

INTERNATIONAL HANDBALL FEDERATION  
ARBITRATION TRIBUNAL  
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Subject

Eng. Hisham Nasr against the International Handball Federation ('IHF')

**J U D G E M E N T**

**1. Parties**

- 1.1. Mr Hisham Nasr, represented by ME. Sami Boussarsar, Attorney-at-Law, Centre Urbain Nord, Tunis("Appellant")
- 1.2. International Handball Federation -"IHF" ("Respondent")

**2. Composition of the Panel**

- 2.1. Agata Dziarnowska (POL), Chairwoman
- 2.2. Juan Maria Perez Ortiz (ESP) and Judith Amandine Ablawa Goude-Djessin (BEN), members of the Panel

**3. Facts**

3.1. On 19 July 2021 the Appellant's appeal against the decision adopted by the IHF Arbitration Commission(Commission) composed of Tomislav Grahovac (CRO) as chairman, Miguel Nuno Sá Nogueira Ferreira Fernandes (POR) and Mouadh Ben Zaied (TUN) as Panel members, dated 7 July 2021 was received by the IHF Head Office. Mr Hisham Nasr appealed against the IHF Council decision of suspension dated 14 March 2021 which reconfirmed its suspension decision taken on 19 February 2021, suspending temporarily Mr Hisham Nasr, President of the Egyptian Handball Federation, from all handball activities with immediate effect until the next IHF Congress which is scheduled to take place from 5 to 8 November 2021.

3.2. The appeal was timely lodged, in accordance with Article 2.2.14 of the IHF Legal Provisions.

3.3. The Appellant has paid the amount of CHF 10,000 for services of the Arbitration Tribunal, second instance body, in accordance with Article 2.2.10 of the IHF Legal Provisions.

3.4. After consideration of the case files (Appellant's appeal dated 19 July

2021, with all proposed evidence, the first instance decision of the Arbitration Commission dated 7 July 2021 with all evidence on which the first instance decision is based and the Appellant's appeal), the Chairman of the Arbitration Tribunal, by decision, formed the Panel of the Arbitration Tribunal, which will decide on the appeal lodged, composed as follows: Agata Dziarnowska (POL) as Chairwoman, Juan Maria Perez Ortiz (ESP) and Judith Amandine Ablawa Goude-Djessin (BEN) as members of the Panel.

#### **4. Arguments of the Appellant**

##### **4.1. Legal analysis of the decision of the Arbitration Commission by the Appellant and reasons for submission of the appeal;**

###### **4.1.1.**

In his appeal, the Appellant stated the nullity of the disciplinary decision issued against him because of a lack of a signed decision from the IHF Council, and a lack of a decision to refer from the Executive Committee.

The Appellant stated that he did not get any correspondence concerning any suspension decision neither on his personal address, nor on his e-mail address or on the Egyptian Handball Federation's e-mail address.

The Appellant also states that the letter signed by Mrs Amal Khalifa dated 14 March 2021 is nothing more than a notification of a verbal decision, but cannot be considered as a decision *per se*.

The Appellant points out that any disciplinary decision must be signed by the members and notified fully with its reasons and in no case can the notification be compared to the decision.

###### **4.1.2.**

The Appellant invokes a violation of the statutory regulations by the defect to present the documents related to the case to the IHF Council's members at least 30 days for study before making a decision. The Appellant states that the issue was referred from the Executive Committee to the Council meeting on the same day (19 February 2021). In fact, he does not find that the decision was ever voted on.

Furthermore, the Appellant states there is no material evidence of the reasons for the decision taken on 14 March 2021, no indication that the Council convened on 14 March 2021, no evidence that a vote has taken place in the first instance regarding the temporary suspension sanction taken on 19 February 2021, and also that the proposal of the Executive Committee to the Council meeting for his suspension was done on 19 February 2021, at the same day of the Council meeting.

The Appellant therefore concludes that the contested disciplinary decision violates the provisions of Article 14.2.10 of the IHF Statutes, which stipulate that

a member must have the power to obtain all supporting documents 30 days ahead of the scheduled session to discuss the resolution:

*“All participants shall be in receipt of the documents being the basis for the decision-making process at latest 30 days prior to the Council meeting.”*

4.1.3.

The Appellant states that the extent of the basic procedure must be verified, because he doubts that his explanatory report dated 8 March 2021 was presented to the members. He also notes that it should be noted that the IHF Arbitration Commission tried to create unconvincing justifications, while the text of Article 14.2.13 is explicit about formalities and quotes:

*“In case of urgent business, the President may seek to make resolutions and decisions by mail between Council meetings.”*

The Appellant adds that there is no trace of the President’s submission of the matter to deliberations by e-mail and to an e-mail vote, as there is no material evidence of respect for this procedure.

4.1.4.

The Appellant invokes through this ground of appeal a violation of Article 14.2.14 of the IHF Statutes, which requires that the President shall not be present and vote when the matter is related to a member of his same country, according to the same Article 14.2.14.

