

# **Decision**

taken by the

## **Adjudicatory Chamber**

of the

## **FIFA Ethics Committee**

Mr Vassilios Skouris [GRE], Chairman  
Mr Vinayak Pradhan [MYS], Deputy Chairman  
Mr Melchior Wathelet [BEL], Member

taken on 24 September 2019

in the case of:

**Mr John Wesley Gonjuan [PNG]**

**Adj. ref. no. 18/2019**  
(E19-00010)

## I. Inferred from the file

1. Mr John Wesley Gonjuan (hereinafter "*Mr Gonjuan*" or "*the official*"), a national of Papua New Guinea, Vice-President of the Papua New Guinea Football Association ("*PNGFA*") since 28 December 2016 and previously employed as a Competition Manager with the Local Organising Committee for the 2016 FIFA Under-20 Women's World Cup from 29 November 2015 to 28 February 2017 (hereinafter "*LOC*").
2. On 30 August 2018, an audit report "*Project Hagan*" into the LOC's organization of the 2016 FIFA Under-20 Women's World Cup (hereinafter "*the audit report*"), identified several potential infringements of the FIFA Code of Ethics ("*FCE*").
3. On 13 November 2018, FIFA Compliance Advisory Services shared the audit report with the FIFA Ethics Committee.
4. Based on the information gathered during the preliminary investigation, Ms Maria Claudia Rojas, chairperson of the investigatory chamber, determined that there was a *prima facie* case that Mr Gonjuan committed violations of the 2012 edition of the FCE ("*FCE 2012*").
5. On 14 June 2019, Mr Gonjuan was informed of the initiation of the investigation proceedings under reference E19-00010 for possible breaches of articles 13, 15, 19, and 20 of the FCE 2012. Such proceedings were led by Mr Martin Ngoga, as chief of investigation as per art. 63 of the FCE.
6. On 29 July 2019, the investigation proceedings were concluded and the investigatory chamber's final report and investigation files ("*Final Report*") were subsequently referred to the adjudicatory chamber (art. 65 and 66 of the FCE 2019 edition, hereinafter "*FCE*").
7. With regard to the procedural history before the investigatory chamber, reference is made to the relevant sections of the Final Report.
8. On 30 July 2019, Mr Vassilios Skouris, the chairman of the adjudicatory chamber, opened adjudicatory proceedings against Mr Gonjuan. Furthermore, the chairman set a deadline for Mr Gonjuan to provide his position on the Final Report and to request a hearing (see art. 71 and art. 69 of the FCE).
9. On 12 August 2019, Mr Gonjuan submitted two letters from Mr Seamus Marten (former Chief Executive of the LOC), dated 4 June 2019 and 1 August 2019.
10. On 3 September 2019, in absence of a request, the chairperson informed Mr Gonjuan that no hearing would be held, and that, Mr Gonjuan's correspondence dated 12 August 2019 would be considered/understood as his position on the matter. Finally, the chairperson informed Mr Gonjuan about the composition of the panel.

11. No further correspondence was received from Mr Gonjuan.

## **II. and considered**

### **A. Applicability of the FCE *ratione materiae* (art. 1 of the FCE)**

1. The adjudicatory chamber notes that, according to the investigatory chamber's Final Report, there were several indications of potential improper conduct by Mr Gonjuan. In particular, in the Final Report, the investigatory chamber found violations of arts. 13 par. 1 and 2, 15, 18 par. 1, 19 par. 2 and 20 par. 1 of the 2012 FCE (and their analogous provisions of the FCE).
2. Consequently, the FCE is applicable to the case according to art. 1 of the FCE (*ratione materiae*).

### **B. Applicability of the FCE *ratione personae* (art. 2 of the FCE)**

3. It is undisputed that Mr Gonjuan was the Competition Manager within the LOC from 29 November 2015 to 28 February 2017. Furthermore, Mr Gonjuan has been President of the PNGFA since 28 December 2016. As a result, and as a football official, he is subject to the FCE (art. 2 of the FCE).

