take action by the AGF**

335. Complaint 23 relates to the AGF's responsibility for infringements by the individual Respondents established above, based on its liability under Article 4 of the 2021 Code of Discipline and its failure to act upon complaints received.
336. Article 4 of the Code of Discipline establishes a strict liability of federations "for the behaviour of their members, gymnasts, judges and officials [...]". The Panel finds that for the period since 26 May 2016, all of the individual Respondents, in their capacity as AGF Executive Committee member (Mariana Vasileva), coach or head coach (all individual Respondents) and gymnast (Siyana Vasileva before she became a coach) fall within the scope of the AGF's liability under Article 4.
337. There is agreement between the Parties that the interpretation of Article 4 was subject to a decision by the Appeal Tribunal of the GEF in the matter *Viner v GEF* (GEF 2023/15 RUS), which held as follows (emphasis added):

"Article 4 CoD outlines the **strict liability that a federation bears for the actions of the individuals and entities under its representation**. The federation is expected to exercise control over them, and **it cannot use due diligence, best efforts, or lack of control as a defense**. In the event of an infringement related to the FIG regulations, the FIG-registered federation is accountable for the actions of its sister federations and members and may face disciplinary action. **However, certain exceptions may apply, such as personal torts or actions outside the scope of the FIG regulations**. For example, a federation may not be held liable for the **personal torts of its members, including those of represented federations, if they are unrelated to FIG activities or outside the ordinary course of the FIG's and the federation's activities.**"

338. In the case at hand, the Panel accepts that the infringements by the individual Respondents established above happened while they were dealing with the victims in their capacity as head coach, coaches, or gymnast. Specifically, the individual Respondents' infringements consisted of physical and oral abuse for perceived misconduct, insufficient efforts, or weight gain by gymnasts, or abusive exercise of power over the gymnasts. Regardless of whether the infringements constituted personal torts, they were directly related to FIG activities and within the ordinary course of FIG's and the AGF's activities. None of the conduct after 26 May 2016 that is subject to a finding of liability was carried out in anyone's home.
339. The Panel finds that that the interpretation of the very provision at issue here is more relevant than the interpretation of other disciplinary rules in other sports invoked by Respondents. In any event, it is difficult to see why the AGF should not be liable for the infringements by the individual Respondents directly controlled by them, while other federations were held liable for fan misconduct, match-fixing by players, or doping acts



or omissions of third parties that are not subject to the WADC. The fact alone that the individual Respondents themselves are also liable is not sufficient to overcome the strict liability in Article 4, as otherwise this provision would have said so. This is all the more true in the present circumstances, where the AGF’s own failures played its part in not putting an end to the Respondents’ infringements, as explained in the following.

340. Specifically, the Panel finds that the AGF failed to take proper action upon information received about allegations made against Mariana Vasileva. In particular, the AGF failed to make any serious attempt to investigate the allegations or otherwise protect the gymnasts from abuse. The Panel wishes to point out three examples where the AGF failed its own safeguarding duties.
341. First, the most serious failure by the AGF is the disciplinary proceedings in February 2017 against the coaches GEFW3, GEFW10 and GEFW4 for their newspaper interviews at the end of 2016. The Panel accepts that the interviews aired many grievances (including about nationalities) and revealed clear animosity against Mariana Vasileva. However, GEFW3’s interview equally clearly spoke of beatings of gymnasts by Mariana Vasileva,<sup>136</sup> while GEFW10’s interview spoke of making gymnasts train with injuries.<sup>137</sup> Once the newspaper articles were brought to the AGF’s attention, the AGF should have investigated the allegations of beatings and training with injuries, which were serious. However, the AGF failed to do so. Instead, its only action was to start disciplinary proceedings against the coaches, upon a complaint by Mariana Vasileva for defamation.<sup>138</sup> From Ms Mamedzadeh’s testimony, it became obvious that there had not even been an interview with Mariana Vasileva, but only her complaint was considered.<sup>139</sup>
342. Ms Mamedzadeh’s testimony that all the complaints were reviewed by the Disciplinary Commission<sup>140</sup> does not reflect the nature of those proceedings as they appear from the written record. Indeed, instead of investigating, the AGF effectively reversed the burden of proof in fast-track proceedings.
343. Mariana Vasileva filed her complaint on 7 February 2017.<sup>141</sup> Ms Mamedzadeh testified that the coaches then “*had the chance to provide evidence against Mariana [...] and to prove that it was not defamation.*”<sup>142</sup> Leaving aside that it would have been for the AGF to prove defamation, the Disciplinary Commission informed the coaches only on Thursday 16 February 2017 about a hearing on the following Monday 20 February 2017, which was followed by a second meeting on Monday 27 February 2017.<sup>143</sup> No individuals other than the coaches and Mariana Vasileva were invited to be heard at the hearing, and GEFW3 “*got acquainted with the application of head coach M. Vasileva during the*

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<sup>136</sup> AGF’s Exhibit 4 to its Response dated 5 September 2023, pp. 11-12, 20.

