

Decision of the Adjudicatory Chamber of the Ethics Committee

Taken on 23 April 2021

COMPOSITION:

Vassilios Skouris, Greece (Chairman)

Mohammad Al Kamali, UAE (Member)

Melchior Wathelet, Belgium (Member)

PARTY:

Ms Nella Joseph,

Haiti

Regarding an infringement of the FIFA Code of Ethics (adj. ref. no. 10/2020)

I. FACTS OF THE CASE

A. PROCEEDINGS BEFORE THE INVESTIGATORY CHAMBER

Procedural background and communications with the party

1. Preliminary investigation and opening of proceedings

1. Ms Nella Joseph ("Ms Joseph") joined the Haitian Federation of Football ("FHF") in November 2011 and carried out technical and administrative tasks as supervisor of the U20 female national team at the Croix-des-Bouquets GOAL Centre ("the Centre") until her suspension on 19 August 2020.
2. On 25 April 2020, several serious allegations of systemic rapes and other sexual abuses within the FHF was made public by the press.
3. On 30 April 2020, *The Guardian*, a British newspaper, published an article according to which Mr Jean-Bart, president of the FHF, had allegedly coerced several players at the Centre into having sexual intercourse and threatened them with expulsion from the Centre.
4. As a consequence of those publications, on 1 May 2020, the investigatory chamber of the FIFA Ethics Committee ("investigatory chamber") contacted the Confederation of North, Central American and Caribbean Association Football ("CONCACAF") to inquire into the allegations and subsequently requested the complete case file in possession of the confederation. CONCACAF responded on 5 May 2020 that it had no additional information and that it was unable to investigate the case further, due to the confederation's lack of a proper body dedicated to the prosecution of ethics-related matters.
5. As a result, in accordance with articles 30 par. 2 and 59 paras. 2 and 3 of the FIFA Code of Ethics ("FCE") 2019 edition, Ms Maria Claudia Rojas, Chairperson of the investigatory chamber of the FIFA Ethics Committee, instructed the Secretariat of the investigatory chamber to initiate preliminary investigations into of potential breach of the FCE by FHF officials.
6. During the investigation proceedings against Mr Jean-Bart, the investigatory chamber identified Ms Nella Joseph as one of the alleged accomplices who allegedly assisted and facilitated his conducts, in particular through her duties and tasks as a person responsible for supervising the players of the U20 female team living at the Centre.
7. On 19 August 2020, based on the evidence gathered, in particular the reports submitted by the Ad Hoc panel, and considering the aforementioned communication from CONCACAF, in accordance with articles 30 par. 2 and 59 paras. 2 and 3 of the FCE 2020, the investigatory chamber initiated preliminary investigations of Ms Joseph.
8. On that same day, Ms Joseph was informed that she has been identified as a potential party – either as principal, accomplice, or instigator- in the allegations of systemic rapes and other sexual abuses at the Centre, and therefore the investigatory chamber had opened preliminary investigation proceedings, which at that stage, related to possible violations of FCE articles 13, 17, 23 and 25.

9. In connection with the above stated, the Chairperson of the investigatory chamber of the FIFA Ethics Committee additionally imposed provisional measures on Ms Joseph.
10. The investigatory chamber was unable to directly reach Ms Joseph, therefore the notification of the formal proceedings as well as the imposition of the provisional ban at national and international level were served through the FHF following article 41 par. 3 of the FCE.
11. Although Ms Joseph was requested to submit a written statement in respect to the allegations, no response was ever provided.

2. The establishment of the ad hoc panel and the appointment of its members

12. Due to the COVID-19 pandemic and international travel restrictions, the investigatory chamber decided to appoint an ad hoc panel composed by Ms Fiammetta Cappellini, Ms Marie Doty Jean Charles Zephir and Mr Jacques Letang, to carry out on-site investigations.
13. Up to date, the ad hoc panel has collected various information on-site and interviewed several players, football officials, and third parties, including FHF officials and technical staff. Based on its findings, the ad hoc panel has issued six reports.

3. Communications with the FHF, NGOs, and other related parties

14. Throughout the investigation proceedings carried out by the investigatory chamber, the investigatory chamber exchanged information with the following persons/entities:
 - a) [Journalist 1], one of the authors of the publications released by *The Guardian*;
 - b) Several current and former football officials who serve(d) at the FHF's facilities and/or in the Centre, such as coaches, supervisors, technical staff, and executive managers, who were identified as potential witnesses;
 - c) Current and former female players who stay, or used to stay, at the Centre, and who were identified as potential witnesses or victims;
 - d) NGOs, specialized in the protection of women's human rights with extensive expertise in assisting victims of sexual abuse, and
 - e) Other football officials that have been identified as accused parties acting either as principals, accomplices, and/or instigators.