### **C. Applicability of the FCE *ratione temporis* (art. 3 of the FCE)**

4. The relevant events took place between 2015 and 2017, at a time before the 2019 edition of the FCE came into force. With regard to the applicability of the FCE in time, art. 3 of the FCE (see also art. 3 of the 2012 FCE) stipulates that the FCE shall apply to conduct whenever it occurred. Accordingly, the material rules of the FCE shall apply, provided that the relevant conduct was sanctionable at the time (with a maximum sanction that was equal or more) and unless the 2012 FCE would be more beneficial to the party (*lex mitior*).
5. In this context, following the relevant case law and jurisprudence, the adjudicatory chamber notes that the spirit and intent of the 2012 edition of the FCE is duly reflected in the below articles of the FCE, which contain equivalent provisions:
  - Art. 20 of the FCE has a similar provision in the 2012 FCE (art. 20);
  - Art. 19 of the FCE has a similar provision in the 2012 FCE (art. 19);
  - Art. 18 of the FCE has a similar provision in the 2012 FCE (art. 18 par. 1);
  - Art. 15 of the FCE has a similar provision in the 2012 FCE (art. 15);
  - Art. 13 of the FCE has a similar provision in the 2012 FCE (art. 13).
6. In consideration of all the above, the adjudicatory chamber concludes that the 2012 FCE edition covers the same offence and that the maximum sanctions in the FCE are equal or less. Furthermore, from a material point of view, the adjudicatory chamber

notes that none of the provisions would be more beneficial to the accused (principle of “*lex mitior*”), since their application would lead to the same result.

7. Consequently, the 2019 (current) edition of the FCE is applicable to the case according to art. 3 of the FCE (*ratione temporis*) and the equivalent provision in the 2012 FCE.

#### **D. Jurisdiction of the FIFA Ethics Committee**

8. The scope of jurisdiction of the FIFA Ethics Committee is defined in art. 30 of the FCE, which is more restrictive compared to the equivalent provision in the 2012 FCE.
9. Art. 30 of the FCE defines a primary (par. 1) and subsidiary (par. 2) competence of the FIFA Ethics Committee. At present, the competence of the FIFA Ethics Committee can be deduced from par. 1, which stipulates that if the relevant conduct has been committed by an individual elected, appointed or assigned by FIFA to exercise a function. Alternatively, if such conduct is related to the use of FIFA funds, FIFA is also automatically granted primary competence on the case.
10. The adjudicatory chamber notes that Mr Gonjuan, as LOC Competition Manager and Vice-President of the PNGFA, committed the relevant conduct, which is related to the use of FIFA funds.
11. Consequently, the FIFA Ethics Committee is entitled to judge Mr Gonjuan’s conduct as per art. 30 par. 1 of the FCE.

#### **E. Assessment of potential infringements of the FCE committed by Mr Gonjuan**

##### **1. Factual background of the case**

##### **a) 2016 FIFA Under-20 Women’s World Cup [Cf. Final Report p. 5]**

12. The factual aspects of the case are drawn from the Final Report and the FTI Report, the relevant findings of which have been incorporated in the following sections.
13. On 20 March 2015, the FIFA Executive Committee awarded the Papua New Guinea Football Association (PNGFA) with the hosting rights of the 2016 FIFA Under-20 Women’s World Cup tournament. Such awarding and FIFA funding were subject to the Hosting Agreement, Tournament regulations, FIFA Forward Regulations, FIFA Code of Ethics (FCE), and FIFA statutes.
14. Between 13 November 2016 and 3 December 2016, the FIFA Under-20 Women’s World Cup was held in Papua New Guinea. Previous to the tournament, the PNGFA set up the Local Organising Committee (LOC), body that was responsible for planning and staging the referred tournament with a FIFA budget of PGK 16,034,417.00 (USD 5 million).

15. After the conclusion of the tournament, the final statements of the LOC disclosed revenues of PGK 17.4 million (USD 5.3 million), expenditure of PGK 25.9 million (USD 7.9 million), a net operating loss of PGK 8.5m (USD 2.6m) and outstanding payables of PGK 8.8 million (USD 2.7 million). By virtue of the extent of the net operating deficit and net asset liability, FIFA ordered [Auditor 1] (hereinafter also "*the auditors*") to carry out a forensic audit with the objectives of having a complete overview on the reported revenue and appropriateness of expenditure, as well as to determine whether there has been any breach to the FIFA regulations.
16. The audit report exposed that there were several factors and limitations that led to this loss. The lack of financial resources and skills within the LOC's structure, the inadequate budget allocation, the short time for organizing the tournament, the lack of funding and the cultural customs, were all aspects that led to the final operational loss.
17. The auditors identified that unfamiliarity with the customs, traditions and ways of doing business in Papua New Guinea were not considered by the LOC's management when preparing the tournament's budget, for example, the fact that in PNG there is an expectation for the staff, and even volunteers, to be paid, fed and transported to and from work and venues.
18. The auditors also found that financial record-keeping practices were poor and several transactions had no or insufficient supporting documentation, and that the procurement and expense approval policies and procedures were generic in nature and may not have been sufficiently tailored to the LOC's individual circumstances and capabilities (particularly given the large number of cash transactions, the volume of transactions which were being processed during the tournament and the immediate and urgent need for many goods and services rather than pre-approved and planned procurement).