*“If a Council member has the same nationality as the matter of concern or if the matter of concern is a personal request made by himself, he/she is not entitled to be present and vote (reference is made to the Rules on Conflicts of Interest of IHF Officials included in the IHF Ethics Code). In case of doubt, the IHF President shall decide whether or not the member concerned may be present and take part in a vote.”*

The Appellant concludes, contrary to the allegations of the IHF Arbitration Commission, that the aforementioned prohibition is not limited to voting, but even to attend, to be present or deliberate on the issue.

4.1.5.

The Appellant states that in this case, there is an inability to apply a sanction twice on the client for the same acts according to settled and well-established case law and following the principle “*non bis in idem*”.

According to the Appellant, the 27<sup>th</sup> IHF Men's World Championship, by its exceptional nature, was subject to special regulations and provisions that were organised and ratified by a COVID-19 Medical Precaution Plan, the regulations of which include degrees of penalties which leads that the Disciplinary Commission

was exclusively assigned to decide on all violations and apply necessary penalties.

The only competent body to decide is the Disciplinary Commission who “was exclusively assigned to decide on all violations and apply the necessary penalties.”

The aforesaid Appellant bases his position on the following regulations:

Article 22 of the IHF Statutes

1. *“The adjudicating bodies are:*

*[...]*

*4. The Disciplinary Commission and the Jury are active only during sports events”.*

Article 2.1.1 of the IHF Legal Provisions (Edition: 3 October 2019)

*“The appropriate Disciplinary Commission and Jury shall be responsible for settling disputes at international events (Olympic Games, World Championships and World Cups).”*

Chapter 1.2 of the COVID-19 Medical Precaution Plan includes “Scope of application and sanctions”.

The Appellant therefore considers he was sued and sanctioned for the alleged offences, as indicated by Decision No. 8 of the Disciplinary Commission headed by Mr Zoran Radojicic, issued on 19 January 2021 during the tournament, and the following sanction was explicitly inflicted to him:

*“The President of the Egyptian Handball Federation, Mr. Hisham Nasr, shall be imposed entry restrictions into red zones of the sports halls where the matches of the 27<sup>th</sup> Men's Handball World Championship are played, as well as into red zones of the hotels where the participants of the concerned Championship are accommodated”.*

Therefore, the Appellant concludes noting that his alleged offences were subject to a double disciplinary prosecution and that he was sanctioned twice for the same offences, which contradicts the simplest general legal principle that prohibits a person from being sued twice for the same acts. He also concludes it is clear that the IHF Arbitration Commission was unable to raise the judicial character of the Decision No.8 of the Disciplinary Commission.

4.1.6.

The Appellant considers, contrary to the fictitious editing created by the IHF Arbitration Commission, it should be emphasised that the penalty imposed on him is established according to the notification text dated 14 March 2021 and the provisions of Article 14.3.27 of the IHF Statutes.

The Appellant furthermore concludes this penalty relates to national federations, i.e. public entities and structures, and does not relate to all natural persons, including individuals and managers.

The Appellant states it is assumed first to refer to Article 8.3 of the IHF Statutes, which lists in paragraphs a. to g. the duties and obligations of any national federation. Then, in its last paragraph, it refers to Article 14.3.27 to determine the disciplinary decision for violating one of the obligations and duties by the relevant national federation.

Furthermore, in case of committing a violation, Article 8.5 requires the following specific procedures, the first of which is to impose a warning. The Appellant notices that this measure was not respected in the current case and that there is no effect of prior warning imposed on the Egyptian Handball Federation.

The Appellant concludes that, on the other hand, when the disciplinary decision of suspension is applied in this situation- for a Member Federation- this measure is a prerogative of the Congress of the IHF and not of the Council, according to Article 14.3.27.

Ultimately, the Appellant concludes that the legal basis for the sanction applied in relation to the alleged offences, issued on 14 March 2021 is missing, and it is not valid to be held legally in application of a legal text specifically devoted to sanction legal entities rather than individuals and persons.

The Appellant notices that there is no special provision that could entitle to sanction him by the decision issued on 19 January 2021 based on the COVID-19 Medical Precaution Plan. He considers that all the facts, including the one that he is accused, shall be dealt with by the Ethics Commission of the International Federation in accordance with the IHF Ethics Code. Finally, the disciplinary decision was issued by a non-competent authority with an improper interpretation of its jurisdiction, which makes it poorly reasoned and liable to veto and repeal.

4.1.7.

In addition to the aforesaid, the Appellant also points out that the IHF Arbitration Commission adopted the method of intimidation and exaggeration to describe the facts and acts attributed to the former Egyptian Handball Federation President, i.e. the Appellant.

Furthermore, the Appellant once again points out that it should be remembered that Egypt was *honored* to organise the 27<sup>th</sup> IHF Men's World Championship during the COVID-19 pandemic context with zero infection reported, which was accompanied by a comment from an official spokesperson for the Egyptian Ministry of Health.

It can therefore be concluded that the Appellant's conduct was aimed at taking on obligations as President of the Organising Committee as a "good father" despite many challenges.

