

REPORT

Lausanne, Dec 8th, 2023

Case 2022.01:

Violation of art. 3.2.4.3 of the WBSC Ethics By-Laws – “rejection of all forms of harassment and abuse, be it physical, professional or sexual, and any physical or mental injuries”.

1. Case synopsis

The WBSC Europe Executive Board (“the Board”) decided on Dec. 5, 2022, to form an Integrity Panel (“the Panel”) for the purpose of investigating the allegations made by THE ACCUSER against THE ACCUSED.

In the period from Dec. 5, 2022, to Feb. 3rd, 2023, the Panel investigated the accusations, including interviews with THE ACCUSER, and THE ACCUSED, and persons of interest. The Panel also evaluated substantiating evidence from all parties interviewed.

On Feb. 3rd, 2023, the Panel presented a report of its findings and recommendation to the Board. This report was handled at the Board meeting in Belgrade, Serbia on Feb. 11th. THE ACCUSED appealed the decision of the Board to the WBSC Executive Board, which appointed an independent counselor, Mr. Lin, to conduct an independent investigation.

On July 15th, 2023, Mr. Lin presented his findings and report to the WBSC Executive Board, supporting the Board’s decision. On July 24th, 2023, the WBSC Executive Board officially rejected the appeal of THE ACCUSED.

THE ACCUSED did not appeal the decision to the Court of Arbitration in Sports (CAS).

2. Panel composition

In accordance with the WBSC Disciplinary By-Laws art. 3.4, the Panel has consisted of the following persons:

- 1) Mr. Bjørn Christian Thode (NOR) Chair
- 2) Mrs. Dagmar Voith-Leemann (SUI) Member
- 3) Mr. Marko Mrdjenovic (SLO) Member

In its investigation, the Panel executed its mandate in full independence.

3. Mandate

May 1st, 2022, the Board issued the WBSC Europe Integrity Commission (“the Commission”) mandate; *“ensuring the respect of the universal fundamental ethical principles as set out in the*

Statutes and the Code of Ethics". Pursuant to art. 6.2 of the WBSC Europe Statutes ("the Statutes"), "Code of Ethics" refers to the WBSC Code of Ethics. Receiving and handling of complaints and allegations against individuals in accordance with the WBSC Disciplinary By-Laws ("the By-Laws") art. 3, falls under the purview of the Commission.

4. Procedural foundation for the investigation

Legal proceedings and penalties affecting an individual is covered by art. 3 and following in the Disciplinary By-Laws. In accordance with art. 3.2, the Board *"(...) shall initiate disciplinary proceedings against any individual when it becomes aware of an alleged violation, either independently or through an official report or sworn statement by a competent person or authority of the WBSC (...)"*.

Dec. 5th, 2022, in accordance with art. 3.3.3 of the Disciplinary By-Laws, the Board decided *"(...) that proof of the alleged violation is insufficient, thereby making it necessary to gather more information and investigate the case in depth"*.

In accordance with art. 3.4 of the Disciplinary By-Laws, the Board appointed *"(...) a panel of up to three (3) independent persons who are either members or not members of the Executive Board and who are of a different nationality to the persons concerned, to examine the case and make a recommendation to the Executive Board"*.

5. Definition

THE ACCUSED was accused of "sexual harassment". Per. art. 3.1 of the Code of Ethics, *"respect for the universal fundamental ethical principles is the foundation of the WBSC International Baseball/Softball Family and Olympism"*. In accordance with art. 3.2.4.3, this includes the *"rejection of all forms of harassment and abuse, be it physical, professional or sexual, and any physical or mental injuries"*. In the IOC Consensus Statement; "International Olympic Committee consensus statement: harassment and abuse (non-accidental violence) in sport" (p.3, attachment 1), sexual harassment has been defined as *"any unwanted and unwelcome conduct of a sexual nature, whether verbal, non-verbal or physical"*. Article 9.1 of the Disciplinary By-laws provides that *"mutual respect must be observed, and no type of physical or verbal aggression or offensive gestures towards persons or institutions is permitted"*.

The Panel found that the alleged violation falls within the scope of the Code of Ethics and the Disciplinary By-Laws.

6. Summary of findings, and conclusion

In its investigation, the Panel has received two different accounts of the events on Aug. 17th, and Aug. 19th. The evidence evaluated are the statements given by THE ACCUSER and THE ACCUSED,

documentation provided by THE ACCUSER and THE ACCUSED, interviews with third parties regarding the assault, and the clinical report.

The Panel ultimately considered if it was comfortably satisfied that the evidence provided supported the accusation. In this the Panel found THE ACCUSER credible, and was comfortably satisfied that THE ACCUSED failed to observe “*mutual respect*” and failed to refrain from “*physical or verbal aggression or offensive gestures towards persons*” pursuant to article 9.1 of the Disciplinary By-laws.

7. The Panel’s recommendation, and decision by the Executive Board

In considering a disciplinary reaction toward THE ACCUSED, the Panel found that THE ACCUSED, as a person of authority as UIC while representing WBSC Europe, conducted himself in violation with art. 3.2.4.3 of the Code of Ethics. The Panel recommended to the Board that THE ACCUSED to be sanctioned.

The Executive Board decided in favor of the Panel’s recommendation, with a majority of 8 to 4.

The Executive Board issued a disciplinary reaction against THE ACCUSED, in accordance with art. 3.5.4 of the Disciplinary By Laws;

- a) THE ACCUSED is issued a 2-year suspension from holding any position of authority over other members of WBSC Europe or its affiliated organizations.
- b) THE ACCUSED shall not be limited from conducting duties as umpire, but in conducting these duties THE ACCUSED must yield in events where his duties conflict with THE ACCUSER’s duties as an umpire or any other position.
- c) The Executive Board reserves the right to reopen the disciplinary proceedings should the official police investigation result in issuance of criminal charges against THE ACCUSED with new evidence.
- e) THE ACCUSER 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.
- f) Executive Board shall take steps to implement safeguarding policies and mechanisms to secure all members of WBSC Europe across all events, regardless of gender.
- g) The Executive board shall take steps to issue behavioral guidelines and a code of conduct between persons of authority and other persons within WBSC Europe

8. Disclosure

This report is disclosed for the purpose of transparency and identification of potential risks for the sports organizations, with reference to art. 21.4 of the WBSC Ethics By-Laws; *"Risk management: a clear and adequate risk-management process should be put in place. This includes: - identification of potential risks for the sports organizations; - evaluation of risks; - control of risks;*

- monitoring of risks; and - disclosure/transparency”.

For the WBSC Europe Integrity Commission,

/sign/
Bjørn Christian Thode
Chair