**b) Mr Gonjuan's role in the LOC** [Cf. Final Report p. 6]

19. Mr Gonjuan was employed by the LOC from 29 November 2015 to 28 February 2017 as the Competition Manager. His role was to oversee all venues and training sites as the most senior operations manager with little or no involvement in the financial management of the tournament.
20. Mr Gonjuan annual salary was PGK 120'000.00 (USD 36,804.00). He was entitled to four weeks annual leave. Payment was made in lieu of leave since no leave was permitted during the period of the contract. Such leave was estimated to equate to 8% of his salary. Consequently, his total remuneration was PGK 129'600.00 per year.

**2. Possible violation of art. 19 of the FCE (Conflicts of interest)**

**a) The relevant facts** [Cf. Final Report p. 6]

21. According to the documentation consulted by the auditors, [...] (hereinafter “[Company 1]”), a company owned by Mr Gonjuan, was used by the LOC as an intermediary company for paying the salaries of the people employed to weed the turfs.
22. Throughout their interviews, both Mr Gonjuan and Mr Marten justified the use of Mr Gonjuan’s company as a mechanism for paying weeders. They stated that, they faced many difficulties when paying the salaries to these employees, because most of them did not have bank accounts and requested their payments in cash. However, as FIFA regulations did not allow cash payments, they decided to use Mr Gonjuan’s company as a way to resolve this issue.
23. In an interview conducted on 4 July 2018 in the scope of the audit, Mr Gonjuan admitted being the owner of [Company 1] Furthermore, Mr Gonjuan and Mr Marten (in his interview of 5 July 2018 in the scope of the audit) both confirmed that Mr Gonjuan’s company made agreements with the LOC and received money from it, despite Mr Gonjuan being employed by the LOC.
24. Mr Gonjuan made the following most notable statements as part of his interview:

*“Interviewee: My company, I - it was a project and event management company, and we had volunteers, a number of volunteers, that needed to come and work under - they were actually with us in - with us in - what’s the other? Yeah, they were actually with us. We wanted to make - be consistent to those people, and it was impossible for us to do. That was the reason why, after having discussions with Seamus, maybe it - I could be the agent, and then we could make payment to me and I will be the delivery head of that. That was the solution why, and that was in process and we got it done.*

*We were - the volunteers were between, at times, going from 40 even up to 80 volunteers during the tournament, and it was difficult for LOC to be making individual payments in cash to them, and that was the reason why we came up with the arrangement. Yes.”*

Facilitator: *What work did they do?*

Interviewee: *They were actually weeding the grass all day. They were weeding the grass at all the different sites because the Sports Foundation people couldn’t provide those people. Even though we asked them, and again as I said, it became our burden to look after them. We had to provide meals for them, we had to provide transport if they were working late, and it was the reason why we did that to manage them, and that arrangement. Because they were - because they didn’t have any bank accounts, and all those things, and it was - that was the reason why we had to do that arrangement. Yeah. It wasn’t something that we wanted to do, but we were forced into doing it, because all those people were working under my area, they were working directly with the training sites, or at the field, or working with the [unclear] and the others, and that was the reason why we had to come up with the arrangement to be able to manage them and give them some money at the end of each fortnight.*

[...]

Facilitator: Do you know why the LOC couldn't pay these people cash themselves? Any particular reason?

Interviewee: The CEO. The CEO said FIFA didn't want [unclear – papers rustling]. We discussed how is it - how do we render that? I said, well, I don't think that's a good practice, but I can be able to manage them, and then they can - then we can be able to pay them in cash. So, I can give you an invoice, and you transfer that money to me, then I can be able to pay those people. So, that was our arrangement. Yeah.

Facilitator: Okay. Was there a management fee involved in...

