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WBSC

WORLD
BASEBALL SOFTBALL
CONFEDERATION

Game Time!

Executive Board Extraordinary Meeting

By videoconference
22nd July 2023

Minutes

WBSC Executive Board Extraordinary Meeting

By videoconference

22nd July 2023

AGENDA

1. Welcome
2. Roll call
3. To consider and decide on the Report and Recommendation dated 15 July 2023 of the Independent Person on the appeal dated 24 March 2023 of the Appellant against the decision issued on 28 February 2023 by the WBSC Europe Executive Board in the disciplinary proceedings against the Appellant.
4. Adjournment

ATTENDANCE

Present (13/16):

President:	Mr. Riccardo Fraccari
Vice President:	Ms. Beatrice Allen
Vice President:	Mr. Willi Kaltschmitt
Vice President:	Mr. Luís Mejía
Executive VP – Baseball:	Mr. Jeffrey Koo Jr.
Executive VP – Softball:	Mr. Craig Cress
Secretary General:	Dato' (Ms.) Beng Choo Low
Treasurer:	Mr. Angelo Vicini
Member At-Large:	Mr. Ronald Finlay
Member At-Large:	Mr. Paul Seiler
Member At-Large:	Ms. Taeko Utsugi
Member At-Large:	Mr. Gabriel Waage
Athletes' Rep. – Baseball:	Ms. Ayako Rokkaku

Excused:

Athletes' Rep. – Baseball:	Mr. Randolph Oduber
Athletes' Rep. – Softball:	Mr. Cole Evans
Athletes' Rep. – Softball:	Ms. Monica Abbott

In attendance, also:

Mr. Michael Schmidt, Executive Director
 Ms. Karen Gaunt, Member of the WBSC Legal Commission
 Mr. Vincenzo La Rocca, Member of the WBSC Legal Commission
 Ms. Akiko Ito, Japanese interpreter
 Mr. Chris (Chien Fan) Day, Chinese interpreter

WBSC Staff Members:

Mr. Marco Ienna, COO
 Ms. Amy Park, Integrity Unit liaison
 Mr. Victor Isola, Executive Assistant to the President

By Invitation:

Mr. Alexander McLin	Independent Member
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1. **WELCOME**

- 1.1 President Fraccari called to order this 22 July 2023, WBSC Executive Board (EB) Extraordinary Meeting at 14:00 (Lausanne time). He welcomed all the attendees and explained that this Extraordinary Meeting was called to specifically discuss and decide urgently on the matter listed on the Agenda for this meeting.
- 1.2 He informed the Executive Board (EB) Members that the Independent Person, namely, Mr. Alexander McLin, appointed by the EB for investigation and conduct of the matter has been invited to brief the EB on his report and to explain his conclusions and recommendation, as well as to respond to questions from the EB Members.

2. **ROLL CALL**

- 2.1 Secretary General Low completed the Roll Call as per the attendance list above and confirmed that there was a quorum for this Meeting to proceed.

3. **TO CONSIDER AND DECIDE ON THE REPORT AND RECOMMENDATION DATED 15 JULY 2023 OF THE INDEPENDENT PERSON APPOINTED BY THE WBSC EXECUTIVE BOARD TO CARRY OUT THE INVESTIGATION AND CONDUCT OF THE APPEAL DATED 24 MARCH 2023 OF THE APPELLANT AGAINST THE DECISION ISSUED ON 28 FEBRUARY 2023 BY THE WBSC EUROPE EXECUTIVE BOARD IN THE DISCIPLINARY PROCEEDINGS AGAINST THE APPELLANT**

- 3.1 President Fraccari recapped the following as regards the matter:
 - 3.1.1 The subject matter was an appeal on 24 March 2023 to the WBSC by the Appellant against the decision issued by WBSC Europe Executive Board on 28 February 2023.
 - 3.1.2 The following relevant documents were sent to all EB members before this meeting:
 - (i) The Report and Recommendation dated 31 January 2023 made by the WBSC Europe Panel appointed to investigate the complaint by the Complainant.
 - (ii) The Report and Findings dated 28 February 2023 by the WBSC Europe Executive Board.
 - (iii) The Report and Recommendation dated 15 July 2023 by the Independent Person, Mr. McLin.