4. Outcome of ethics Proceedings against Mr Jean-Bart

15. On 18 November 2020, the Adjudicatory Chamber decided that Mr Jean-Bart had breached art. 23 (Protection of physical and mental integrity) and art. 25 (Abuse of position) of the FIFA Code of Ethics and sanctioned him with a fine in the amount of CHF 1,000,000 and a life ban from all football-related activities (administrative, sports or any other) at both national and international levels.
16. The investigatory chamber considered that Mr Jean-Bart's case was intrinsically linked to that of Ms Joseph, and therefore, the recent ruling against the former should be taken as an additional element against the latter.

Factual findings of the investigatory chamber

5. Interviews and testimonies carried out by the ad hoc panel

17. Between 5 May 2020 and February 2021, the ad hoc panel carried out direct interviews with several individuals that made declarations about their own experiences at the FHF and the Centre.

a. Witness A

18. On 5 May 2020, an interview was conducted by the ad hoc panel with a person who worked for a long time within the FHF. Witness A described Ms Joseph's role as "matchmaker" for Mr Jean-Bart as follows:

"There is a supervisor called Nella Joseph who behaves like a matchmaker between the girls and Mr Yves Jean Bart. She was the one who took the girls to the president and threatened to send back (i.e. to their home towns) those who didn't."

19. Furthermore, in a written declaration of 27 September 2020, Witness A made the following statements with respect to Ms Joseph:

- following Mr Jean-Bart instructions, Ms Joseph was in charge and took care of a fifteen (15) year-old girl at her home following an abortion ordered by Mr Jean-Bart

"Player A, a 15-year-old girl from [...], who was taken in [...] to a medical clinic under the orders of Yves Jean Bart to "liquidate" a 5-month-old fetus. After the operation, Nella Joseph took charge of keeping the girl at home for 30 days. [...]"

- Ms Joseph forced a relationship between Player B, a girl who entered at the Centre at the age of 11 year-old, and Mr Jean- Bart, which caused the girl to lose her virginity

"Player B, a girl who entered the Centre at the age of 11 [...]. Yves Jean Bart helped by Nella Joseph and [another FHF official] as intermediaries, have forced the relationship between the president and Player B. It is from this relationship that Player B lost her virginity. During the period of confinement, Dadou Jean Bart was still in charge, and the poor Player B was forced to leave the Centre to return to her hometown. It later came out that she was having sentimental relations with [...]. Driven by jealousy, the almighty Dadou sent Player B away and summoned her parents to pay an exorbitant sum as compensation for training received during the years spent at the FIFA Goal Centre"

- Ms Joseph caused/forced a "sentimental relationship" between Player C and Mr Jean-Bart

"Player C, currently [...] years old, and it is often reported that Nella Joseph is at the origin of her sentimental relations with Dadou, a story that dates back a very long time"

b. Witness B

20. On 5 August 2020, Witness B – introduced as a former FHF official – was interviewed and confirmed the “modus operandi” described by Witness A. Witness B reported that, in order to be able to go out with the girls, Mr Jean-Bart required Ms Joseph’s assistance. In her position as the supervisor of the U20 female selection team, who was living at the Centre, Ms Joseph convinced, threatened and forced the girls under her remit to have intercourse with Mr Jean Bart.

“To be able to go out with the girls, Mr Yves Jean Bart always used Madam Nella Joseph who is a supervisor to convince the girls to sleep with him. Nella Joseph often used force, and threatened to expel them from the Centre in order to convince them to have sex with the President [...].