Regardless of the difficulties around the organisation caused by the COVID-19 pandemic context, Egypt decided to overcome this obstacle and to commit to a very hard, costly and tiring event that brought back life to handball, IHF, EHF and the worldwide handball community that started to plan events after such success inspiring their strategy from Egyptian experience of organisation.

The Appellant also states that to achieve such a successful event, a new system was developed along with new rules and sanctions related to it, for example:

The Bubble: All stakeholders to be isolated in place of accommodation (in this case the hotel) OR

Leaving the place of accommodation for team practice or match, all within the bubble's boundaries.

Engaging: Is to directly engage with a COVID-19 patient for more than 15 minutes without a mask and within a distance that is less than 1.5 metres (according to the doctor who crafted made this system and explained to all participants and organisers several times).

#### 4.1.8.

Continuing his argumentation, the Appellant notices that because of his three missions and titles throughout the tournament (President of Egyptian Handball Federation, President of the Organising Committee of the 27<sup>th</sup> IHF Men's World Championship and one of the supervisors on Egypt's national team), after a consultation to solve this issue (Mr Moemen Safa, EHF's treasurer and Mr Alaa El Sayed were diagnosed with COVID-19), and due to having an efficient role as manager for the tournament, the Appellant joined the Egyptian national team as head of delegation (neither as President of the Egyptian handball federation nor as President of the Organising Committee of the 27<sup>th</sup> IHF Men's World Championship) in the bubble until the other supervisors fully recovered.

#### 4.1.9.

Furthermore, the Appellant points out the following to prove his good faith and the absence of deliberate intent to break any rules:

1/ 13 January 2021: Being in the VIP tribune during the opening ceremony with the Prime minister, Minister of Sports, President of the IHF and Appellant to give out the medals and trophies at the end of the tournament, after having to do a quick test giving negative COVID-19 results for all of them. Therefore, they were all safe in the opening and closing ceremonies.

2/ 15 January 2021: Meeting with representatives from Cape Verde embassy; Captain Effat Rashad, head of sports hall during the tournament, told the Appellant that the head of Cape Verde's delegation (which is also their Sports Minister, and one who is in the bubble following and doing all corona tests regularly) was sitting in a wrong zone (VIP tribune) and is refusing to leave it.

3/ Therefore, the Appellant went forward and solved the issue knowing that he is one of the members in the bubble convincing him to move to the correct area and red zone.

4/ 17 January 2021: Welcoming a member from the parliament and receiving an email from Mr Dietrich Späte, Head of Competitions Committee: This incident took place on the 15 January, the same day of the incident mentioned above, however the Appellant met with a member from the parliament who is also a member of Egyptian Committee responsible of sports and he was sure that she regularly takes tests for COVID-19 and is checked on daily, the same way as the Minister of Sports, President of IHF, President of tournament and Mr Hisham Nasr took the tests to meet with the Prime minister and members of the parliament, who also regularly took tests to make sure they were safe and healthy. A reply was sent to Mr Dietrich Späte on the 18<sup>th</sup> explaining these points and disagreeing on such accusations.

5/ 18 January 2021: Replying to Mr Dietrich Späte letter. This is to stress the fact that the Appellant always made sure he was COVID-19 negative before meeting with anyone else and that he regularly took tests because, as mentioned before, the Appellant had several roles, one of which being the head of the Organising Committee.

6/ 19 January 2021: the Appellant was pleased to be accompanied by Mr Zoran Radojicic, the Disciplinary Commission Chairman, along with his personal translator to Cairo stadium in the car that would drop them to the hall. By mistake the driver dropped them off in a wrong area (VIP tribune) out of our zone. Therefore, they decided to cross the pitch, without getting in contact with anyone, to the other side in their red zone. However, at first Mr Dietrich Späte refused and stopped them but after Mr Zoran Radojicic and Appellant explained what happened and the fact that they were going to their right place without getting in contact with anyone outside the bubble, he then agreed that they all move forward.

The Appellant didn't remain in the VIP tribune as what was claimed, he was just trying to fix the situation and headed to the right zone.

7/ Even though the Appellant explained his situation repeatedly of not breaking the bubble, he was still asked to leave the hotel and stay out of the red zone during the tournament to follow the rules and regulations. Not only was he excluded from the rest of the tournament (11 days), he also had to go through the current severe decision though he did not make any deliberate breach.

#### 4.1.10.

In reference to the presented arguments, the Appellant requests the IHF Arbitration Tribunal to pass the following decision:

- I. The appeal is accepted.
- II. The decision rendered on 7 July 2021 by the IHF Arbitration Commission is cancelled in all its provisions.
- III. The decision issued on 14 March 2021 by the IHF Council is revoked in all its branches and cancelled all its legal effects.

- IV. Refund all the ensured expenses related to the penalty fines to the Appellant;
- V. Safeguard the right of the Appellant to claim compensation for litigation costs and material and moral damages.

