

**BEFORE THE DISCIPLINARY COMMISSION
OF THE GYMNASTICS ETHICS FOUNDATION**

IN THE MATTER OF

Ms. Ning Ya Kuo (TPE)

Regarding Ms. Kuo's conduct at the 2019 RG Asian Championships in Pattaya, Thailand

GEF Disciplinary Commission: Ms. Michelle Duncan, President
Ms. Kate Gallafent QC, Member
Mr. Maximilien Lehnen, Member

A. Alleged Violations

1. On 7 August 2019 the FIG filed a complaint with the Gymnastics Ethics Foundation ("GEF") regarding Ms. Ning Ya Kuo ("**Ms. Kuo**"), a rhythmic gymnastics coach from Chinese Tapei (the "**Complaint**"). The GEF referred the matter to us on 22 August 2019.
2. The Complaint alleges that Ms Kuo:
 - a. Breached the FIG Technical Regulations, Art.7.12.1, the Coaches Oath by failing to respect and abide by the rules and violating the principles of sporting justice, ethics and honesty;
 - b. Breached the FIG Code of Ethics (art. 1) by violating the principle of respect and human dignity;
 - c. Breached the FIG Code of Discipline (art. 3) by (i) damaging the image of gymnastics, the FIG or its members through her behaviour, (ii) demonstrating anti-sport behavior, and (iii) behaving in an offensive way towards FIG members, gymnasts or FIG officials;
 - d. Breached the FIG Code of Conduct (part 5) by (i) violating the General Principles and the Principles of Integrity and Respect, (ii) Violating Part 5 (Coach Specific Principles);

- e. Breached the IOC Athletes Rights and Responsibilities Declaration (point 7) by not providing protection of mental and physical health, including a safe competition and training environment and protection from abuse and harassment; and
- f. Breached the Policy and Procedures for safeguarding and protecting participants in gymnastics by using non-accidental violence multiple times.

B. Factual Background

3. Ms Kuo is a rhythmic gymnastics coach from Chinese Taipei. She has been coaching for 16 years having previously been a gymnast. She has a first level coaching certificate. She has attended annual coaching courses but has had no training on safeguarding of the protection of children and has had no training on coaching children. She is not aware of, let alone familiar with, the IOC declaration regarding the rights and responsibilities of athletes.
4. The 2019 Asian Championships in Rhythmic Gymnastics took place in Pattaya, Thailand from 20-23 June 2019 (the “**Event**”). Ms Kuo attended the Event as a member of the delegation from Chinese Taipei. She was registered as coach of the senior group from Chinese Taipei (the “**Group**”). The Group competed in the senior group competition on 20, 21 and 23 June 2019. They performed two new routines as Ms Kuo had decided to change both Group’s routines following the World Challenge Cup event in Guadalajara in early May 2019. One routine had new choreography and music; the other routine had new choreography with re-mixed music. On 20 June the Group performed their routine with 5 balls in the all-around competition but did not qualify for the final. On 21 June they performed their routine with hoops/clubs in the all-around competition and qualified for the final. The Group did not compete on 22 June 2019 as they had not qualified for the final with 5 balls. On 23 June 2019 they participated in the final for hoop/clubs where they placed seventh.
5. On 22 June 2019, a video was posted on YouTube recording an incident involving Ms Kuo and the Group (the “**First Video**” or the “**First Incident**”). On 24 June 2019 a second video was posted recording an incident involving Ms Kuo and one member of the Group, subsequently identified as Ms Lo (the “**Second Video**” or the “**Second Incident**” and together the “**Incidents**”).
6. The First Video was taken some time after the group competition on 21 June 2019. It records an incident that took place on the sand outside the competition venue. In the First Video Ms Kuo is seen pushing each member of the Group, following which she pushes one gymnast, Ms Lo, a second time and pulls her by her hair on to the sand.
7. The Second Video was taken in the warm-up area of the competition venue after the hoop/clubs final. It shows Ms Kuo walking up to Ms Lo and over a period of 45 seconds slapping her across the face five times. Ms Kuo became aware of the Videos on 24 June 2019 shortly before the team departed Pattaya. The FIG were made aware of the videos at around the same time.

