

INTERNATIONAL WEIGHTLIFTING FEDERATION ("IWF")

DECISION OF THE INDEPENDENT MONITORING  
GROUP IN THE MATTER INVOLVING THE EGYPTIAN  
WEIGHTLIFTING FEDERATION

Case 2021-1

I. Proceedings before the Independent Member Federations Sanctions Panel

1. On 12 September 2019, the Independent Member Federations Sanctions Panel ("IMFSP") issued a decision (the "IMFSP Decision") against the Egyptian Weightlifting Federation ("EWF") with the following ruling:

4. "Given the sanction options available under the 2015 IWF Anti-Doping Policy the Independent Panel has decided to impose the following sanctions on the Federation.

- Under Article 12.3.1(a): Suspension from participation in any IWF activities for a period of two years of any current Federation "team official" who was a Federation team official at the Junior Championships or the Junior Championships training camp.

- Under Article 12.4: Suspension of the Federation from participation in any IWF activities for a period of two years.

- Under Article 12.3.1 (a)(5): A fine in the amount of \$200,000 payable as follows:

- i. \$40,000 payable within six months which will be used by the IWF to offset the cost of additional IWF testing of Federation Athletes.

- ii. \$160,000 payable two years from the date of this decision. Payment of this portion of the fine will be eliminated if between the date of this decision and two years, the Federation satisfies the following conditions: The Federation

- Has no more than one (2) adverse analytical finding for a Non-Specified substance or other anti-doping rule violation committed by a Federation member athlete or Athlete Support Person in the twenty-four months following the date of this Decision;

- Makes its best efforts to include in its National team, before 15 November of the preceding year, all Athletes who may compete at any IWF Events following the Federation's suspension period (in which the Federation is or might be entitled to participate);

- Submits accurate, complete and timely whereabouts for all National Team Athletes;

- Shares the dates and locations of training camps of the National Team Athletes with IWF on a timely basis;

- Conducts prompt investigation and reporting to IWF regarding Athlete Support Personnel associated with ADRVs;

- Promptly identifying to IWF all Athlete Support Personnel affiliated to the Federation;

- Organizes of one Anti-Doping education seminar under IWF's supervision on a national level in each six months of the suspension period."
2. The facts underlying the IMFSP Decision will be referred to if and when they are relevant to the adjudication of this case.
  3. On 4 December 2019 (reasoned award dated 4 May 2020), the Court of Arbitration for Sport ("CAS") dismissed the appeal filed by EWF against the IMFSP Decision (CAS 2019/A/6498).

## II. Proceedings before the Independent Monitoring Group

4. On 3 November 2021, the International Testing Agency ("ITA"), acting on behalf of the IWF, sent a Notice for Referral to the Independent Monitoring Group ("IMG") and requested the IMG to adjudicate the case in accordance with the relevant provisions of the IMFSP Decision and the IWF Anti-Doping Rules ("IWF ADR"). It included a Request for Exemption by EWF dated 18 October 2021, along with exhibits.
5. Following Directions n°1 and n°2 issued by the Panel constituted for this case (the "Panel"), both EWF and the IWF presented their prayers and arguments and provided additional documents requested by the Panel. On 14 November 2021, EWF wrote to the Chair of the Panel insisting on the urgency to issue a decision swiftly and requested to "quickly inform us of the possibility of our participation in the World Championships", and made no other comments related to IWF's submission.

## III. Parties' Prayers for Relief

6. EWF requests the IWF for an exemption from paying the remaining amount (i.e. USD 160'000) based on the fulfilment of the conditions stipulated in the Decision.
7. IWF made no specific prayers for relief.
8. The Parties' arguments have been fully considered and will be referred to more specifically if and when they are relevant to the adjudication of this case.