## **5. The decision of the IHF Arbitration Commission**

5.1. The decision of the IHF Arbitration Commission was issued on 7 July 2021 upon inspection of the documents provided by the involved parties, including the following:

- Email by IHF dated 11 March 2021 stating the period of appeal
- Email from IHF to IHF Council dated 14 March 2021
- Letter from IHF to Mr Hisham Nasr dated 14 March 2021 informing him that the IHF Council unanimously reconfirmed its decision of suspension
- Extract of minutes of 10th IHF Council Meeting held by video conference on 19 February 2021 (agenda item 5.2 – Disciplinary Commission decision at 2021 Men’s World Championship)
- Official statement on the suspension of Egyptian Handball Federation President Mr Hisham Nasr published on IHF website on 25 February 2021
- Minutes of meeting of IHF Council Meeting no. 9 dated 9 December 2020 approving COVID-19 Medical Precaution Plan Egypt 2021 and assigning the Disciplinary Commission
- COVID-19 Medical Precaution Plan Egypt 2021
- Disciplinary Commission decision against EHF President Mr Hisham Nasr
- Official letter from the Egyptian Ministry of Health and Population addressed to IHF President Dr Hassan Moustafa dated 3 January 2021
- Letter from IHF President to IHF Member Federations dated 27 October 2020
- Email from IHF Office to IHF Member Federations dated 28 December 2020
- Email from IHF Office to IHF Member Federations dated 7 January 2021
- Letter from General Director Mrs Amal Khalifa to IHF Member Federations dated 14 January 2021
- Email from IHF Office to IHF Member Federations dated 22 January 2021
- Input received from the Appellant dated 8 March 2021
- Statement from the IHF Disciplinary Commission Chairman regarding incident dated 18 January 2021
- Email from IHF Office to the Appellant dated 17 January 2021

5.2. Referring to the submissions of the Appellant



5.2.1. Referring to the allegation that the decision of suspension imposed on Mr Hisham Nasr by the IHF Council on 14 March 2021 is null due to the lack of a signed decision from the IHF Council as well as the lack of a decision to refer from the IHF Executive Committee, this Panel accepts the position taken by the Arbitration Commission and finds such submission unfounded and incorrect for the following reasons, which are already highlighted in the decision taken by the Arbitration Commission.

The Arbitration Tribunal Panel considered all documentation, as well as the legal regulation related to the Appellant's allegations and concludes the following:

“It is correct that the IHF Executive Committee, further to the instruction of the IHF Disciplinary Commission, discussed the entire matter in its virtual meeting held on 19 February 2021 and proposed to the IHF Council to suspend Mr Hisham Nasr from all handball activities with immediate effect until the next IHF Congress according to Article 14.3.27 of the IHF Statutes in connection with Article 27 of the IHF Regulations concerning Penalties and Fines”.

The IHF Council decision of suspension dated 19 February 2021 was communicated to Appellant by official letter of the IHF dated 25 February 2021.

It is also not disputed that in the same letter, Appellant was asked to provide his input in this matter by 11 March 2021 to be submitted to the IHF Council.

According to the usual practice, the minutes of the IHF Council meeting held by video conference on 19 February 2021 were sent to the IHF Council members for comments and approval on 11 March 2021.

The Arbitration Tribunal Panel concludes that the IHF Statutes do not contain any provision to the effect that the minutes of IHF Council and IHF Executive Committee meetings need to be signed by the respective members. The final version of the minutes was communicated to all IHF Member Federations on 18 March 2021.

After studying the input received from Appellant on 8 March 2021, the IHF Council decided on 14 March 2021 by electronic communication to reconfirm the decision of suspension dated 19 February 2021.

The Appellant was notified of the IHF Council decision of 14 March 2021 by an official letter of the IHF dated 14 March 2021. No provision of the IHF Statutes and Regulations obliges the IHF to communicate a signed decision document to the person concerned. Such a conclusion is accepted by this Panel as well.

It is usual practice that IHF Council decisions taken by electronic communication between IHF Council meetings are included in the minutes of the subsequent IHF Council meeting.

5.2.2. Referring to the allegation that the decision violates Article 14.2.10 of the IHF Statutes stipulating that all participants shall be in receipt of the documents being the basis for the decision-making process at least 30 days prior to the IHF Council meeting, the Panel accepts the Arbitration Commission's conclusion that such a statement is not right.

Article 14.2.10 of the IHF Statutes refers to physical meetings of the IHF Council. It is not disputed that the IHF Council meeting on 19 February 2021 was held by video conference, i.e. the 30-day deadline for distributing the working documents to the participants is not applicable.

According to the documents on which this decision is based, the IHF Council members were invited to the 10<sup>th</sup> IHF Council Meeting by email dated 8 February 2021 while the corresponding working documents, including the IHF Disciplinary Commission decision dated 19 January 2021 related to the Appellant, were communicated to the IHF Council members on 16 February 2021.

Furthermore, the IHF Disciplinary Commission decision was also sent to the IHF Executive Committee members prior to the IHF Executive Committee meeting held by video conference on 19 February 2021. Both IHF Executive Committee and IHF Council were aware of the entire matter, which would have made the 30-day deadline redundant. Ultimately, no member of the IHF Executive Committee or Council complained about this matter.