8. The Chinese Taipei Gymnastics Association (“CTGA”) commenced an investigation into the Incidents in late June 2019. On 26 June 2019 the CTGA Technical Committee met to discuss the Incidents. We were not provided with any report or documents regarding that meeting despite having requested a full copy of the CGTA file.
9. On 27 June 2019, the CTGA Disciplinary Committee (“CGTA DC”) held a hearing. We have been provided with the transcript of the committee’s discussion together with letters of declaration from the Group and their parents but no other documents from that hearing or the CGTA’s investigation. The letter from the Group states that *“this incident was provoked due to our improper demeanour toward training and thus resulted in conflict with the coach”* and that they *“entirely accept the training methods instructed by the coach”*. The letter from the gymnasts’ parents stated that they *“fully understand the coach’s behaviour and accept the continuance of her coaching position for the team. Love well whip well”*. The letter from the Group indicated that they wanted Ms Kuo to coach them at the University Games which were due to take place in July 2019.
10. The transcript of the hearing before the CTGA DC records that the CGGA TC resolved to suspend Ms Kuo from coaching the national representative team and from national rhythmic gymnastics competitions for one year and that she was to provide a statement of repentance. At some point thereafter, although the decision was apparently not recorded in writing as it was not provided to us, the CTGA decided to delay the starting date of Ms Kuo’s suspension until 1 August 2019 so that she could attend the University Games with the Group. The University Games took place from 11-13 July 2019. The Group participated with Ms Kuo as their coach and placed fourth.
11. On 29 July 2019 the CGTA wrote to the FIG regarding Ms Kuo. That letter stated that the CGTA had conducted an investigation and a disciplinary committee and that the gymnasts and their parents *“expressed understanding and full support”* for Ms Kuo. The letter claimed that, Ms Lo’s mother had authorized Ms Kuo to carry out the necessary discipline *“should the gymnast expresses inappropriate behavior or attitude”* and that *“in this case the gymnast showed bad attitude to the coach during a training session in Thailand”*. It is evident from the CTGA letter that the CTGA had neither seen and/or disciplined Ms Kuo in relation to the Second Incident.
12. On 1 September 2019 the CGTA wrote to the Director of the GEF. In that letter the CGTC stated that 4 meetings had already been held in relation to the Incidents – (i) a hearing before the CGTA on 26 June 2019 at which Ms Kuo admitted that she hit Ms Lo on 2 occasions during the Event and apologized for her behaviour, (ii) the CGTA DC hearing on 27 June at which Ms Kuo was banned from all Taiwanese competitions for 12 months, (iii) a hearing and disciplinary meeting held by the Department of Sports of Taoyuan City Government on 5 August 2019 at which Ms Kuo was given an oral warning and assigned a tutor to evaluate her performance for at least one year, and (iv) a coach evaluation meeting by the College Affairs Council of the National Taiwan Sport University on 21 August 2019 at which Ms Kuo received an oral warning. In addition the CGTA explained that they had hosted a press conference on 27 June 2019 at which Ms Kuo apologized for damaging the image of gymnastics. The CGTA claimed that this *“was also considered a severe form of punishment to Ms Kuo”*. The CGTA also

stated that at the 26 June 2019 hearing the parents of the gymnasts had refused to accept that the CGTA should punish Ms Kuo and further that the gymnasts had expressed a wish for Ms Kuo to continue as their coach.

13. The hearing took place at the FIG's offices in Lausanne on Monday 11 November 2019. Ms Kuo attended the hearing together with Professor Dr. Kai-Li Wang, who acted as interpreter. FIG President, Watanabe Mori and FIG Secretary General, Nicolas Buompane attended the hearing on behalf of the FIG. Alex McLin, acting Director of the Gymnastics Ethics Foundation ("GEF") also attended the hearing. During the hearing we questioned Ms Kuo about the Incidents and heard oral evidence from Ms Kuo. We also heard oral submissions on behalf of the FIG.