To go out with the girls, Yves Jean Bart told them that he took them to the hospital. And he was always the one to take care of it personally”

c. Interview with Mr Antoine Doret

21. On 7 August 2020, the ad hoc panel had a telephonic interview with Mr Antoine Doret (also occasionally referred to as “Duret”) the director of the Sports Association of Petit Goave and former first technical director of the Centre during approximately twelve years, from the establishment of the Centre until his departure in 2014.
22. Regarding the accusations made against Mr Jean-Bart, Mr Doret stated that “everything that is said is true” and that “Everyone in the executive committee is aware, the people in the street, the people who work at the Centre as well.”
23. Mr Doret further declared that Mr Jean-Bart was not the only person responsible and that there were other people involved, such as coaches who work (or used to work) at the Centre.
24. More specifically, Mr Doret accused Ms Nella Joseph of being a matchmaker and complained that she was always mentioned in the press, but still had access to the Centre.
25. Mr Doret also gave an interview to “The Guardian” (published on 7 August 2020) in which he accused Ms Joseph to be an intermediary between the girls under her supervision and Mr Jean-Bart:

“She is the one who persuades the girl to have sex with Dadou [...] She’s as responsible as him. I was the director of the Fifa-Goal Centre [the national training centre at Croix-des-Bouquets], I know what I’m talking about.”

d. Evidence provided by FIFPRO

26. The Fédération Internationale des Associations de Footballeurs (“FIFPRO”), conducted separate investigations in the context of the same subject matter and shared extracts of the collected evidence, which served this investigatory chamber in the course of its proceedings. In particular, on 13 August 2020, FIFPRO informed the investigatory chamber that Ms Joseph persuaded and coerced the girls to attend private meetings with

Mr Jean-Bart, knowing that he would seek to leverage his influence to procure sexual favors. Moreover, on 14 December 2020, FIFPRO provided evidence extracts that clarify and confirm Ms Joseph's role, such as the following statements:

"There were also women working [at the Ranch], like Nella Joseph, who actively encouraged the girls and would arrange for them to see Dadou. Nella Joseph was always doing things to get the girls to Dadou. He would see a girl that interested him and Nella Joseph would meet with the girls saying that the coach was disappointed and that maybe the player would have to leave the Ranch. These girls were often from poor families and they were worried what would happen to them if they were made to leave. Then Nella Joseph would tell them there was a chance for them to keep their place, but they would need to have a meeting with the President. With so many people making it seem like Dadou's behaviour was normal, even acceptable, I think many of the girls just saw it as one of the things they had to do."

"Dadou did not work alone. He had help. The main person who was helping Dadou was Nella Joseph. She would approach girls that Dadou was interested in and bring them to him. She would either trick them and make them think it was for something different, like something connected to their playing, or she would threaten them and say that if they did not do what Dadou wanted they would not be able to play."

"On one occasion Me Joseph was heard saying to a player: "Dadou keeps trying to start something with you and meet with you and you keep ignoring him. If you keep ignoring him you will only ever see others achieve success".

"Even though we were children we were told that Dadou loved us, and that he cared for us and that this was how he expressed his love for us. We were so young, and everyone just acted like this was normal. That is just one of the ways they tried to stop us from resisting and speaking about it."

27. According to the FIFPRO report, Ms Joseph was seen approaching many girls on behalf of Mr Jean-Bart, seeking first to convince them and then threaten them if they refused to comply. Ms Joseph was one of the people responsible for portraying Mr Jean-Bart's abuse as being in a "relationship" even when the girls were 14, 15, 16 years' old, he was in his sixties and they did not want to have a sexual relationship with him.

e. Witness C

28. On 28 January 2021, the chairperson of this investigatory chamber conducted an interview with Witness C (a former employee of the FHF and of the Centre), during which the latter stated that Ms Joseph was in charge of the girls and accused her of having forced the girls to sleep with Mr Jean-Bart.
29. In particular, Witness C confirmed the *modus operandi* described above and accused Ms Joseph to have exerted psychological pressure on the girls by suggesting that Mr Jean-Bart could ensure that they remain in the Centre despite their negative football performance, in exchange of sexual favors.

"Chairperson: OK. So, it was Nella who had the most contact with the girls, right?"

Witness C: Yes, she is the one who was in charge of the girls and forced them to sleep with Mr Jean-Bart. She would tell them, for example, "You're not making any progress, we will have to kick you out of the centre, but let's try and see if someone, if the president, can do something for you. That's the way she went about it, so that she could deliver the girls to him."

Chairperson: OK. And do you know if the girls reported (to her or anyone else) any occurrence of sexual harassment to which they were subjected by Mr Jean-Bart or any other official? Or were they unable to report this?

Witness C: The girls had no reason to report it to Nella, because she already knew all about it. She is the one who took them to the President, she was like his right hand.

Chairperson: How did she do this? What was her modus operandi? What did she do to ensure that the girls did what Mr Jean-Bart wanted? How did she go about it?