The IHF Council decision of 14 March 2021 reconfirming the decision of suspension dated 19 February 2021 was taken by electronic communication, taking into consideration that the 30-day deadline does not apply to urgent business conducted by email.

However, the Appellant overlooks that votes by email are governed specifically by Article 14.2.13 and can be called by the IHF President in case of urgency, such as in the present matter. This Panel accepts the Arbitration Commission's opinion that in such a case as the present one, it is obvious that the 30-day deadline does not apply, as it would be contrary to legal regulations, as well as completely illogical if the IHF Council had to systematically wait for 30 days in order to deliberate on urgent matters.

5.2.3. Referring to the allegation that there is no material evidence of the reasons for the decision taken on 14 March 2021, the Panel accepts the Arbitration Commission's conclusion that the IHF Council members studied and took into consideration the input received from Appellant dated 8 March 2021 before reconfirming the decision of suspension dated 19 February 2021.

5.2.4. Referring to the claim that there is no indication that the IHF Council convened on 14 March 2021, the Panel accepts the Arbitration Commission's conclusion that the IHF Council members were consulted by email, taking into consideration that urgent business is usually conducted by email communication

as per Article 14.2.13 of the IHF Statutes.

5.2.5. Referring to the allegation that there is no evidence that a vote has taken place in the first instance regarding the temporary suspension penalty taken on 19 February 2021, the Panel accepts the Arbitration Commission's conclusion that according to the usual practice all IHF Council members were asked during the agenda item concerned, if they agree to the proposal of the IHF Executive Committee, considering that no IHF Council member raised any objection. Therefore, the decision was made unanimously, taking into account that IHF President Dr Hassan Moustafa as usual abstained from voting, as outlined below.

5.2.6. Referring to the Appellant's submission that the decision violates Article 14.2.14 of the IHF Statutes stipulating that if an IHF Council member has the same nationality as the matter of concern or if the matter of concern is a personal request made by himself, he/she is not entitled to be present and vote, the Panel accepts the Arbitration Commission's conclusion and finds this submission unfounded because of the following legal regulations:

Article 14.2.14 of the IHF Statutes only refers to IHF Council members entitled to vote, but not to other participants such as the IHF General Director as claimed by the Appellant.

According to the documents which are an integral part of this subject, it is stated in the minutes of the IHF Council meeting held by video conference on 19 February 2021 that IHF President Dr Hassan Moustafa was present when the agenda item concerned was handled, according to Article 14.2.14 of the IHF Statutes (*"In case of doubt, the IHF President shall decide whether or not the member concerned may be present and take part in a vote"*). However, he did not take part in the vote of the matter concerned, taking into account that he as usual abstains from voting to give the IHF Council members the freedom to vote.

Furthermore, the Panel accepts the Arbitration Commission's conclusion that the initiation of disciplinary proceedings against the Appellant was made following the instruction of the IHF Disciplinary Commission and that the IHF Executive Committee discussed the entire matter in its virtual meeting held on 19 February 2021 and proposed to the IHF Council to suspend Mr Hisham Nasr from all handball activities with immediate effect until the next IHF Congress according to Article 14.3.27 of the IHF Statutes in connection with Article 27 of the IHF Regulations concerning Penalties and Fines.

Therefore, it is a correct conclusion that President Dr Hassan Moustafa was not the initiator of this disciplinary procedure.

The Panel considers it important to emphasise again that by claiming a supposed violation of Article 14.2.14 of the IHF Statutes, the Appellant has not demonstrated how the presence of President Moustafa could be detrimental or harmful to him, especially since it was verified that the President of the IHF did

not take part either in the debates or in the vote that led to the provisional suspension of the Appellant. Just the opposite, at this meeting, the IHF President Dr Hassan Moustafa had assumed a purely coordinating role without seeking to interfere in any debate on the present issue.

From a legal point of view, the Panel accepts the Arbitration Commission's note that Article 14.2.14 may lead to a supposed conflict of interest if the member who has the same nationality as the person prosecuted is present and votes during the meeting. The Panel reminds that the two conditions (to be present (1<sup>st</sup> condition) and to vote (2<sup>nd</sup> condition)) are cumulative in order to assess the existence of any presumed conflict of interest, according to this text. It is clear that by abstaining from voting or giving any opinion on this case, the President, Dr Hassan Moustafa, does not fulfill the second condition and thus cannot be considered to have been in a conflict of interest situation during this meeting, even if Article 14.2.14 is to be strictly applied.

5.2.7. Referring to the claim that the Appellant was subject to a disciplinary prosecution twice for the same offences, contradicting the simplest general legal principles that prohibit a person being sued twice for the same acts, such rule, which is more generally known as the principle of "*ne bis in idem*", the Panel accepts the Arbitration Commission's conclusion that this submission is inadmissible.

The Panel states that the Arbitration Commission explained clearly and unambiguously that the basic legal principle of "*ne bis in idem*" generally states that one cannot be judged for the same charges again after a legitimate and final judgement eventually pronounced by a jurisdiction instance. The principle of "*ne bis in idem*" is also known as "double jeopardy" in common law countries.