C. Factual Findings

14. In order to determine the charges against Ms Kuo we have reviewed the First Video and the Second Video, the written explanation received from Ms Kuo on 9 October 2019, the letters received from the CTGA on 29 July 2019 and 1 September 2019 and the oral evidence given by Ms Kuo during the hearing on 11 November 2019.
15. We have no hesitation in finding that Ms Kuo physically abused the members of the Group on 21 and 23 June 2019. The evidence on this is as follows:

First Incident

16. The First Video clearly shows Ms Kuo pushing each member of the Group, then pushing Ms Lo a second time and pulling her to the sand by her hair. In her written explanation of the First Incident and also during the first part of the hearing, Ms Kuo claimed that the First Incident had been provoked by the Group's poor performance during the competition that day and the gymnasts' bad attitude towards her when she asked them to practice those parts of the exercise in which they had made mistakes and to explain what had gone wrong during the competition. According to Ms Kuo, the gymnasts behaved passively and continued to make mistakes. Further, Ms Lo would not answer Ms Kuo's question about what had gone wrong during the competition and showed "*attitude of provoke*" which caused Ms Kuo to send the Group outside to do fitness training. Ms Kuo stated that the gymnasts' bad attitude continued when they went outside and that this had made her angry.
17. Ms Kuo acknowledged that she had pushed each of the gymnasts very hard. However she denied that she had pushed Ms Lo a second time or that she had pulled her to the ground by her hair. During the first part of the hearing Ms Kuo claimed that she pulled Ms Lo's hair in an attempt to turn her around to face her but that Ms Lo lost her balance and fell down. Ms Kuo said that she had held Ms Lo's hair to stop her falling heavily when she lost her balance. Kuo initially claimed that Ms Lo "*jumped up*" when asked to stand up, but the video indicates that she sat up and continued sitting for a little time. Following a short break in the hearing Ms Kuo changed this part of her story and claimed

that Ms Lo had jumped backwards when Ms Kuo went to push her as “*she does not like to be touched*”.

18. Ms Kuo’s changing explanation of the circumstances in which she pulled Ms Lo onto the sand by her hair is clearly an invention. The First Video provides compelling evidence of Ms Kuo’s conduct and her repeated denial of what is clearly seen on the First Video and her suggestion that she was trying to prevent Ms Lo from hitting her head on the sand, are risible.
19. Ms Kuo told us that following the First Incident, the Group returned to the competition venue, collected their belongings and returned to their hotel on a shuttle bus, while Ms Lo returned to the hotel alone on a separate bus. According to Ms Kuo, this is because Ms Lo walked rather than jogged back to the venue and was therefore behind the remainder of the Group who did not wait for her. Ms Kuo did not go to dinner with the Group and did not see or speak to Ms Lo that evening. In the first part of the hearing she claimed that she did not go to dinner as she does not eat dinner. However she said that she spoke to 2 members of the Group after dinner and asked them whether Ms Lo had returned to the hotel. Apart from this conversation Ms Kuo has no discussion with the Group that evening and did not discuss the First Incident with them. Following the break in the hearing, Ms Kuo changed her story slightly. She claimed that she did not go to dinner with the Group because she knew they would be angry with her and felt that it was better to leave them alone.
20. The Group did not compete on 22 June 2019. They did some basic training at their hotel following which they watched the competition. Ms Kuo did not speak to Ms Lo regarding the First Incident on 22 June 2019.

