FINA DISCIPLINARY PANEL

The Disciplinary Panel (hereinafter called “the Panel”) sitting in the following composition:

• Chairperson: Mr. R Duiven
• Members: Mrs. N Onyango
          Mr. W. Clarke

Date: 5th June 2022

DECISION

MR. JORGE DEL VALLE (CUBA)

1. REFERRAL

1.1 On 13th May 2022, the Chair of the FINA Disciplinary Panel (“Panel”) received a referral from the FINA Executive Director regarding a potential breach of the FINA Rules by Jorge del Valle (“Mr. del Valle”) stemming from his attendance at a match of the FINA Water Polo Inter-Continental Cup between Argentina and Cuba in Lima, Perú (referred to in this decision respectively as the “Event” and “Referral”).

1.2 The Referral requested the Panel to consider the following:

    (a) The fact that Mr. Jorge del Valle, the coach of the Cuban team, had exhibited an aggressive behaviour towards the referees after the water polo final Match between Cuba women National Team and Argentina. More specifically, the referees reported that Mr. del Valle abruptly entered the room they were in and started to yell at them loudly to voice his discontent that a goal of his team was refused in the last minute of the match.

1.3 The Referral requests this Panel to investigate and adjudicate on whether Mr. del Valle committed a violation of Article 2 (a) of the FINA Code of Conduct (i.e. abusive or violent conduct, and acts of misbehaviour) and/or any other violation of the FINA Rules at the Event in the manner alleged.

2. PROCEDURE

2.1 On 13th May 2022, the FINA Executive resolved to refer the case of Mr. del Valle for investigation and adjudication, pursuant to Rule C 23.4 of the FINA Constitution.
2.2 On 16\textsuperscript{th} May 2022, the Panel commenced the investigation and adjudication of the Referral and took note of the documents and information submitted in the Referral:

(a) Referral to the Disciplinary Panel;
(b) Post-Game Referees Report (\textbf{Exhibit 1})

2.3 By a letter dated 16\textsuperscript{th} May 2022 to Mr. del Valle (\textit{“Referral Notice”}), he was informed that:

(a) the Panel had received the Referral and that a three-member panel would be formed to investigate and adjudicate on the allegations made against him;

(b) the substance of the Referral is an allegation that he had violated C 12.1.3 of the FINA Constitution and/or Article 2(a) of the FINA Code of Conduct;

(c) if he is found to have violated those rules, he will be subject to sanctions set out in C 12.2 of the FINA Constitution, each of which were specified;

(d) he has a right to submit a defence and respond to the allegations set out in the Referral and directed that it be provided no later than 1\textsuperscript{st} June 2022; and

(e) he also has a right to seek a hearing in front of the Panel, to be represented by legal counsel and call and question witnesses.

2.4 On 27\textsuperscript{th} May 2022, the Chair of the Panel received an email from Mr. Tomas Haces German attaching a response from Mr. Jorge del Valle.

3. FINA RULES

3.1 Mr. del Valle is alleged to have violated Article 2(a) of the FINA Code of Conduct. The Panel deems it is accepted and not in dispute that Mr. del Valle is bound to these rules.

\textit{The FINA Code of Conduct:}

\textit{Article 2 Application of Code}

\textit{The following incidents or offences shall be subject to the application of this Code:}

a) \textit{acts of misbehavior including but not limited to abusive, violent conduct in a disturbing, ugly or provocative manner, unjustified interference including disobedience with obstruction of the orderly conduct of any sporting event within or outside of the venue(s), malicious alteration, damage or destruction of property or infliction of physical or mental harm on others.}

4. THE COMPLAINT/CHARGE

4.1 The FINA Executive referred to the FINA Disciplinary Panel the issue of the aggressive conduct of Mr. Jorge del Valle to the referees at the FINA Water Polo Inter-Continental Cup between Argentina and Cuba in Lima, Peru, thirty minutes after the match.
4.2 The FINA Executive also forwarded the complaint made by the referees in the Post Game Referee Report marked as **Exhibit 1**. The Referees stated that:

“...At approximately 11:45am after the Argentina vs Cuba Women’s match, my partner Sergei and I were in the Covid testing room when the Cuban coach came to the door and started yelling at us about the decision that was made to disallow the final goal. He was trying to show us on video that there was 3 seconds left in the match when the would-be tying goal was scored. We calmly tried to explain that the time on the video was not correct and was not synced to the actual time of the game. He did not like that and began to yell at us louder so we did not continue to talk to him. He stood there for about 30 more seconds until he eventually walked away. I could not understand what he was saying because I do not speak his language but it surely wasn’t nice...”