Interviewee: No.

Facilitator: You just paid the cash straight across?

Interviewee: I didn't want to get in any more trouble. That's basically what it was.

[...]

Interviewee: Yes, there were some - it was - for us, it was trying to get things done and get moving because I was in charge of competitions, and venue, and especially the pitch, and all those things were very critical for TV, and very critical for FIFA, and that's why we needed to find the best way to go about getting it done. Yeah."

25. These aspects were addressed and confirmed by Mr Marten in his interview as follows:

"Facilitator 1: We did identify one company that did some work, who the current FA president, John Wesley Gonjuan.

Interviewee: Yeah.

Facilitator 1: So [Company 1]?

Interviewee: That was around labour hire?

Facilitator 1: Yes.

[...]

Interviewee: So the easiest way to explain that, those labourers were acquired late in the piece. They performed turf assistance and turf management. They were weeding, watering, helping out around the venues and training site. The majority of those employees or individuals did not have bank accounts, [typical] bank accounts, that we could transfer payments into. At that stage, we'd got into a position where petty cash expenditure was becoming more and more difficult to - especially around payment of services to individuals. So we made a decision to pay John's event company and then for him to pay those individuals directly with cash.

Facilitator 1: Do you know whether John Gonjuan charged management fees on that?

[...]

Facilitator 1: Did the money coming in essentially, into his bank account, he gave it all back to the workers, he didn't keep a cut?

Interviewee: Oh right, I couldn't tell you if he kept a cut from those individuals. I mean, from memory, he had timesheets, handwritten, hand-completed timesheets which should be their PNG salary.

[...]

Facilitator 1: Were there agreed rates for those labourers he provided?

Interviewee: Yeah, there was an agreed rate. I can't tell you - I could look through my files, I can't tell you what it is off the top of my head. But I think it was - a daily rate rather than an hourly rate."

26. The auditors found in the LOC accounting records that [Company 1] received funds totaling PGK 218,573.00 (USD 67,050.00) from the LOC. The audit report also stated that the LOC recognized [Company 1] as an outstanding payable creditor. At the time of the audit, the LOC still owed [Company 1] an amount totaling PGK 34,400.00 (USD 10,553.00).
27. Furthermore, the auditors could not find any supporting documentation as a basis for such transactions between the LOC and [Company 1] Consequently, it could not be verified whether there was any kind of remuneration established for [Company 1], which was acting as an intermediary company between the LOC and the weeders.
28. There were no payment receipts issued by [Company 1] to the employees, which would allow to verify how many people were actually working and how much money each employee received. It could not be confirmed whether the funds received by [Company 1] were actually used for its intended purpose: paying the salaries of weeders.

**b) Summary of the findings of the investigatory chamber**

29. The investigatory chamber concluded that Mr Gonjuan had a conflict of interest since his company [Company 1] provided services to the LOC while being employed by the same as Competition Manager.

**c) Evidence submitted by Mr Gonjuan**

30. In the two letters signed by [A] dated 4 June 2019 and 1 August 2019, the following most notable statements are made in relation to the relevant facts:

- During the time he was employed as Competitions and Team Services Manager for the LOC, Mr Gonjuan was not an employee of the PNGFA and had no financial powers for the LOC during the tournament;
- During the FIFA U-20 Women's World Cup Papua New Guinea 2016, a group of casual competitions workers were engaged as part of crews that were responsible for maintaining and managing the training and competitions venues for the tournament under the management of Mr Gonjuan in the Competitions and Team Services work stream. All of these engagements were short-term casual and a daily rate per person was agreed upon;
- Since the majority of the LOC employees did not have bank account details for the payment of their direct credit stipends, the combined amount (of such stipends) was paid by the LOC to [Company 1], and then in cash (by the latter) to the individual employees, as such cash form of payment is customary in Papua New Guinea;
- The LOC was discouraged from (directly) making cash salary payments in an attempt to better reflect outgoing payments matching with invoices, hence the decision to use [Company 1] as an intermediary.