- (iv) A document prepared by the Attorney-at-Law for the Appellant dated 17 July 2023.
- (v) A response from Mr. McLin to the document prepared by the Attorney-at-Law for the Appellant under cover of an email dated 20 July 2023.

3.2 President Fraccari then invited the Independent Person, Mr. McLin, into the Meeting (online) to brief the EB Members.

[The Independent Person, Mr. Alexander McLin, joined the Meeting online]

3.3 Mr. McLin informed the EB Members that his Report dated 15 July 2023 had been sent to the WBSC and should have been received by the EB Members. He stated that he wanted to add some comments to explain the nature of the process to the current stage and the reasons for his findings in the Report. He stated as follows:

- 3.3.1 The process was one run by the WBSC Europe which, for most part, was done well.
- 3.3.2 However, there was one procedural point that was problematic in that the Appellant was not notified early enough in the process. But as stated in his Report, he concluded that he did not consider that particular procedural issue to be one of such nature that it could not be remedied.
- 3.3.3 In his view, in fact, it was remedied by the due process in the appeal process in which the Appellant and his legal representatives had the ability and opportunity to review the entire file, including the complaints that had been submitted and the testimony of witnesses in the first instance. He stated that process was, in his view, thorough.
- 3.3.4 He thanked WBSC for having provided him the additional time as it was important for the process not to be rushed and for all of those who needed to be heard, to be adequately heard. He said that from his perspective, that was the case.
- 3.3.5 As may be read from his Report, aside from that procedural issue that was raised, the main point was really one of assessment of the evidence, which by its very nature, consisted of the two personal accounts of the two parties who were involved; and then of accounts by the witnesses, which were circumstantial as only two persons were in the room at the material time.
- 3.3.6 The nature of such cases is difficult from the evidentiary stand point. As such, he needed to be as vigorous as he could be in assessing the evidence.
- 3.3.7 There was agreement between the parties as to the standard of proof

- required; it was agreed that it would be that “comfortable satisfaction” or “personal conviction”; that was not debated. However, there was some argument raised as to the way in which the standard would be applied.
- 3.3.8 He was familiar with that standard of proof from his work with the CAS (Court of Arbitration for Sport) and in his view, that that standard was applied appropriately.
- 3.3.9 Bearing in mind everything that he heard, the behaviour of the parties in close proximity to the incident, the communications that they had with others, the accounts as they were related to him – both in the first instance (as he had reviewed the material given to him) and in this appeal proceedings, it led him to the conclusion that the Complainant’s account was substantially more believable than the account by the Appellant.
- 3.3.10 That was the reason, his primary recommendation to the WBSC EB was to confirm the decision of the WBSC Europe Board.
- 3.3.11 More by way of observation and good practice, since there appeared to be a relatively casual practice of persons going into each other’s hotel rooms during an event, and more from a safeguarding and prevention perspective, he highlighted two individuals, in the absence of a third person, should avoid going into each other’s rooms to conduct any business in a private space; he made a recommendation on that.
- 3.3.12 He suggested that the Report be provided to both the Appellant and the Complainant so that they may have an understanding of why he made the conclusions stated in the Report.
- 3.3.13 He was given to understand that his Report had since been given to the Appellant prior to this EB Meeting, and that the Appellant’s lawyer had sent a letter which raised questions as to his (Mr. McLin’s) independence in the process that he (Mr. McLin) undertook. He (Mr. McLin) has responded to that via an email dated 20 July 2023, which has been given to the EB Members.
- 3.3.14 He (Mr. McLin) referred to the criticism that he had provided a contact information of an abuse victims support group (ITA) to the Complainant for whatever support that she may feel she needed relating to the matter.
- 3.3.15 He stated that principally, the fact that he provided her the contact information did not have any effect on his independent ability to assess this case; it was ensuring she knew what her rights were in the process and be effective in the process.
- 3.3.16 He referred to another criticism to the fact that he had received late in the

process a report of another allegation of a similar nature involving the Appellant in another event some years ago, by another person. He said that he spoke to the person concerned who brought the matter to his attention and that person wished to remain anonymous. As such, he did not reveal the identity of the person concerned. He said he probed that account through a conversation and considered it credible. However, he said that did not affect his overall recommendation since it arrived late, and the Appellant did not have a chance to address that report and point. His recommendation would have been the same as his conclusion was that the Complainant's account was more believable than the Appellant.