4.3 The FINA Executive referred the incident to the FINA Disciplinary Panel as it would not constitute a violation under the scope of the Regulations for Disciplinary Actions in Water Polo, rather, a violation of Article 2 (a) of the FINA Code of Conduct (i.e. abusive or violent conduct, and acts of misbehaviour) and/or any other violation of the FINA Rules.

5. **MR. DEL VALLE’S DEFENCE**

5.1 The Panel received and reviewed only one document submitted by Mr. del Valle ("**Del Valle’s Response**").

5.2 Mr. del Valle, in his defence states as follows:

“... Before describing the facts, you should know that I admit that I raise my voice to the referees of the match, whom I respect and admire, for which I sincerely apologize. I can assure you that there were no threats, no aggression, no disrespect, I just expressed my disagreement out loud after watching the video of the last 14 seconds of the match.

Everything happened 30 minutes after the end of the game, where I received the video of the last 14 seconds on my cell phone and observed that the goal had been disallowed. If you could watch the video, it would help clarify my position.

I never had the intention of looking for the referees to complain about what we had seen, the match had already ended and we had respected the VAR's decision, so we accepted the defeat congratulating the opponent for his good performance, but by chance I saw them when they entered the room where The antigen tests for Covid were being carried out and I went to them with the cell phone in my hand and showing them the video, I expressed my disagreement with their decision. The referees didn’t understand what I was telling them and I didn’t understand what they were trying to tell me either, so they may have misunderstood my intention...”

5.3 The Panel has carefully considered Mr. del Valle’s defence which can be summarised as follows:

(a) His conduct was not ill-intended: He admits that he raised his voice to the referees of the match, and he sincerely apologizes for his actions. He also avers that despite raising his voice, that there were no threats, no aggression, no disrespect, but he only expressed his disagreement with the referees’ decision.
(b) He also asks the Panel to consider that he has been the main coach for more than 10 years of the Cuban National Team and he has never had problems with the referees and judges at the National and International levels.

(c) No hearing is requested.

6. ANALYSIS and COMMENT

6.1 The Panel extends its thanks and appreciation to Mr. del Valle for his cooperation.

6.2 The Panel has considered in great depth the Post-Game Referees Report (Exhibit 1) and Mr. Jorge del Valle’s response (Del Valle’s Response).

6.3 The Panel notes that both documents concur on the place and the events that happened.

6.4 The Panel notes that Mr. del Valle went to the door of the room where the referees were and tried to show them a video on his phone. Mr. del Valle admits that he shouted or raised his voice, but notably, the referees were calm. Mr. del Valle then stood at the door for about 30 seconds after the interaction.

6.5 The Panel notes that Mr. del Valle did not approach the referees or assume a physically intimidating/threatening stance. Apart from the raised voice, the referees could not tell what Mr. del Valle said due to the language barrier.

6.6 The Panel also notes that there is no recording available e.g. CCTV and no possibility of translation and the only evidence available is the coach’s word on what he said during that interaction.

6.7 The Panel notes that the Referee’s Post Game Report (Exhibit 1) does not express any fear of harm. Mr. del Valle was clearly frustrated after watching the video and what he thought was a stolen goal. His actions do not appear to have been premeditated. The Panel also note that Mr. del Valle has apologized.

7. PANEL’S FINDING

7.1 Mr. del Valle faces an allegation of having violated Article 2(a) of the FINA Conduct of Conduct. The Panel finds that Mr. del Valle’s constitute a violation of Article 2(a) of the FINA Conduct of Conduct.

8. SANCTION

8.1 In determining the appropriate sanction, the Panel has considered Mr. de Valle’s conduct during the interaction, his apology and his decision not to exercise his right to a hearing.

8.2 The Panel determines that Mr. del Valle be given a (strong) warning by FINA. This is not to give the impression that such conduct will be without consequences, but all circumstances considered, regarding his conduct, any more severe action may be disproportionate.
8.3 The strong warning intends to send a clear message to all members of the FINA Family, that such actions have consequences and will be dealt with. Further, all parties are encouraged to express their genuine complaint through the available channels and procedures for complaint which are usually clearly set out before commencement of FINA Championships.

8.4 This decision can be appealed to the Court of Arbitration for Sport pursuant to Article C12.13.2 of the FINA Constitution.

Dated this 5th day of June 2022.

Chairman – Mr. R. Duiven

Member – Mrs. N Onyango

Member – Mr. W. Clarke