**d) Legal assessment**

31. A conflict of interest arises if a person has, or appears to have, secondary interests that are suited to detract from his ability to perform his duties with integrity in an independent and purposeful manner. Secondary interests, in turn, include, but are not limited to, gaining any possible advantage for the persons bound by the FCE themselves, or related parties as defined in the FCE.
32. Article 19 par. 2 of the FCE states that officials shall avoid any situation that could lead to conflicts of interest. The provision continues explaining that conflicts of interest arise when officials have, or appear to have, private or personal interests that detract from their ability to perform their duties with integrity in an independent and purposeful manner. Private or personal interests include gaining any possible advantage for themselves, their family, relatives, friends and acquaintances.
33. As the wording of the concept refers, a conflict of interest is a situation in which a person has more than one interest and serving one of these interests could involve working against another. Where private interests conflict with official interests and responsibilities, a person could be in the position of having alternative motives, financial or otherwise, that might derive personal benefits from actions or decisions made in their official capacity.
34. Mr Gonjuan found himself in a conflict of interest situation when the company he owned - [Company 1] (as he admitted [...]) concluded agreements with the LOC to provide services as an intermediary (with the weeders). At the same time, Mr Gonjuan was employed at the LOC as a Competition Manager. As owner of [Company 1], Mr Gonjuan had obvious private economic interests at stake. Interests

that clearly could have influenced in his ability to perform his duties with respect to the LOC.

35. Finally, and according to article 6 para. 2 of the FCE, conducts shall be sanctioned whether these were acts of commission or omissions, whether committed deliberately or negligently, whether or not the breach constitutes an act or attempted act, and whether the party acted as participant, accomplice or instigator.
36. The 2016 FIFA Under-20 Women's World Cup tournament and its funding were awarded to the PNGFA and the LOC under the auspices of the Hosting Agreement, Tournament regulations, FIFA Forward Regulations, the FCE and FIFA statutes. The FCE prohibits officials from engaging in situations that could lead to conflicts of interest. Mr Gonjuan as part of the organization of the LOC, had the responsibility to respect the aforesaid regulations. He should have, therefore, refrained from using his company to provide services to the LOC.
37. Among the findings of the audit report it was mentioned that [Company 1] received funds totaling PGK 218,573.00 (USD 67,050) from the LOC, and that the LOC recognised [Company 1] as an outstanding payable creditor. Moreover, it appears that, at the time of the audit (2018), the LOC still owed [Company 1] an amount totaling PGK 34,400.00 (USD 10,553.00).
38. In this respect, the audit report is clear in stating that no supporting documentation could be found in relation to the payment of the aforementioned funds from the LOC to [Company 1] (such as an agreement stating the legal basis for such transaction).
39. Moreover, Mr Gonjuan did not bring forward any evidence as to what were the agreed provisions between the LOC and [Company 1]. In this respect, the two letters of Mr Marten mentioned previously (dated June and August 2019, meaning three years after the tournament and more than two after Mr Gonjuan's contract with the LOC ended) provide statements which cannot be verified or are not supported by written evidence.
40. In addition, the alleged reasons for the use of [Company 1] as intermediary in the payment of "stipends" to the weeders are not plausible. In particular, it cannot be explained why, on one hand the LOC could not pay the workers in cash directly (based on any kind of invoices or any other similar kind of document), and how on the other hand, [Company 1] was able to do such payments. Furthermore, as mentioned above, any understanding between the LOC and [Company 1] such as the one alleged by Mr Marten in his letters would have had to be evidenced in a document (for a variety of reasons such as filing, tax and others that would require the LOC to keep evidence of all its suppliers, service providers or intermediaries used).
41. In any case, the above discussion is irrelevant, insofar as the question at stake in the present matter is not why [Company 1] (Mr Gonjuan's company) was contracted by the LOC (where Mr Gonjuan held a senior position), but rather the fact that it was,

despite an evident conflict of interest of Mr Gonjuan, who, in his function at the LOC, was supervising and managing workers who were being paid by Mr Gonjuan's [Company 1]

42. By virtue of the abovementioned, and taking into account his position within the LOC at the respective time, Mr Gonjuan has committed a violation to article 19 par. 2 of the FCE, which explicitly provides that all official shall avoid any situation that might lead to a conflict of interest, in relation to the hiring or contracting of the company [Company 1] to provide services to the LOC.

**a) Conclusion**

43. In the light of the foregoing, the adjudicatory chamber finds that Mr Gonjuan had a conflict of interest and has therefore breached art. 19 of the FCE.