Second Incident

21. The Second Incident occurred soon after the Group had competed, unsuccessfully, in the hoop/clubs final on 23 June 2019. They made a number of mistakes during their performance. Before the Group competed, Ms Kuo had spoken to the gymnasts and asked them to have a good attitude and to do their best. She did not speak directly with Ms Lo.
22. The Second Video clearly shows Ms Kuo slapping Ms Lo across the face a total of 5 times in a 45 second period, pausing before each slap.
23. Ms Kuo did not deny that she slapped Ms Lo across the face. In her written statement, Ms Kuo stated she had only slapped Ms Lo once. She claimed, in her written explanation and at the hearing that she had done so because Ms Lo would not answer when asked to explain what had happened during the competition and showed an attitude of “*provoke*”. During the hearing, when shown the Second Video which clearly shows Ms Lo being slapped 5 times, Ms Kuo claimed that she had not seen the Second Video before the hearing and that her written statement was based on a conversation she had had with Ms Lo who, so she claimed, told her that she had only slapped her once.

24. We find it difficult to believe that Ms Kuo did not see the Second Video before preparing her written statement. Her evidence was that at the 26 July 2019 meeting the CETG had spoken about two videos so she knew that there were two incidents involved, but she did not watch either of them at that time. Links to both videos were then provided in the GEC's complaint letter of 9 August 2019. Ms Kuo told us that she had not seen the Complaint, but we find that equally difficult to accept given the potential seriousness of the consequences for her were it to be upheld. On the other hand, if she in fact didn't see the Complaint, or the Second Video at any time prior to attending the hearing on 11 November 2019, this shows a complete disregard for the disciplinary process.
25. When asked how it was possible to have forgotten slapping an athlete five times Ms Kuo told us that it was *"because it was an unhappy memory, both she and the athlete didn't want to recall this memory"*. We find this suggestion completely incredible.

D. Conclusion

26. Ms Kuo's conduct, as clearly evidenced in the First and Second Videos was shocking and unacceptable. Leaving aside the physical abuse and violence that can be clearly seen in the First and Second Videos, Ms Kuo's behaviour and her response to the Complaint and the Incidents' generally is disturbing in a number of respects:
 - a. Ms Kuo repeatedly failed to acknowledge, and it appeared that she did not even appreciate, that her behaviour was unacceptable. When asked to comment on whether her behavior was acceptable, all she was able to say initially was that she felt *"sad"*. It was clear to us that Ms Kuo any sadness felt by Ms Kuo was due to the fact that she was being disciplined rather than any remorse or regret at the way in which she had behaved.
 - b. Although the Complaint which we have to determine only involves the two Incidents we believe it is highly likely Ms Kuo had previously subjected the members of the Group to physical and mental abuse and harassment and that the Incidents were not isolated events. As to this we note that none of the other members of the Group reacted at all when Ms Kuo pulled Ms Lo to the ground during the First Incident, none of the other members of the Group waited to check that Ms Lo returned safely to the competition venue after the First Incident and none of them waited at the venue to accompany back to the hotel. Similarly, two days later the Second Video records them as remaining motionless and silent while the slapping of Ms Lo takes place. There were a number of other gymnasts, coaches and officials in the area at the time, all of whom would have witnessed the Second Incident.
 - c. The letters that the CTGA received from the gymnasts and their parents and the CTGA's letters of 29 July and 1 September also suggest that discipline, in the form of physical violence was accepted. The CGTA's statement that Ms Lo's mother had authorized Ms Kuo to *"discipline"* her daughter and the statement in the parents' letter to the CTGA that they fully accept Ms Kuo's training methods (*"love well whip*

well”) all point to violent behaviour being a regular feature of Ms Kuo’s coaching. We also note Ms Kuo’s evidence that she never had any discussion with Ms Lo’s mother authorizing her to use ‘necessary discipline’ should Ms Lo express inappropriate behavior or attitude, despite the statement before the CGTA.