Witness C: She would often say to the girls: "You are going to be kicked out, you're not making any progress here, you need to go speak to the President, maybe he can do something for you." And he would then take advantage of them."

f. Witness D

30. On 23 February 2021, the chairperson of the investigatory chamber interviewed Witness D, who also accused Ms Joseph of having assisted Mr Jean-Bart by convincing the girls in the Centre to go out and accept indecent proposals from the former president of the FHF.

"Nella Joseph helped the president a lot because she could go into the players' bedrooms. Several times, I saw her speak with female players speaking within tournaments when I am inside the centre. And even inside her car, she used to take players to convince them to go to meet the president, to go out with the president sometimes and she closes all the doors and prevents others from coming in her car. And after, the player even reports that she was trying to convince her to go out with the President. Considering that Nella was very close to the players and Dadou's best friend, therefore she could easily convince the players to go out and accept indecent proposals from the former president of the federation."

31. The testimony of Witness D, re-confirms the *modus operandi* used by Mr Jean-Bart and Ms Joseph, as well as the fact that the latter, in her position as supervisor in the Centre, and due to her proximity and friendship towards the FHF president, convinced young players to accept Mr Jean-Bart's improper advances.

Conclusions of the investigatory chamber

32. After the careful analysis of the gathered information and documentation at its disposal, the investigatory chamber reached the following conclusion in its Final Report:

"Ms Joseph has breached article 23, paras. 1 and 4 of the FIFA Code of Ethics, edition 2019 by having served as an intermediary between Mr Jean-Bart and the players, while using coercing measures with the aim of imposing mental pressure

on underage players in order to ensure the commission of Mr Jean-Bart's disgusting sexual conducts."

B. PROCEEDINGS BEFORE THE ADJUDICATORY CHAMBER

33. On 3 February 2021, Ms Joseph was informed that the adjudicatory chamber had opened proceedings against her based on the investigatory chamber's Final Report as per art. 68 par. 3 of the FCE. The adjudicatory chamber also informed Ms Joseph of her right to request a hearing and submit a written position.
34. However, since Ms Joseph did not reply to request a hearing nor to submit a statement of position, she was made aware on 22 April 2021 that no hearing would be held. By the same letter she was informed about the composition of the Panel appointed to adjudicate her case, and referred to art. 35 of the FCE.

II. CONSIDERATIONS OF THE ADJUDICATORY CHAMBER

A. COMPETENCE AND APPLICABLE LAW

Competence

35. Art. 30 of the FCE defines a primary (par. 1) and subsidiary (par. 2) competence of the FIFA Ethics Committee. The second paragraph reads:

"Where such conduct affects a confederation, a single association or several associations from the same confederation and where said conduct is not directly related to FIFA matters, the Ethics Committee shall only be entitled to investigate and judge the case when said conduct has not been investigated and judged, and/or cannot be expected to be investigated and judged, by the relevant judicial bodies of the association or confederation concerned. In particular, should no proper proceedings be taken at national and/or confederation level within three months as from when the matter became known to the Ethics Committee, the Ethics Committee shall be entitled to investigate and judge the respective matter."

36. In this regard, the Final Report states that when CONCACAF was requested to inform about the status of the proceedings against Mr Jean-Bart, it responded on 5 May 2020, that since it did not have an established Ethics Committee, it could not investigate the case further.
37. As a result, and considering that the exposed conducts committed by both Mr Jean-Bart and Ms Joseph are interrelated and that it cannot be expected that CONCACAF carry out proper ethics proceedings, in the present case the FIFA Ethics Committee shall exercise its jurisdiction as established by article 30 par. 2 of the FCE.

Applicability of the FCE *ratione materiae*

38. The adjudicatory chamber notes that, according to the Final Report of the investigatory chamber, there are several indications of potential improper conduct in terms of the FCE by Ms Joseph.

39. Consequently, the FCE is applicable to the case according to art. 1 of the FCE (*ratione materiae*).

Applicability of the FCE *ratione personae*

40. According to art. 2 of the FCE, the Code shall apply, inter alia, to “officials”, as per the definitions section in the FCE and FIFA Statutes.
41. Ms Joseph was a football official attached to the FHF. She joined the FHF in November 2011 and since then until her suspension dated on 15 August 2020, she carried out technical and administrative tasks as supervisor of the U20 female national team at the Centre.
42. As a consequence, at the time the relevant actions and events occurred, and in view of Ms Joseph’s position in football at the time, the FCE applies to her according to art. 2 of the FCE (*ratione personae*).