**3. Possible violation of art. 20 of the FCE (Offering and accepting gifts or other benefits)**

**a) The relevant facts** [Cf. Final Report p. 10]

44. It was identified that there is a discrepancy between Mr Gonjuan's effective salary and what was stated on the LOC's schedule. The audit report noted on the basis of his contract that Mr Gonjuan's annual salary was PGK 120,000.00 plus a PGK 9,600.00 remuneration for leave. Remuneration for leave was estimated to equate to 8% of his salary. Consequently, his total remuneration should have been PGK 129,600.00 per year. Mr Gonjuan worked for the LOC from 29 November 2015 to 28 February 2017, i.e. fifteen months.
45. Following the provisions specified in the mentioned contract, Mr Gonjuan should have received a total amount of PGK 162,000.00 for his fifteen months working for the LOC. However, accordingly to the LOC's schedule, Mr Gonjuan received PGK 227,500.00.

Annual payment of PGK 120,000.00 + 8% Remuneration for leave.

- Remuneration for leave: PGK 120,000.00 x 8% = PGK 9,600.00
- Annual salary with remuneration leave: PGK 120,000.00 + PGK 9,600.00 = 129,600.00 (per year: 12 months).
- PGK 129,600.00 / 12 months = PGK 10,800.00 per month.
- PGK 10,800.00 x 15 months= PGK 162,000.00

46. As a result, there is a difference of PGK 65,000 (USD 20,089) between what Mr Gonjuan's employment contract stated and what he received in accordance with the LOC's bonus schedule. Such difference could not be justified or substantiated by the LOC throughout the course of the audit.

47. By letters dated 29 May and 11 June 2019, the Investigatory Chamber requested Mr Gonjuan to provide a statement on the alleged discrepancies between the amounts

received. Additionally, Mr Gonjuan was requested to forward his bank statements in relation to the years 2015, 2016 and 2017. Mr Gonjuan did not respond to the mentioned requests. No explanation was provided by Mr Gonjuan justifying the receipt of an additional amount of PGK 65,000 (USD 20,089).

**b) Summary of the findings of the investigatory chamber**

48. The investigatory chamber concluded that Mr Gonjuan received an undue and unjustified economic advantage together with the existing conflict of interest in relation to his company [Company 1] providing services to the LOC which amounts to the acceptance of a gift and other benefits.

**c) Evidence submitted by Mr Gonjuan**

49. In the letter signed by Mr Marten dated 1 August 2019, the above-mentioned salary of Mr Gonjuan is confirmed. Moreover, it is alleged that, according to Mr Marten's "records", the salary for Mr Gonjuan during his last period of employment between 7 January 2017 and 28 February 2017, as well as the "bonus payment in lieu of four weeks annual leave", remained outstanding. No such "records" were provided.

**d) Legal assessment**

50. In accordance with art. 20 par. 1 of the FCE, officials may only accept gifts or other benefits to and from persons within or outside FIFA, or in conjunction with intermediaries or related parties, when such gifts a) have symbolic or trivial value; b) exclude any influence for the execution or omission of an act that is related to their official activities or falls within their discretion; c) are not contrary to their duties; d) do not create any undue pecuniary or other advantage and e) do not create a conflict of interest.
51. The amounts mentioned above do not comply with the requirements set out in art. 20 of the FCE. According to art. 20 par. 1 of the FCE, a "*gift or other benefit*" must be at stake. As detailed above, Mr Gonjuan received unjustified payments from the LOC as revealed by the audit report which uncovered a difference of PGK 65,000 between what Mr Gonjuan's employment contract stated and what was received in from the LOC's bonus schedule.
52. In this respect, the Panel would like to stress that the letter of Mr Marten only refers to his "records", without enclosing such, or any other supporting document to support the allegation that part of Mr Gonjuan's salary (and "bonus") remained outstanding. Therefore, the probative value of such letter rests entirely on Mr Marten's word. On the other hand, the findings of the audit report, according to which Mr Gonjuan received an excess amount of PGK 65,500, are based on LOC documents (LOC's schedule) that are enclosed to the report, and therefore can be considered as having a high probative significance.
53. The adjudicatory chamber points out that this involves a pecuniary or any other advantage, *in casu*, an economic betterment or advancement. In particular, taking

into account the total amounts involved, the benefits concerned are clearly not of a merely symbolic or trivial value. Furthermore, an advantage is to be considered undue if it has no proper basis, leading to the recipient not being entitled to obtain it. Given the context of “*conflict of interest*” discussed above, such additional financial benefits do not comply with art. 20 par. 1 e) either.