The "*ne bis in idem*" principle only prevents imposing sanctions for facts already entirely judged and penalised by a final disciplinary decision rendered by a competent jurisdiction.

Therefore, it is important to re-emphasise the following:

According to Chapter 1.2 of the COVID-19 Medical Precaution Plan, non-compliance with any of the obligations set out in the COVID-19 Medical Precaution Plan as well as the COVID-19 Competition-Related Guidelines for Egypt 2021 may lead to the following sanctions to be imposed by the IHF Disciplinary Commission:

- a) Warning;
- b) Fine;
- c) Temporary suspension;
- d) Loss of points;
- e) Exclusion from the competition.

In its decision dated 19 January 2021, the IHF Disciplinary Commission did not impose any of the above-mentioned sanctions on the Appellant. The IHF

Disciplinary Commission decision was a protective measure to prevent the Appellant from entering the bubble, aiming to protect all stakeholders staying within the bubble of the World Championship.

The violations committed by the Appellant could have jeopardised the organisation of the World Championship, taking into account the huge investment made by the Egyptian government in implementing the COVID-19 Medical Precaution Plan, aiming to reduce the risk of transmission of COVID-19 and safeguard the health of all stakeholders involved in the World Championship.

As the IHF Disciplinary Commission only imposed a protective measure and not a sanction, there cannot be a double sanction as a matter of principle.

In addition, as indicated in the IHF Disciplinary Commission decision, the decision was to be submitted to the IHF Executive Committee which, in its virtual meeting dated 19 February 2021, proposed to the IHF Council to suspend the Appellant from all handball activities with immediate effect until the next IHF Congress according to Article 14.3.27 of the IHF Statutes in connection with Article 27 of the IHF Regulations concerning Penalties and Fines.

If the nature of the measures sought in the two proceedings were different, the first one being a minimum administrative and preventive measure – which, in fact, could be compared to an interim measure taken during the tournament to protect the safety of the competition and the safety of the other stakeholders –, the second one being a final disciplinary measure taken by the IHF Council in accordance with its statutory prerogatives to sanction a repeated misconduct of the offender.

The Panel accepts the Arbitration Commission's note that the sanction imposed on Appellant was based on the IHF Statutes, which is the highest and the supreme bounding text in the IHF legal system. In terms of hierarchy of the IHF norms and regulations, the provisions of the IHF Statutes must always prevail over the provisions of the IHF Regulations and other legal texts and documents.

In addition, Article 14.3.27 of the IHF Statutes is a more specific provision, which is triggered only when a stakeholder breaches the IHF Regulations seriously and repeatedly, as was the case here. As a matter of fact, these particular facts reproached to the Appellant, reporting a clear, repeated, serious breach of safety measures during the same World Championship, fall outside the jurisdiction of the other IHF disciplinary authorities. Therefore, the initiation of a disciplinary case by the IHF Council is justifiable.

5.2.8. Referring to the claim that Article 14.3.27 of the IHF Statutes relates to National Federations, i.e. public entities and structures, but not to natural persons, including individuals and managers, and that the power to impose suspensions is with the IHF Congress, not with the IHF Council, the Panel accepts the Arbitration Commission's note that such a statement is not right.

Article 14.3.27 of the IHF Statutes applies to all handball stakeholders – including the Appellant, in his capacity and position as President of the Egyptian Handball Federation, who must be qualified as a handball stakeholder as defined in Article 2 of the IHF Statutes. This same analysis is confirmed by Article 3 of the IHF Ethics Code, which considers any person in charge of organising a sport competition awarded by the IHF, as a person subject to the application of the provisions of the IHF Statutes and all its legal texts. The Appellant cannot deny that he is a stakeholder to whom the IHF Statutes automatically apply.

5.2.9. Referring to the claim that no single COVID-19 infection was reported during the 27<sup>th</sup> IHF Men's World Championship in Egypt, the Panel accepts the Arbitration Commission's conclusion that this information is not correct in the light of the evidence and the elements of this case.

According to an official statement issued by the Egyptian Ministry of Health and Population, 27 positive COVID-19 cases were detected among all participating players, officials, IHF nominees and media representatives during the World Championship concerned. Furthermore, the Appellant himself reported that he had to replace two members of the EHF's staff who turned positive to a COVID-19 test (Section 4.8 of the present decision).

5.2.10. Referring to the information on the three different missions carried out by Mr Hisham Nasr during the 27<sup>th</sup> IHF Men's World Championship in Egypt, the Panel accepts the Arbitration Commission's conclusion that every single stakeholder involved in the mentioned World Championship was urged and reminded several times by the IHF to comply with all obligations set out in the COVID-19 Medical Precaution Plan at all times throughout his/her stay irrespective of his/her function(s) during the event concerned.

5.2.11. Referring to the claim that the Appellant was tested regularly for COVID-19 before meeting with anyone else, the Panel accepts the Arbitration Commission's conclusion that carrying out regular tests does not justify his violations of the COVID-19 Medical Precaution Plan, taking into consideration that he could still be infectious despite a negative test result in view of the incubation period. This is, among other things, irrelevant when one considers that he has repeatedly switched between the bubble and non-bubble zones, which this Panel considers as a serious breach to the COVID-19 Medical Precaution Plan, as it could have severely harmed the organisation of the World Championship as a whole as outlined above.