Applicability of the FCE *ratione temporis*

43. The relevant facts described in previous sections of this decision occurred throughout Mr Jean-Bart’s presidency (2000 – 2020), and after Ms Joseph joined the federation (in 2011).
44. With regard to the applicability of the FCE in time, art. 3 of the FCE stipulates that the (current) FCE shall apply to a conduct whenever it occurred, unless a more favorable provision was in force at the time of the facts (principle of *lex mitior*).
45. In the present case, the legal provisions of the respective articles are deemed equivalent in the various editions of the FCE (i.e., 2009, 2012, 2018, 2019 and 2020).
46. In this context, following the relevant case-law and jurisprudence, the adjudicatory chamber notes that the spirit and intent of the previous editions of the FCE are duly reflected in the below articles of the FCE, which contain equivalent provisions:
- Art. 23 of the FCE (Protection of physical and mental integrity) has a corresponding provision in the 2018 and 2019 editions of the Code (art.23), as well as in the 2009 (art. 8), and 2012 (art. 24) editions of the code.
47. In consideration of the above, the adjudicatory chamber concludes that the different FCE editions cover the same offense and therefore the 2020 FCE is applicable to this case as per art. 3 of the FCE.

B. ASSESSMENT OF POTENTIAL ETHICS VIOLATIONS

Possible violation of art. 23 of the FCE (Protection of physical and mental integrity)

48. Art. 23 of the FCE reads as follows:

1. Persons bound by this Code shall protect, respect and safeguard the integrity and personal dignity of others.

2. *Persons bound by this Code shall not use offensive gestures and language in order to insult someone in any way or to incite others to hatred or violence.*

3. *Persons bound by this Code must refrain from all forms of physical or mental abuse, all forms of harassment, and all other hostile acts intended to isolate, ostracise or harm the dignity of a person.*

4. *Threats, the promise of advantages, coercion and all forms of sexual abuse, harassment and exploitation are particularly prohibited.*

5. *Violation of this article shall be sanctioned with an appropriate fine of at least CHF 10,000 as well as a ban on taking part in any football-related activity for a minimum of two years. In cases of sexual exploitation or abuse, or in serious cases and/or in the case of repetition, a ban on taking part in any football related activity may be pronounced for a minimum of ten years.*

1. Persons involved

49. The first requirement set out in art. 23 par. 1 of the FCE is that the person acting must be bound by the FCE. As already shown, Ms Joseph was at the relevant time a football official, and as such, a person bound by the FCE.

2. Protect, respect and safeguard the dignity and integrity of others

50. As an official of FHF and one of the persons specifically responsible for the female players at the Centre, Ms Joseph had the particular duty to protect, respect, and safeguard the integrity and personal dignity of all the FHF's persons involved, whether as players or officials.
51. Instead, Ms Joseph's conduct as established above helped implement and maintain an environment of fear, danger, and frustration for the female players at the Centre.
52. In fact, Ms Joseph appears to have been held a very important role in the system of abuse and harassment implemented by Mr Jean-Bart within the FHF, that of the "matchmaker". She was the one in direct contact with the female players at the Centre, facilitating Mr Jean-Bart's access to them, as well as his abuse, in various ways.
53. For example, Witness A states that Ms Joseph "took the girls to the president", and acted as an intermediary either by being "at the origin of" Player C's "sentimental relation" with Mr Jean-Bart, or even by forcing the relationship between the latter and Player B (due to which the girl lost her virginity). Her conduct went even further, Witness A testifying that, following an abortion performed on Player A (15 year old), Ms Joseph was the one who "took charge of keeping the girl at home for 30 days".
54. A similar testimony was given by Witness B, who particularly stated that "Mr Yves Jean-Bart used Madam Nella Joseph who is a supervisor to convince the girls to sleep with him". Witness C also confirmed that Ms Joseph took the girls to Mr Jean-Bart and that she was the latter's "right hand".
55. Mr Doret also confirmed that Ms Joseph was "the matchmaker", and that she still had access to the Centre despite being always mentioned in the media. He added that "she

is the one who persuades the girls to have sex with Dadou” and that “she’s as responsible as him”.