- d. Further, Ms Kuo showed no remorse. Although in her written statement Ms Kuo claimed to have apologized to Ms Lo and her mother she did say how or in what form the alleged apology occurred. Based on Ms Kuo’s evidence during the hearing it is clear that no apology was made immediately following the Incidents.
 - e. Ms Kuo’s attempts to explain her action in pulling Ms Lo on to the sand by the hair do not bear scrutiny and were clearly contrived in a hopeless attempt to justify her behavior. It was clear to us that Ms Kuo changed her story during the break in the hearing after it became clear to her that her previous explanation - that she had pulled Ms Lo’s hair in an effort to turn her around - was clearly untrue when viewed against what is clearly seen on the First Video.
 - f. Ms Kuo displayed no regard or care for the physical or mental wellbeing of Ms Lo or the other members of the Group. She did not apologise to Ms Lo (or any other member of the Group) immediately after either Incident and she did not discuss either Incident with the Group. On the contrary, at least in relation to the First Incident, she avoided having any discussion with the Group through her non-appearance at dinner on the evening of the First Incident. Further, she allowed Ms Lo, who she has coached for 15 years and who she has apparently treated as a daughter since the death of her father, to return to the hotel alone after the First Incident and failed to check that Ms Lo had safely returned until some time later that evening. Ms Kuo’s conduct was mentally as well as physically abusive.
 - g. Ms Kuo’s efforts to diminish the gravity of her conduct by referring to the Group’s bad and “*provoke*” attitude and Ms Lo’s refusal to look at her is extremely unprofessional. In no circumstances could physical assault be justified on the part of a coach however provocative the attitude of the athletes. Moreover, Ms Kuo failed to take any responsibility for her own part in creating the mood in the Group in circumstances where she had changed both their routines so fundamentally just 6 weeks prior to the Event, and it was extremely unlikely that they would be able to perform to their best abilities as a result.
27. We were concerned to learn during the hearing that Ms Kuo has continued to coach notwithstanding the suspension imposed by the CTGA. The fact that Ms Kuo is still coaching, including primary school children, suggests that neither Ms Kuo nor the CGTA have taken the Incidents seriously or have any real appreciation or understanding that Ms Kuo’s behavior was unacceptable.
28. The FIG Technical Regulations, the Code of Discipline, the Code of Ethics, the Code of Conduct, the Policy and Procedures for safeguarding and protection participants in

gymnastics from non-accidental violence and the IOC declaration of Athletes Rights and Responsibilities, all of which apply to and are binding upon Ms Kuo, require that anyone involved in the sport of gymnastics must act and be seen to be acting in an ethical, sportsmanlike and non-violent manner. Every gymnast is entitled to participate in the sport of gymnastics without suffering or being subject to the threat of suffering any form of mental or physical abuse. Any individual involved in gymnastics who fails to act in accordance with these rules and regulations damages the image of gymnastics both in the eyes of the public and, importantly, in the eyes of the gymnasts, coaches and other judges, upon whose continuing participation the sport of gymnastics and therefore the future of the FIG is dependent.

29. The fact that the Incidents occurred at all is disturbing but in this case the very serious nature of the Incidents is exacerbated by (i) Ms Kuo's repeated refusal to accept or acknowledge that her behaviour was unacceptable and to seek to blame the Group, in particular Ms Lo, for her conduct; (ii) Ms Kuo's changing story regarding the First Incident; (iii) Ms Kuo's blatant disregard for Ms Lo's welfare on the evening of 21 June 2019 when she left her to return to the team hotel alone following the First Incident and only checked that Ms Lo was safely back at the hotel later that evening by speaking with 2 other group gymnasts; and (iv) the fact that the Incidents occurred in full sight of coaches, other gymnasts and members of the public thus causing material damage to the image of gymnastics and bringing the sport into disrepute.
30. We find that Ms Kuo failed to act in an ethical, sportsmanlike and non-violent manner and a breach of the Coaches Oath, Articles 1c) and d) of the Code of Ethics, Articles 3.4, 3.5, 3.10 and 3.11 of the Code of Discipline, Part 5 of the Code of Conduct, part 7 of the IOC Athletes Rights and Responsibilities Declaration and the FIG Policy and Procedures for Safeguarding and protecting participants in gymnastics by using non-accidental violence multiple times.
31. We have determined that Ms Kuo's conduct merits a very serious sanction. Although we note that the Group apparently wish Ms Kuo to continue to coach as their coach, we have concluded that Ms Kuo's repeated violent behaviour and her failure to comprehend that the way she behaved is not acceptable are so serious that they override the apparent wishes of the Group. In reaching this conclusion we have also taken into account that Ms Kuo has continued to coach, including primary school children, notwithstanding the sanction imposed by the CTGA DC.
32. In our view the sanction imposed by the CTGA DC is far too lenient (and, indeed, was apparently only based on one of the incidents). We impose a ban on Ms Kuo from participating in any FIG activities or international events until 1 January 2025.
33. We do not consider it is in the interest of gymnastics for Ms Kuo to coach at any level, in particular primary school level, until she has undertaken training in relation to good practice relating to behavioral awareness and the safeguarding of children and young persons and undergone a period of monitoring. Based on Ms Kuo's evidence and demeanour during the hearing, we are skeptical that she would benefit from any training,