5.2.12. Referring to the incident occurred on 18 January 2021, where the Appellant, accompanied by IHF Disciplinary Commission Chairman Zoran Radojicic and the latter's assistant, entered the VIP area (non-bubble zone) at Cairo Main Stadium, the Panel concludes that Appellant admitted in his appeal that he was aware of his driver's mistake which led to the mentioned violation: *"By mistake the driver dropped them off in a wrong area (VIP tribune) out of*

*our zone.”*

Despite the fact that the Appellant was well aware of the different entrances at the arena, he still entered the arena through the wrong entrance and violated the COVID-19 Medical Precaution Plan by entering the non-bubble zone.

5.2.13. Referring to the Appellant's argument that the sanction is disproportionate and unjustified, the Panel analysed the facts Mr Hisham Nasr is accused of while referring to the conditions and framework rules governing the organisation of the 27<sup>th</sup> IHF Men's World Championships follows:

The Panel considers it important to point out again that the Appellant must be aware that the 2021 IHF Men's World Championship was the first World Championship organised in a major Olympic sport since the outbreak of the COVID-19 pandemic and all eyes were on the event.

In view of the current situation, it was of utmost importance for the IHF and the sport of handball that the COVID-19 regulations, including the COVID-19 Medical Precaution Plan, be strictly complied with, to avoid a crisis which would have been extremely damaging.

The 27<sup>th</sup> IHF Men's World Championship was held following a commitment given by the International Handball Federation to the 32 participating delegations, officials and referees and all worldwide stakeholders to ensure a strict application of the COVID-19 Medical Precaution Plan in a serious worldwide pandemic context. It is evident that the success of the health bubble system, which is based on a chain of linked health actions, could only be ensured through a strict application of the health rules by all the participants. The Organising Committee, headed by its President, must be the first to work for a strict and diligent application of hygiene and safety rules.

It is correct that the Appellant, as a prominent member of the Organising Committee of the event, was more than aware of the above-mentioned measures and was obliged to be a role model in the implementation of this preventive system. For this reason, his responsibility in the application of these safety rules must be strictly checked and closely assessed.

According to the evidence, the Appellant fully disregarded the rules on a number of occasions during the event, even after he had been specifically notified of his violation by the IHF on 17 January 2021. He does not even challenge that he repeatedly left the bubble in breach of the COVID-19 Medical Precaution Plan.

The most relevant fact is the obligation to respect the regulations, considering that the organisers must always shown exemplary and rigorous behavior during the competition.

It is correct that the International Handball Federation is responsible for

ensuring that public order in sport is fully respected during each official competition that could be organised by any national federation. Any serious violations of hygiene or safety rules and the integrity of the competitions are components of this public order which is the responsibility of the governing bodies of the International Handball Federation.

The Panel joins the conclusion of the Arbitration Commission, which outlines that some general principles of sport must also be considered as belonging to the public order of sport, not only because of their imperiousness but also because of their structuring function in the legal order of sport. Without any doubt, the principle of integrity of sports competitions, but also the principles of fairness, sincerity, safety and fair play that result from it, are the cardinal elements of this public order component.

Insofar as the organisation of sport competitions is a matter of sport public order, any cases of fraud, doping, match-fixing, violations of safety and security rules are referred to the International Federation's competent bodies to conduct a follow-up of those cases, and to eventually issue a sanction against offenders. All those matters are subject to sport police regulations, which aim to prevent any disturbance of any specific public order in sport. This sport public order is closely linked to the organisation of sport events by national federations, which are the guarantors of their proper conduct.

For all these considerations, a principle of zero tolerance must systematically guide the analysis of any arbitration panel hearing appeals and claims against decisions adopted by sport organisations regarding deviant or irresponsible situations or misbehavior considered to threaten the integrity, safety and credibility of sport competitions. This principle will be implemented without any application of any special or extenuating circumstances, as soon as it has been established that the offender was fully aware of and held accountable for any misconduct that may have been committed in the sport competition in which he was taking part.

Therefore, the Arbitration Commission correctly concludes that it is obvious that the Appellant was called upon to set an example as a "good father" and a role model representative to all the parties involved in the organisation of the 27<sup>th</sup> IHF Men's World Championship, given that he was primarily responsible for the organisation of the event, as a head of the organising team of the event.

Similarly, he was fully aware of the health and protocol recommendations and requirements that were issued to him by the International Handball Federation and the Egyptian governmental authorities.

Therefore, as an example to others and to achieve general prevention, the principle of zero tolerance will be fully applied to the Appellant as a result of his irresponsible and woefully negligent behavior in the application of the health rules set into the COVID-19 Medical Precaution Plan. The application of the zero



tolerance principle is justified in the light of the repeated negligence and excesses committed by the Appellant during the tournament, considered to be the major sport event organised by the IHF. Such a sport event is widely followed by the world handball community and the eyes of the handball world are focused on the sport conditions and health measures under which it takes place.