## IV. Preliminary Matters

### i. Applicable Law and Regulation

9. The applicable rules are the IMFSP Decision, the IMG Terms of Reference (IMG-ToR), the IWF ADR (or earlier named Anti-Doping Policy: "IWF ADP"), the IWF Constitution and Swiss law on a subsidiary basis.
10. The IMFSP Decision applied the 2015 IWF ADP. In the present matter, EWF supports the application of the 2019 IWF ADP, whilst the IMG understands that the IWF (which explicitly mentions Art. 12.6.2 IWF ADR) supports the application of the 2021 IWF ADR. Art. 24.7.2 2021 IWF ADR reads that the anti-doping rules shall not apply retroactively, with the exception of procedural rules that should be applied retroactively. "Procedural Rules" is not a defined term under Appendix 1 of the 2021 IWF ADR. Art. 12.7 of these 2021 IWF ADR clarify the rules to be applied by the IMFSP, which include jurisdiction and other procedural matters. Materially, the rules detailed in art. 12.7 of 2021 IWF ADR are of similar range and nature than those of art. 12.6.2 2021 IWF ADR that relate to the IMG. Hence, this Panel finds that Art. 12.6.2 and other provisions of the 2021 IWF ADR to be applied to the IMG qualify as "Procedural Rules" and, by virtue of Art. 24.7.2 2021 IWF ADR, they are applicable to this case (see also § 46 of the 2019/A/6498 CAS Award).

ii. **Jurisdiction**

11. EWF agreed to the IMG's jurisdiction. The IMG has jurisdiction to hear and adjudicate this case based on Art. 12.6.2 IWF ADR and Art. 7.1 IMG-ToR.
12. The scope of this Panel's review is to consider whether, pursuant to § VIII/4 of the IMFSP Decision, the payment of a \$ 160'000.— fine by EWF may be eliminated according to the monitoring and eventual fulfilment of seven conditions.
13. Beyond the arguments related to the eventual fulfilment of the seven conditions set out by the IMFSP Decision, EWF submits that it shall be exempted of payment of the remaining part of the fine "because of the Covid-19 Pandemic which brought all the EWF's funding sources to an entire stoppage" (EWF's Submission 18 October 2021, § 34-36). Such does not fall within the scope of jurisdiction of this Panel, which duty is to monitor and rule on the compliance of the terms stipulated by the IMFSP where any decision thereof sets conditions for suspending, lifting or eliminating a sanction (art. 12.6.2 2021 IWF ADR). According to IMFSP's decision under § VIII/4, the IMG's jurisdiction is limited to monitoring the compliance of the seven conditions. Hence, it falls outside the scope of jurisdiction of the IMG deciding on the EWF's request to be exempted from the payment of the fine. In the same consideration, it is not in the jurisdiction of this Panel to rule whether EWF may participate in the upcoming World Championships.

iii. **Admissibility**

14. The case has been referred to the IMG by the IWF Secretariat according Art. 7.1 IMG-ToR, and is, hence, admissible.

iv. **Burden of Proof**

15. According to the IMFSP Decision, the burden of proof lies with EWF, which must "satisfy the following conditions" (VIII/4 of the IMFSP Decision).
16. The Panel is not bound by the prayers for relief made by the Parties.

V. **Merits**

17. As a result of the Parties' requests and submissions, there are 7 conditions that need to be addressed by this Panel:

i. **Condition 1:**

18. According to the IMFSP Decision, the Panel must review whether the EWF has no more than one (2) (sic!) adverse analytical finding for a Non-Specified substance or other anti-doping rule violation committed by a Federation member athlete or Athlete Support Person in the twenty-four months following the date of the IMFSP Decision.
19. Upon request of this Panel, IWF confirmed that no ADRV had been committed during the period under scrutiny by the defined individuals.
20. Consequently, the Panel finds that the first condition is met.

ii. **Condition 2:**

21. According to the IMFSP Decision, the Panel must review whether the EWF made its best effort to include in its National team, before 15 November of the preceding year, all Athletes who may compete at any IWF Events following the Federation's suspension period (in which the Federation is or might be entitled to participate).

22. IWF informed the Panel that it had not received any such information during the relevant period, to date and at no point in time.
23. EWF claims to have fulfilled this obligation by inserting the names of the Athletes' whereabouts within ADAMS.
24. It is not clear from the IMFSP Decision what EWF should have done with the list of Athletes in the National team. The IMFSP Decision does not clarify whether this list should be shared with ADAMS or the IWF. In these conditions and in order to allow EWF the benefit of the most favourable outcome, the Panel is prepared to accept EWF's argument that a satisfactory submission of such list to ADAMS would satisfy the condition. Upon the Panel's request, IWF provided with details about ADAMS whereabouts (limited to the last twelve months) of the Athletes mentioned by EWF as included in the National Team. Of eleven Athletes (seven men and four women mentioned by EWF), four did not enter any whereabouts information and one was not found in ADAMS. The Panel also observes that EWF argues that it could not include the whereabouts of two Athletes, despite correspondence with WADA on this issue. In its Directions n° 1, this Panel requested from EWF to submit any correspondence with IWF on this issue, as suggested by the ADAMS team in its email dated 15 September 2021 at 3:58 GMT + 3. EWF did not submit any other document in this regard so as for the Panel to review whether EWF did its best efforts to include such Athletes in ADAMS.