but nevertheless consider that she should be given a final opportunity to demonstrate that she has remedied the significant deficiencies in her coaching practice.

E. Position of the CTGA

34. The conduct of the CTGA must also be mentioned. As to this:

- a. The CGTA appear to only have investigated the First Incident. Neither their letter of 29 July 2019 nor the transcript of the disciplinary proceedings nor the letters from the Group or their parents make any reference to the Second Incident. The CGTA's failure to refer to and deal with the Second Incident has not been explained and is inexcusable;
- b. Also inexcusable is the CGTA's decision to postpone Ms Kuo's suspension until after the University Games. It is evident from the decision to postpone Ms Kuo's suspension that the CGTA's wish to obtain a good result at the University Games overrode their concern, if any, for the welfare of the Group. Further, it appears that Ms Kuo's suspension has not been fully enforced and/or policed – Ms Kuo informed us at the hearing that she is still coaching, including primary school children.
- c. A further concern is the CTGA's suggestion in their letter of 1 September 2019 that Ms Kuo's behavior was excusable or explicable because the Group's parents had allegedly authorized her to discipline their daughters. Even if this were true, the CTGA as a member of the FIG and subject to the FIG rules and regulations (i) is or should be aware that all forms of non-accidental violence are unacceptable and will not be tolerated, and (ii) is obliged to ensure that Ms Kuo complied with the FIG rules and regulations and any disciplinary measures were carried out in accordance with the FIG rules and regulations.

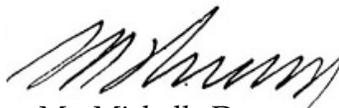
35. In our view these are all matters which should be assessed by the Gymnastics Ethics Foundation Compliance Section and/or referred to the Director of the Gymnastics Ethics Foundation for further action and we are therefore providing a copy of this decision to it in order for that assessment to be carried out.

For all the above reasons, the GEF Disciplinary Commission decides as follows:

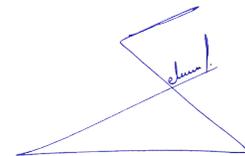
1. Ms Kuo is excluded, pursuant to Article 43.2(e) of the FIG Statutes, from participating in any FIG activities and other international events until 1 January 2025.
2. Ms Kuo is ordered (i) to undertake training in relation to good practice relating to behavioral awareness and the safeguarding of children and young persons, to be arranged and supervised by the Chinese Taipei Gymnastics Association during the period of her exclusion, and a report on which to be sent to the FIG and the Gymnastics Ethics Foundation by the Association and (ii) commencing on 1 January 2025, to undergo a 12 month period of monitoring by a person appointed by the Chinese Taipei Gymnastics Association, and a report on which to be sent to the FIG and the Gymnastics Ethics Foundation by the Federation.
3. Ms Kuo is ordered to pay the GEF's costs of these proceedings.
4. This decision is to be published in the FIG Bulletin and on the FIG website.

Lausanne, 20 December 2019

The FIG Disciplinary Commission



Ms. Michelle Duncan
President



Mr Maximilian Lehnen
Member



Ms. Kate Gallafent QC
Member