56. Furthermore, Ms Joseph’s role as matchmaker or intermediary is described in the evidence provided by the FIFPro, for example by the following statement: *“Dadou did not work alone. He had help. The main person who was helping Dadou was Nella Joseph. She would approach girls that Dadou was interested in and bring them to him.”*
57. But perhaps the most revealing testimony is that of Witness D, who provides a very detailed portrayal of Ms Joseph’s role: *“Nella Joseph helped the president a lot because she could go into the players’ bedrooms. Several times, I saw her speak with female players speaking within tournaments when I am inside the centre. And even inside her car, she used to take players to convince them to go to meet the president, to go out with the president sometimes and she closes all the doors and prevents others from coming in her car. And after, the player even reports that she was trying to convince her to go out with the President. Considering that Nella was very close to the players and Dadou’s best friend, therefore she could easily convince the players to go out and accept indecent proposals from the former president of the federation.”*
58. Based on this multitude of testimonies and evidence produced in the scope of the investigation, the Panel concludes that Ms Joseph was one of the key officials involved in the systematic abuse of female players, including minors, that was perpetrated at the Centre. Her position as supervisor of the U20 female team enabled her to gain the trust and confidence of the players, which she then used in order to facilitate “relationships” between them and Mr Jean-Bart. These would include sexual intercourse, which in some cases resulted in (underage) girls losing their virginity or becoming pregnant and undergoing an abortion. Ms Joseph intentionally participated in these horrendous acts, assisting Mr Jean-Bart and facilitating his system of sexual abuse and harassment (going as far as keeping Player A – a 15-year old girl - at her home for a month, following the latter’s abortion).
59. Ms Joseph not only failed to protect the girls, as players, from being abused by FHF officials, she also failed to protect them as victims and witnesses in an ongoing investigation whose purpose was to halt, reveal and punish the harm done to them. She betrayed the natural trust the players had placed in her due to her seniority and position when instead of reporting and helping the victims, she sided with their main aggressor, Mr Jean Bart.
60. In acting as established above, Ms Joseph failed to protect, respect and safeguard both the integrity of the female players under her supervision, as well as their dignity. In fact, she did the exact opposite, placing them in grave and immediate danger by acting as a matchmaker and facilitating relationships between the girls (most of them minors) and Mr Jean-Bart, a now convicted sexual abuser and predator.
61. Another important and particularly appalling aspect of Ms Joseph’s conduct was the fact that, in her position of authority and confidence over the girls in the Centre, she was one of the persons who was rationalizing the acts of sexual abuse and harassment, as explained by statements in the evidence provided by FIFPro: *“With so many people making it seem like Dadou’s behaviour was normal, even acceptable, I think many of the girls just saw it as one of the things they had to do.”* This justification of the horrible and

traumatic experiences the female players were going through had a very perverse effect on these mostly minor girls: *“Even though we were children we were told that Dadou loved us, and that he cared for us and that this was how he expressed his love for us. We were so young, and everyone just acted like this was normal. That is just one of the ways they tried to stop us from resisting and speaking about it.”*

62. Therefore, by convincing the players that the sexual abuse and harassment was “normal”, Ms Joseph would accomplish two goals, both with extremely severe consequences on the victims: on one side, eliminating their opposition and making them more submissive to the treatment, and on the other side, preventing them from disclosing or reporting the abuse, thus enabling it to continue and produce more casualties.

3. Threats, the promise of advantages, coercion

63. The sexual advances and behavior of Mr Jean-Bart towards and with the (minor) female players from the Centre were always based on the influence that the latter was wielding on the girls. This was manifested either by threats or coercion, or by the offering of gifts, the promise of various benefits, or the control he exerted over them, with the help and complicity/accessory of other officials. Ms Joseph was one of the most important accomplices of Mr Jean-Bart, being described as his “right hand” (by Witness C) and “as guilty as he was” (Mr Doret).
64. Ms Joseph conduct as a matchmaker to Mr Jean-Bart followed a very precise “modus operandi”, which has been revealed and confirmed by the various testimonies: she would use her direct access and authority over the girls (most of them minors), to exert pressure over them, forcing them into relations with the FHF president through coercion and threats.
65. In particular, Witness A recounts that Ms Joseph would threaten to send back to their home towns the girls who would refuse to be taken to Mr Jean-Bart, giving the example of three girls, of which at least two underage, who suffered from such conduct, one undergoing an abortion or another losing her virginity as a result of Ms Joseph’s “matchmaking” and coercion. The threats of expulsion from the Centre, as a means of coercion into sexual relationship with Mr Jean-Bart are also confirmed by Witnesses B and D, while the FIFPro evidence describes her conduct in more detail: *“Nella Joseph would meet with the girls saying that the coach was disappointed and that maybe the player would have to leave the Ranch. These girls were often from poor families and they were worried what would happen to them if they were made to leave. Then Nella Joseph would tell them there was a chance for them to keep their place, but they would need to have a meeting with the President.”* Witness C went as far as to provide examples of the statements Ms Joseph would use to coerce the girls, such as: *“You’re not making any progress, we will have to kick you out of the centre, but let’s try and see if someone, if the president, can do something for you.”*; or *“You are going to be kicked out, you’re not making any progress here, you need to go speak to the President, maybe he can do something for you.”*
66. The despicable attitude and behavior of Ms Joseph that is revealed by the above testimonies and evidence clearly indicates that she had the intention to aid and participate in the sexual abuse system that was implemented by Mr Jean-Bart within the FHF, as one of its principal actors. Her tactics of coercing or threatening the female