54. Mr Gonjuan never provided a statement or justification for the discrepancy. Without a proper justification for receiving a further benefit of PGK 65,000 (USD 20,089), it cannot be assessed whether the benefit has a justification, nor can it be evaluated whether this additional benefit meets the criteria established in art. 20 para. 1 of the FCE.
55. Overall, the adjudicatory chamber concludes that the amounts received by Mr Gonjuan were undue within the meaning of art. 20 of the FCE. The adjudicatory chamber in arriving at its conclusion has taken into account the absence of any clarification and justification from Mr Gonjuan, despite this having been clearly requested for by the adjudicatory chamber.

#### **e) Conclusion**

56. In view of the above considerations, the adjudicatory chamber concludes that Mr Gonjuan accepted substantial benefits that did not meet the criteria set out in art. 20 par. 1 of the FCE and were therefore prohibited. Thus, Mr Gonjuan is found to have breached art. 20 par. 1 of the FCE.

#### **4. Possible violation of art. 13 (General duties), 15 (Duty of loyalty) and 18 (Duty to cooperate) of the FCE**

57. With regard to the obligations set forth in art. 13 (General rules of conduct), art. 15 (Loyalty) and art. 18 (Duty to cooperate) of the FCE, the adjudicatory chamber is of the opinion that Mr Gonjuan's conduct clearly falls short of the ethical standards provided by those articles of the FCE as stated above.
58. Notwithstanding the foregoing, bearing in mind that the relevant conduct took place within the same context, the adjudicatory chamber considers that the relevant conduct (which is in breach of arts. 13, 15 and 18 of the FCE) is sufficiently covered by the provisions of arts. 19 and 20 of the FCE, for the violation of which Mr Gonjuan has already been found guilty.
59. In the light of the aforementioned, any further legal considerations in this respect are redundant.

#### **5. Overall conclusion**

60. Taking the above considerations into account in their entirety, the adjudicatory chamber is comfortably satisfied to conclude that Mr Gonjuan has violated the following provisions of the FCE:

- Art. 13 (General duties);
- Art. 15 (Duty of loyalty);
- Art. 18 (Duty to cooperate);
- Art. 19 (Conflicts of interest);
- Art. 20 (Offering and accepting gifts or other benefits).

61. Nevertheless, as explained above, the adjudicatory chamber considers that the conduct incriminated by arts. 13, 15 and 18 of the FCE are included/assimilated in the content of arts. 19 and 20 of the FCE.

## **F. Sanctions and determination of sanctions**

62. Firstly, the adjudicatory chamber wishes to emphasize that officials must behave honestly, worthily, respectably and with integrity. Officials must refrain from behaviour or actions that might so much as taint those principles or objectives. In view of such maxim of good governance, it is evident that in exercising his functions at the LOC and the PNGFA, Mr Gonjuan disregarded those ethical principles for the sole purpose of obtaining benefits for himself.

63. As a Vice-President of the PNGFA and an LOC Competition Manager, Mr Gonjuan held a significant position in association football at a national level. As such, he had a special responsibility to serve as a role model. Yet, his conduct revealed a pattern of disrespect for core values of the FCE, violating the principles of conflicts of interest and accepting gifts and other benefits with regard to the PNGFA and the LOC. In addition, no acts of mere negligence are at stake here but deliberate actions (see art. 6 par. 2 of the FCE) which involved private and personal interests (financial benefits) for himself. In view of these findings, the official's degree of guilt must be regarded as serious.

64. The adjudicatory chamber further notes the absence of remorse or confession during the present proceedings (in the scope of which Mr Gonjuan failed to provide any position). Furthermore, Mr Gonjuan has not showed any intention to repay the abovementioned misappropriated amounts to the PNGFA or the LOC.

65. In view of all these circumstances, Mr Gonjuan's degree of guilt must be regarded as serious.

66. With regard to the type of sanction to be imposed on Mr Gonjuan, the adjudicatory chamber deems – in view of the serious nature of his misconduct – that only a ban on taking part in any football-related activity would be appropriate in view of the inherent, preventive character of such sanction in terms of potential subsequent misconduct by the official. In the light of this, the adjudicatory chamber has chosen to sanction Mr Gonjuan by banning him 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).