[Mr. McLin then opened the floor to the EB Members for questions]

- 3.4 In response to Mr. Seiler's confirmation for clarity that Mr. McLin had reached the conclusions in the case prior to the 2 issues raised by the Appellant's lawyers (in paras 3.3.14 and 3.3.16 above), Mr. McLin confirmed that was so.
- 3.5 In response to a question from the Chair of the WBSC Legal Commission, Mr. Finlay, in regards to the matter stated in para 3.3.16 above, Mr. McLin noted that, in respect of a separate account of similar alleged behaviour by the Appellant some years ago, he (Mr. McLin) confirmed that he did not attribute any evidential weight to that separate account. Mr. McLin clarified that the reference to no significant weight was that it was not decisive and that no weight was attributed to that evidence.
- 3.6 In response to Mr. Vicini's question as to whether Mr. McLin had asked the Appellant why he did not file an official report or complaint against the Complainant for accusing him of doing something which he stated he did not do, Mr. McLin said he did not ask the Appellant that question, but he (Mr. McLin) had taken note of and considered that point overall.

[As the EB Members did not have any further queries, Mr. McLin left the Meeting and stated that he was available for any other questions]

- 3.7 President Fraccari reiterated to the EB the following:

3.7.1 When the WBSC EB received the Appellant's appeal dated 24 March 2023, the EB had two options:

- To conduct the investigation and conduct of the appeal case by the EB; or
- To appoint an Independent Person to investigate and conduct the matter (Article 3.4 of the WBSC Disciplinary By-Laws).

3.7.2 At its online meeting on 7 April 2023, the EB had decided to appoint the

Independent Person, Mr. Alexander McLin, to carry out the investigation and conduct of the appeal, and to make his report and recommendation. Mr. McLin has completed his investigation and conduct of the matter and has submitted his Report and Recommendation dated 15 July 2023.

3.7.3 The EB had to decide on the Report and Recommendation dated 15 July 2023 of the Independent Person.

3.8 The Chair of the WBSC Legal Commission, Mr. Finlay, confirmed that under the WBSC Disciplinary By-Laws (Article 3.4), the EB had the following options:

3.8.1 To accept the Report and follow the Recommendation of the Independent Person;

3.8.2 To take such other actions/decisions deemed appropriate; or

3.8.3 To request the Independent Person to conduct additional investigations.

3.9 Mr. Finlay added the following:

3.9.1 The alleged incident happened some time ago, in August 2022, that was about one year ago.

3.9.2 His view was that the proper process had taken place – the proceedings at the WBSC Europe level, including its Integrity Panel and WBSC Europe Board, and then the process by the Independent Person.

3.9.3 The Appellant had been afforded due process / natural justice, including the right to be heard by an independent person in his own defence.

3.9.4 Each of the tribunals had heard the details of the case and the EB was not hearing the matter in detail but was reviewing the decisions and recommendations of other tribunals. Each of those tribunals found that there was sufficient evidence to reach the burden of proof of “comfortable satisfaction”, which was the standard of proof required in such type of proceedings.

3.9.5 He was of the view that the decision of the WBSC Europe Board, which adopted the recommendation of its Integrity Panel, was supported by the evidence the EB has seen.

3.9.6 The recommendations of the Independent Person to the WBSC EB were as follows and the Legal Commission supported those recommendations:

- To dismiss the appeal of the Appellant against the decision dated 28 February 2023 of the WBSC Europe Executive Board in the

disciplinary proceedings against him.

- To confirm the decision dated 28 February 2023 of the WBSC Europe Executive Board.
- To consider any further measures that may be necessary to safeguard the interest of participants in the sport considering the Independent Person's findings, given the Appellant's current roles within WBSC.
- To ensure that clear guidelines are in place and properly communicated regarding appropriate standards of conduct at WBSC events, including but not necessarily limited to the fact that no two officials should conduct discussions in hotel bedrooms or other designated person living space.
- To make the Independent Person's Report and Recommendations dated 15 July 2023 available to the Complainant and the Appellant for their understanding.