players, coupled with her position of authority and supervision over the girls (mostly minors) were instrumental in creating and maintaining sexual or sentimental relationships (some for a long period) with the FHF president, and therefore providing a continuous supply of victims for the systemic abuse.

4. Conclusion

67. In summary, the Panel considers that, by the conduct as described above, Ms Joseph has clearly breached art. 23 of the FCE, by failing to protect the physical and mental integrity of the female players under her authority and supervision, mostly minors, and by actively coercing and threatening them into engaging in sexual relationships with Mr Jean-Bart.

C. SANCTIONS AND DETERMINATION OF SANCTIONS

68. According to art. 6 par. 1 of the FCE, the Ethics Committee may pronounce the sanctions described in the FCE, the FIFA Disciplinary Code, 2019 edition ("FDC") and the FIFA Statutes.
69. When imposing a sanction, the adjudicatory chamber shall take into account all relevant factors in the case, including the nature of the offense, the offender's assistance and cooperation, the motive, the circumstances, the degree of the offender's guilt, the extent to which the offender accepts responsibility and whether the person mitigated his guilt by returning the advantage received (art. 9 par. 1 of the FCE). It shall decide the scope and duration of any sanction (art. 9 par. 3 of the FCE).
70. When evaluating, first of all, the degree of the offender's guilt, the seriousness of the violation, and the endangerment of the legal interest protected by the relevant provisions of the FCE need to be taken into account. In this respect, it is important to note that as supervisor of the U20 female team at the Centre, Ms Joseph had a special responsibility and a position of trust vis-a-vis the players. However, it is also worth mentioning that in her role she received orders and was held accountable by higher-ranked FHF officials, notably by the president of the FHF.
71. Notwithstanding the above, Ms Joseph's behavior is inexcusable and a disgrace for any football official. The pain and suffering caused to various victims of sexual harassment and abuse cannot even be fully comprehended and represents a very dark stain on the image and reputation of football as a sport loved by so many, whose principal value and credo is "fair play."
72. No acts of mere negligence are at stake here but deliberate actions (see art. 6 par. 2 of the FCE). In that regard, it must be recalled that the various testimonies and evidence contained in the final report indicate that Ms Joseph was one of the main accomplices of Mr Jean-Bart, Mr Doret even naming her the president's "right hand".
73. With regard to the circumstances of the case, the adjudicatory chamber emphasizes that several of its aspects render the case at hand to be of particular gravity. Firstly, Ms Joseph held a position of trust with respect to the players, since as a supervisor she was meant to be a mentor on and off the pitch, and someone the players could confide in. Instead of helping her distressed players, she did the exact opposite, by playing a key role in the system that was abusing them, that of a "matchmaker" who provides a continuous supply of victims to be sexually abused.