<sup>137</sup> AGF’s Exhibit 4 to its Response dated 5 September 2023, pp. 3, 28.

<sup>138</sup> Transcript June Hearing, Day 1, 05:33:05 through 05:40:21 (Nurlana Mamedzadeh).

<sup>139</sup> Transcript June Hearing, Day 1, 05:36:44 through 05:40:21 (Nurlana Mamedzadeh).

<sup>140</sup> Transcript June Hearing, Day 1, 05:35:58 (Nurlana Mamedzadeh).

<sup>141</sup> AGF’s Exhibit 3 to its Response dated 5 September 2023, p. 27.

<sup>142</sup> Transcript June Hearing, Day 1, 05:38:53 through 05:39:01 (Nurlana Mamedzadeh).

<sup>143</sup> AGF’s Exhibit 3 to its Response dated 5 September 2023, p. 10.



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*conversation on 20.02.2017 and at the meeting held on 27.02.2017.*<sup>144</sup> GEFW3 received Mariana Vasileva’s application in writing only on Wednesday 22 February 2017.<sup>145</sup> The decision against the coaches was rendered on Monday 27 February 2017,<sup>146</sup> which was eleven days after the coaches were informed of disciplinary proceedings, seven days after they got acquainted with the complaint orally, and five days / three working days after GEFW3 had received it in writing.

344. The Panel considers this way of proceeding to be neither an investigation nor a proper disciplinary proceeding, but an ill-concealed punishment of the coaches without any due process. This process was visibly not aimed at finding out the truth about any abuse of gymnasts. If the AGF had conducted proper investigations, it could have prevented any further misconduct as from that time. Not doing so was a serious failure by the AGF, which in itself underlines the need to uphold the strict liability under Article 4.
345. Unfortunately, the AGF’s failure to investigate was consistent with subsequent conduct by AGF officers. For example, it is undisputed that GEFW1 gave a TV interview on the show *Supermom*, which was broadcasted in April 2021. In that interview, GEFW1 alleged that Mariana Vasileva and her daughter Siyana were beating gymnasts. Mariana Vasileva, a member of the AGF’s Executive Committee, accepts that she found out about that interview and the allegations made therein at the time. However, she said she did not inform anyone else within the AGF, and no investigation was initiated, which, ironically, Mariana Vasileva described basically as a blessing, as she would have otherwise invoked defamation.<sup>147</sup> This failure by a member of the AGF’s Executive Committee constitutes a failure by the AGF. Mariana Vasileva’s testimony further suggests that any “investigation” into GEFW1’s allegations would likely have taken a similar path to the 2017 defamation proceedings described above.
346. As a final example, the Panel notes that the AGF’s approach to the present proceedings confirms its lack of interest in the abuse allegations that have been raised. The AGF’s Safeguarding Manager RespW41 testified that after the charges were brought, the AGF did not confront the individual Respondents with the complaints because, allegedly, that would have interfered with the GEF’s investigations.<sup>148</sup> Also Ms Mamedzadeh testified that she did not interview any of the coaches before she gave her witness statement in these proceedings.<sup>149</sup> Despite the lack of any inquiry, however, the AGF let the individual Respondents contact current and previous gymnasts as potential witnesses, as confirmed by several of those witnesses as well as Siyana Vasileva. The fact that the AGF allowed individuals who are accused of having abused gymnasts to

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<sup>144</sup> AGF’s Exhibit 3 to its Response dated 5 September 2023, p. 10.

<sup>145</sup> AGF’s Exhibit 3 to its Response dated 5 September 2023, p. 10.

<sup>146</sup> AGF’s Exhibit 3 to its Response dated 5 September 2023, p. 2.

<sup>147</sup> Transcript September Hearing, Day 3, 01:57:02 through 02:02:15 (Mariana Vasileva).

<sup>148</sup> Transcript June Hearing, Day 3, 03:21:38 through 03:23:58 (RespW41). RespW41 said “not all were confronted”, but his testimony and justification sounded more like none of them were

<sup>149</sup> Transcript June Hearing, Day 1, 04:38:47 through 04:39:00 (Nurlana Mamedzadeh).





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contact those potential victims, without any control or safeguarding measures whatsoever, constitutes another serious failure by the AGF that is particularly concerning.

347. In conclusion, for the reasons stated above, the Panel finds that the AGF is liable for the infringements by the individual Respondents established above, based on its liability under Article 4 of the 2021 Code of Discipline and further supported by its failures regarding its own safeguarding duties.