It is also important to point out again that the Appellant, from the moment he was accredited by the IHF to ensure the organisation of the 27<sup>th</sup> World Men's Senior Championship in his capacity as President of the local Organising Committee, becomes subject to the IHF Ethics Code and more particularly to its Article 5 which provides:

*“Any individual who wishes to be involved in handball as an Official shall demonstrate reliability and respect to the values of the Code and commit to be subject to the Code before being nominated. Any individual who attempts or agrees with another individual to act in a manner that would constitute or culminate in the commission of a violation of the Code, shall be treated as if a violation has been committed, whether or not such attempt or agreement in fact resulted in such violation. Any individual who knowingly assists, fails to report or is otherwise complicit in any act or omission, which constitutes or culminates in the commission of a violation of the Code, shall himself be treated as having committed a violation under the Code.”*

The Panel points out that Article 3 of IHF Ethics Code states clearly that the *“IHF Statutes shall always apply.”*

Therefore, it is a correct conclusion that, by failing to report to the IHF the negligence and excesses that the Appellant had committed during the tournament in application of Article 5 of the IHF Ethics Code, he cannot invoke any good faith whatsoever and should be considered the author of a breach of his legal obligation to declare and report those repeated violations. Consequently, in application of Article 14.3.27 of IHF Statutes and Article 3 of IHF Ethics Code, the decision of the IHF Council to handle the disciplinary case of the Appellant and to impose a provisional sanction on him was founded and justified.

To conclude this point of analysis, the Panel recalls that international sport jurisprudence considers that it is legitimate to sanction any person who has failed to comply with his or her obligation to declare and report offences or misconduct in accordance with the ethics rules (*Court of Arbitration for Sport, 2011/A/2433 sentence of 8th mars 2012*).

Concerning the arguments put forward by the Appellant, who claims that the IHF Council did not take into consideration the huge efforts made by the Organising Committee in the successful organisation of the 27<sup>th</sup> IHF Men's World Championship, the Panel points out that such a responsibility also implies that the Organising Committee shall behave as the bearer of fundamental values safeguarding sport public order. Such obligation should be strictly observed by

the President of the Organising Committee who should ensure that the other members are well informed about the measures and strictly observe them. He is also responsible for providing data related to good implementation of the sanitary measures as well as any shortcoming in the application of the health and safety measures.

Therefore, the Panel also concluded that these repeated breaches committed by the Appellant were extremely serious and potentially damaging for the IHF, for its credibility, for its safety rules and for the sport of handball.

A behaviour is qualified as an “unsportsmanlike conduct” if such behaviour was intentional or at least grossly negligent (*Court of Arbitration for Sport, 2011/A/2525, award of 13 December 2012*).

The Panel also reminds that it is fully and consistently admitted in international sport jurisprudence that “in cases of fan misconduct, strict liability is necessary in view of the seriousness of the threat that misconduct poses to the sport; the need to prevent recurrence through deterrence; the need to effect behavioural change” (*Court of Arbitration for Sport 2020/O/6689, sentence of 17<sup>th</sup> December 2020, P.122*).

5.2.14 Arbitration Tribunal Panel shall decide about the costs of these proceedings under a separate point of this decision.

5.2.15 Related to the Appellant’s request for reimbursement of the fee amounting to CHF 10,000, it shall be decided under a separate point of this decision.

The Arbitration Tribunal Panel decided to consider only those arguments stated by the Appellant in the appeal, which are related to the procedures laid down in the IHF Statutes and supporting legislation, while personal remarks of the Appellant are entirely excluded.

## **6. Conclusion**

**6.1 Based on the above-stated facts and after presentation of proposed evidence, and after conscientious and careful assessment of the same, both individually and in interconnected fashion, as well as based on the results of the whole proceeding, the Panel of the Arbitration Tribunal of the International Handball Federation concludes that the Appellant has not proved that his allegations are well-founded, and accordingly the Panel of the Arbitration Tribunal of the International Handball Federation unanimously has issued the**

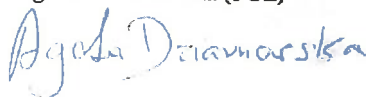
## DECISION

1. The appeal filed by Mr Hisham Nasr, represented by ME. Sami Boussarsar, Attorney-at-Law, Centre Urbain Nord, Tunis against the decision adopted by the IHF Arbitration Commission dated 7 July 2021 is dismissed.
2. Each party shall bear their own costs of proceedings.
3. The CHF 10,000 appeal fee is non-refundable, according to Article 2.2, point 12 of the IHF Legal Provisions.

The decision in this legal matter is final.

## PANEL OF ARBITRATION TRIBUNAL

**PRESIDING JUDGE OF THE PANEL**  
Agata Dziarnowska (POL)



Number: 4  
Basel, 20 October 2021

MEMBERS:

Juan Maria Perez Ortiz (ESP)



Judith Amandine Ablawa Goude-Djessin  
(BEN)