3.9.7 The Appellant has the right to appeal to CAS against the decision to be made herein by the EB.

3.10 The EB noted that the WBSC Europe Board decision was as follows:

- 3.10.1 The Appellant is issued a two-year suspension from holding any position of authority over other members of WBSC Europe or its affiliated organizations.
- 3.10.2 The Appellant shall not be limited from conducting duties as an umpire, but in conducting these duties, the Appellant must yield in events where his duties conflict with the Complainant's duties as an umpire or any other position.
- 3.10.3 The (WBSC Europe) Executive Board reserves the right to reopen the disciplinary proceedings should the official police investigation result in issuance of criminal charges against the Appellant with new evidence.
- 3.10.4 The Complainant or any person that has assisted the Panel in this case shall not be limited in any unreasonable way in their pursuit of serving as an umpire or any other position within WBSC Europe or any affiliated organization.
- 3.10.5 The (WBSC Europe) Executive Board shall take steps to implement safeguarding policies and mechanisms to secure all members of WBSC Europe across all events, regardless of gender.

- 3.10.6 The (WBSC Europe) Executive Board shall take steps to issue behavioural guidelines and a code of conduct between persons of authority and other persons within WBSC Europe.
- 3.11 The EB noted the following from the above WBSC Europe decision:
- 3.11.1 The WBSC Europe is as regards WBSC Europe members and its affiliate organizations only and did not affect the members of other continental organizations.
- 3.11.2 The WBSC Europe decision did not limit the Appellant from conducting duties as umpire, with the limitation stated therein.
- 3.12 During the course of the EB deliberation, the EB determined that it was no part of the EB's decision that:
- 3.12.2 The Independent Person, at the request of the Complainant, put the Complainant in touch with an abuse victims support group (ITA) to provide her with guidance concerning any potential legal proceedings in ITA.
- 3.12.2 The Independent Person had received an email and had spoken by telephone to another individual alleging similar conduct by the Appellant in a prior year. No weight was attributed to that other alleged incident.
- 3.13 Following discussions, the EB noted and concluded:
- 3.13.1 A proper process, involving the WBSC Europe Integrity Panel, the WBSC Europe Executive Board and the Independent Person had been followed.
- 3.13.2 Each of the Tribunals has found that there was sufficient evidence to reach the standard of proof of "comfortable satisfaction".
- 3.13.3 The Appellant has been afforded "due process" and "natural justice" (including the right to be heard in his own defence).
- 3.13.4 The decision of the WBSC Europe Executive Board, which adopted the WBSC Europe Integrity Panel's recommendation, is supported by the evidence.
- 3.13.5 The WBSC noted the recommendation by the Independent Person to dismiss the appeal of the Appellant against the decision of the WBSC Europe Executive Board and that the WBSC Europe Executive Board decision be confirmed.

PROPOSAL:

After discussion and deliberations, the EB considered and approved the following resolution as proposed by Mr. Finlay and seconded by Mr. Seiler. President Fraccari (ITA) and Mr. Waage (from WBSC Europe) abstained.

DECISION

The WBSC Executive Board unanimously RESOLVED as follows:

1. *The Appellant's appeal to the WBSC Executive Board be dismissed.*
2. *The WBSC confirmed the disciplinary decision dated 28 February 2023 of the Executive Board of WBSC Europe.*
3. *The Appellant is issued with a two-year suspension from any official position within the WBSC. The suspension takes effect from the date of the WBSC Europe Executive Board decision, 28 February 2023.*
4. *The WBSC will develop, if required, additional guidelines for appropriate standards of conduct at the WBSC events.*
5. *The decision of the WBSC Executive Board be published to the Appellant and to the WBSC Europe.*

- 3.13 The EB noted that the WBSC has in existence related Safeguarding guidelines and policy that two individuals are to avoid going into each other's rooms in the absence of a third person.

4. ADJOURNMENT

- 4.1 President Fraccari informed that the LA28 campaign and cooperation with MLB was stepping up and moving forward in a positive manner. He said that WBSC's new asset, WBSC Baseball Champions League has been launched and the WBSC's Refugee Team project is also moving ahead.
- 4.2 He thanked all who attended the Meeting. He also thanked the WBSC staff for their efforts in ensuring the success of the meeting.
- 4.3 There being no other matters, the Meeting adjourned at 15:10 with a vote of thanks to the Chair. [End]

These Minutes, originating from the WBSC Executive Board Meeting held by videoconference on 22nd July 2023, are formally confirmed as correct by:

Day _____ Month _____ Year _____

City _____

Signed by _____
Riccardo Fraccari
President

Signed by _____
Beng Choo Low
Secretary General