\* \* \*



**For these reasons, the Commission issues the following decision:**

- 1. The Panel is competent.**
- 2. The Panel has jurisdiction over the Individual Respondents and the AGF.**
- 3. The Complaints by the Individual Respondents of violation of their right to be heard is dismissed.**
- 4. Any complaints against the Respondents for conduct prior to 26 May 2016 is time-barred.**
- 5. Ms Mariana Vasileva is liable for:**
  - various mistreatments and physical abuse against athletes, including beating GEFW7 for weight gain and having a phone message, and trying to strangle GEFW5 and hitting GEFW8 when they announced they were leaving the AGF;
  - requiring athletes to perform or train when they were not fit to do so, so as to put the gymnasts' wellbeing and health at risk, including GEFW6;
  - orally abusing and weight-shaming athletes, including GEFW7 and GEFW5;
  - withholding monies and/or rewards of athletes, including GEFW8;
  - depriving and/or preventing athletes, including GEFW7, from having contact with their families and/or other private communication by depriving them of their mobile phone.
- 6. Ms Siyana Vasileva is liable for hitting GEFW7 with a phone.**
- 7. Ms Evgeniya Valiyeva is liable for harassing GEFW7 about her weight.**
- 8. The AGF is liable for all of the infringements by the Individual Respondents.**
- 9. Each Party shall bear its own legal costs and expenses incurred with respect to these proceedings.**
- 10. This decision is to be published.**

**Gymnastics Ethics Foundation Disciplinary Commission**



**Gymnastics Ethics Foundation**  
**Fondation d'Éthique de la Gymnastique**

**Ms Laurence Burger**

Panel President

**Dr Dorothee Schramm**

Panel Member

**Mr Maximilien Lehnen**

Panel Member

Lausanne, 28 October 2024



## Notice of Appeal

### Article 30 of the FIG Code of Discipline - Appeal

With the exception of decisions and sanctions rendered in connection with the FIG Anti-Doping Rules and the WADA Code including its international standards, which may be appealed directly to the CAS, and unless provided otherwise in specific provisions, only the decisions rendered by the Disciplinary Commission may be appealed to the Appeal Tribunal.

Only the Parties directly involved in the proceedings shall be eligible to lodge an appeal to the Appeal Tribunal.

Upon request of a majority of the Executive Committee or of the FIG President, the FIG shall in all cases be eligible to lodge an appeal. The appeal shall be lodged by the FIG Secretary General. Likewise the majority of the Council of the Gymnastics Ethics Foundation or its President shall be eligible to lodge an appeal in all cases. Appeals of the Gymnastics Ethics Foundation shall be lodged by its Director.

In order to be admissible, the appeal shall be lodged in writing and contain:

- the factual argument
- the reasons for the appeal
- the submission of any and all means of proof relied upon by the Appellant or an offer to submit any and all means of proof (such as the request for the hearing of witnesses or the request for an independent expert)
- the request of a hearing if wished so by the Appellant
- the conclusions of the Appellant

If the Appellant wishes to call witnesses or experts, a hearing shall be held.

Once his/her statement of the case is submitted, the Appellant shall not be authorised to produce new means of proof unless he/she justifies that he/she has not been able to do so for reasons beyond his/her control or his/her behest. The Appeal Tribunal may automatically conduct the necessary investigations.



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The appeal shall be signed by the Appellant and sent in writing to the Director of the Gymnastics Ethics Foundation to the attention of the Appeal Tribunal within 21 days from the notification of the decision rendered by the Disciplinary Commission.

Should the appeal be submitted by email it shall be admissible provided that it contains an electronic signature officially certified and dated via a secure server.

Should the appeal be sent by mail, it shall be delivered to a Swiss post office at the latest by midnight of the last day of the time limit or be delivered at the Office of the Gymnastics Ethics Foundation, at the attention of the Appeal Tribunal during its usual opening hours not later than the last day of the time limit. The Appellant is responsible for showing proof, within a time limit to be determined by the President of the Appeal Tribunal, that his appeal has been lodged in due time, otherwise, the appeal shall be considered inadmissible.

In order for the appeal to be admissible, the Appellant shall transfer in advance the expenses of CHF 5,000.- onto the account of the Gymnastics Ethics Foundation at the same time the appeal is lodged or at the latest by the end of the appeal deadline. This amount shall be refunded to the Appellant if his appeal is granted. It shall be kept by the Gymnastics Ethics Foundation if the appeal is considered inadmissible or is fully or partly rejected. The Gymnastics Ethics Foundation is exempt from the obligation to pay the expenses in advance for its appeal.