67. With regard to the scope and duration of a ban (see art. 9 par. 2 and 3 of the FCE), the adjudicatory chamber points out that both art. 19 par. 4 of the FCE (conflicts of interest) and art. 20 par. 3 (offering and accepting gifts or other benefits) establish a (general) maximum ban duration of two years for the respective violations, as well as a more extensive maximum limit of five years in serious cases and/or in the case of repetition. Moreover, art. 11 of the FCE foresees that, where more than one breach has been committed, the sanction other than monetary sanctions shall be based on the most serious breach, and increased up to one third as appropriate, depending on the specific circumstances.
68. In the present case, the Panel considers that, while both breaches (of arts. 19 and 20 of the FCE) are important and unacceptable, the principal violation committed by Mr Gonjuan was that of the receipt of benefits (art. 20 of the FCE), in particular taking into account the amount of the respective unjustified benefits.
69. In view of the above, and in accordance with the content of art. 20 par. 3 and art. 11 of the FCE, the adjudicatory chamber concludes that the appropriate sanction for Mr Gonjuan's respective breach is a ban for a duration of two years and eight months. In accordance with art. 42 par. 1 of the FCE, the ban shall come into force as soon as the decision is communicated.
70. 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 Mr Gonjuan adequately, in particular since a personal financial motive and gain were involved. Mr Gonjuan made significant profits by his conduct. Hence, the adjudicatory chamber considers that the ban imposed on Mr Gonjuan should be completed with a fine.
71. 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. 6 par. 4 of the FDC). In the case at hand, taking into account the amount of the benefits received by Mr Gonjuan and the various circumstances mentioned above, the adjudicatory chamber determines that a fine of CHF 50,000 would be proportionate.
72. In conclusion, Mr Gonjuan is hereby banned for two years and eight months from taking part in any football-related activity (administrative, sports or any other) at national and international level. The ban shall come into force as soon as the decision is communicated (art. 42 par. 1 of the FCE). In addition, Mr Gonjuan shall pay a fine of CHF 50,000.

## **G. Procedural costs and procedural compensation**

73. The procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings (art. 54 of the FCE). As a principle, procedural costs shall be borne by the party that has been sanctioned (cf. art. 56 par. 1 of the FCE).

74. In the light of the above, the adjudicatory chamber rules that Mr Gonjuan shall bear the procedural costs, and that in the present case, the costs and expenses of the investigation and the adjudicatory proceedings add up to [...].
75. According to art. 57 of the FCE, no procedural compensation shall be awarded in proceedings conducted by the Ethics Committee. Consequently, Mr Gonjuan shall bear his own legal and other costs (if any).

### **III. has therefore decided**

1. Mr John Wesley Gonjuan is found guilty of an infringement of art. 19 (Conflicts of interest) of the FIFA Code Ethics in relation to a conflict of interest with a company owned by Mr Gonjuan, as well as of art. 20 (Offering and accepting gifts or other benefits) of the FIFA Code Ethics, in relation to the receipt of an unjustified amount in 2016 connected to his role as an official of the FIFA U-20 Women's World Cup Papua New Guinea 2016.
2. Mr John Wesley Gonjuan is hereby banned for a period of two years and eight months from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) 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. Mr John Wesley Gonjuan shall pay a fine in the amount of CHF 50,000 within 30 days of notification of the present decision. Payment 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. 18/2019 (E19-00010)*" in accordance with art. 7 let. e) of the FIFA Code of Ethics.
4. Mr John Wesley Gonjuan shall pay costs of these proceedings in the amount of [...] within 30 days of notification of the present decision, which shall be paid according to the modalities stipulated under point 3. above.
5. Mr John Wesley Gonjuan shall bear his own legal and other costs incurred in connection with the present proceedings.
6. This decision is sent to Mr John Wesley Gonjuan. A copy of the decision is sent to the Oceania Football Confederation (OFC), the Papua New Guinea Football Association (PNGFA) and to the chief of investigation, Mr Martin Ngoga.

**LEGAL ACTION:**

In accordance with art. 82 par. 1 of the FCE and art. 58 par. 1 of the FIFA Statutes, this decision can be appealed against to the Court of Arbitration of Sport ("CAS") in Lausanne, Switzerland ([www.tas-cas.org](http://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



Vassilios Skouris  
Chairperson of the Adjudicatory Chamber  
of the FIFA Ethics Committee