74. Second, the severity of the trauma and abuse suffered by the female and mostly minor players as a direct result of Ms Joseph's conduct is appalling: a 15 year-old girl who underwent an abortion on Mr Jean-Bart's orders (and probably due to her relation with the latter) was placed under the "care" of Ms Joseph at her home for 30 days. Another 11 year-old player lost her virginity to the FHF president, after being forced by Ms Joseph into a relationship with him. Despite directly witnessing these horrendous experiences affecting minors under her supervision, Ms Joseph continued her participation in the abusive system, betraying the trust of the female players.
75. Another circumstance that is suited to mitigate the culpability of an offender, according to the case-law of FIFA's judicial bodies, is remorse or confession. In this sense, the adjudicatory chamber notes that Ms Joseph has not demonstrated, at any point during these proceedings, and in spite of the evidence against her and the repeated requests for statements, any awareness of wrongdoing.
76. As for the assistance and cooperation that she has shown during the proceedings, the adjudicatory chamber has taken into account that Ms Joseph has not provided any statement to the Ethics Committee during the present proceedings to clarify the facts and present her position/defense on the accusations.
77. To sum up, the adjudicatory chamber deems that the guilt of Ms Joseph in the present case is very serious.
78. With regard to the type of sanction to be imposed on Ms Joseph, the adjudicatory chamber deems that only a ban on taking part in any football-related activity is appropriate in view of the inherent, preventive character of such sanction in terms of potential subsequent misconduct. In the light of this, the adjudicatory chamber has chosen to sanction Ms Joseph by banning her from taking part in any football-related activity (art. 7 par. 1(j) of the FCE; art. 56 par. 2(f) of the FIFA Statutes; art. 11(f) and art. 6 par. 2 lit. c) of the FDC) for a duration of ten years at national and international level. In accordance with art. 42 par. 1 of the FCE, the ban shall come into force as soon as the decision is communicated.
79. In the present case, the adjudicatory chamber is of the opinion that the imposition of a ban on taking part in any football-related activity is not sufficient to sanction the misconduct of Ms Joseph adequately, in particular given the particular gravity of the matter and the damage caused. Hence, the adjudicatory chamber considers that the ban imposed on Ms Joseph should be completed with a fine, a financial sanction with a strictly punitive purpose in the present case.
80. The amount of the fine shall not be less than CHF 300 and not more than CHF 1,000,000 (art. 6 par. 2 of the FCE in conjunction with art. 15 par. 1 and 2 of the FDC). In the case at hand – taking into account the various circumstances of the case, the adjudicatory chamber found that a fine of CHF 20,000 is appropriate. Accordingly, Ms Joseph shall pay a fine of CHF 20,000.

D. PROCEDURAL COSTS

81. The procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings (art. 54 of the FCE).

82. As a principle, procedural costs shall be borne by the party that has been sanctioned (cf. art. 56 par. 1 of the FCE). In the event of closure of proceedings or acquittal, the procedural costs shall be borne by FIFA (art. 55 par. 1 of the FCE).
83. Ms Joseph has been found guilty of a violation of art. 23 and has been sanctioned accordingly. The adjudicatory chamber deems that no exceptional circumstances apply to the present case that would justify deviating from the general principle regarding the bearing of the costs. Thus, the adjudicatory chamber rules that Ms Joseph shall bear the procedural costs (art. 56 par. 1 of the FCE).
84. In the present case, the costs and expenses of the investigation and the adjudicatory proceedings add up to [...].
85. According to art. 57 of the FCE, no procedural compensation shall be awarded in proceedings conducted by the Ethics Committee. Consequently, Ms Joseph shall bear her own legal and other costs incurred in connection with these proceedings.

III. DECISION OF THE ADJUDICATORY CHAMBER

1. Ms Nella Joseph is found responsible for having breached art. 23 (Protection of physical and mental integrity) of the FIFA Code of Ethics.
2. Ms Joseph is hereby banned from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for a period of ten years, as of notification of the present decision, in accordance with article 7 lit. j) of the FIFA Code of Ethics in conjunction with art. 6 par. 2 lit. c) of the FIFA Disciplinary Code.
3. Ms Joseph shall pay a fine in the amount of CHF 20,000 within 30 days of notification of the present decision.
4. Ms Joseph shall pay costs of these proceedings in the amount of [...] within 30 days of notification of the present decision.
5. Ms Joseph shall bear her own legal and other costs incurred in connection with the present proceedings.
6. This decision is sent to Ms Joseph via the FHF. A copy of the decision is sent to CONCACAF and to Ms Maria Claudia Rojas, the chairperson of the investigatory chamber of the FIFA Ethics Committee.

NOTE RELATED TO THE FINANCIAL SANCTION:

The payment of the fine and costs of the proceedings can be made either in Swiss francs (CHF) to account no. [...] or in US dollars (USD) to account no. [...], with reference to case no. "Adj. ref. no. 10/2020 (E20-00004)" in accordance with art. 7 let. e) of the FIFA Code of Ethics.

NOTE RELATED TO THE PUBLICATION:

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

NOTE RELATED TO THE APPEAL PROCEDURE:

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

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Mr Vassilios Skouris
Chairperson of the adjudicatory chamber
FIFA Ethics Committee