25. Consequently, the Panel finds that the second condition is not met.

iii. Condition 3:

26. According to the IMFSP Decision, the Panel must review whether the EWF submitted accurate, complete and timely whereabouts for all National Team Athletes.
27. As stated above, the whereabouts information was not accurate, complete and timely inserted for five of eleven National Team Athletes.
28. In view of the above, the third condition is not met.

iv. Condition 4:

29. According to the IMFSP Decision, the Panel must review whether the EWF shared the dates and locations of training of the National Team Athletes with IWF on a timely basis.
30. The EWF submits that there is only one single collective camp ongoing since March 2021. No document was submitted by EWF in support to its allegation that "its details are shared with IWF".
31. The IWF informed that it did not receive any information about such camp during the period between 12 September 2019 and 12 September 2021. This allegation was not challenged by EWF, despite it having such opportunity in view of the Panels' Directions n° 1 (§ 13).

32. Consequently, the Panel finds that the fourth condition is not met.

v. Condition 5:

33. According to the IMFSP Decision, the Panel must review whether the EWF conducted prompt investigation and reporting to IWF regarding Athlete Support Personnel associated with ADRV's.

34. The scope of that condition shall be asserted. In its Decision, the IMFSP repeatedly relied upon an "(undated) Federation Investigation Report". The IMFSP found, in this regard and in its consideration of the sanction to be imposed on the EWF, that "the investigation conducted by the Federation was woefully inadequate" (§ 25). The IMFSP also considered, in order to adequately investigate all the facts, that the IWF shall conduct further investigation of this issue (p. 9). This shows that any insufficiency in the investigation carried by the EWF in view of this case has been entirely dealt with by the IMFSP Decision, which did not task EWF with conducting further investigation on this case. Consequently, the Panel understands this condition as such that the investigation and report mentioned under condition 5 of the IMFSP Decision relates to eventual new ADRV's but are not related to the past ADRV's that triggered the present case. As stated above under condition 1, there were no further ADRV and, hence, no opportunity for investigation and reporting.
35. Consequently, the Panel finds that the fifth condition, if applicable, is met.
- vi. Condition 6:
36. According to the IMFSP Decision, the Panel must review whether the EWF promptly identified to IWF all Athlete Support Personnel affiliated to the EWF.
37. EWF submits that it was unable to fulfil this condition, as the only way to comply with it would be to participate in IWF's competitions. Even in such cases, entry forms would not make it mandatory to disclose the names of the Personnel.
38. IWF submits that at no point in time did it receive information about the Personnel affiliated to the EWF between 12 September 2019 and 12 September 2021.
39. The argument made by EWF is very insufficient to meet the requirements set by the IMFSP Decision. It was for the EWF to inform IWF about the Athlete Support Personnel. The IMFSP Decision did not say how this should occur, but EWF does not suggest that it enquired with the IWF or other relevant bodies on how this identification may have occurred. A regular information per email would have at least shown that EWF had appetite in complying with this criterion. The impossibility to enter the Athlete Support Personnel in the entry form itself does not appear as an impossibility to meet the obligation according to art. 119 of the Swiss Code of obligations.
40. Consequently, the Panel finds that the sixth condition is not met.
- vii. Condition 7:
41. According to the IMFSP Decision, the Panel must review whether the EWF organized one anti-doping education seminar under IWF's supervision on a national level in each six months of the suspension period.
42. EWF submits that "from day one after the [IMFSP] Decision, it was continuously following up with its Athletes and giving all possible advice, guidelines and information pertinent to anti-doping. EWF organized an anti-doping seminar on 6 October 2021, which it informed the IWF of on 3 October 2021.
43. IWF confirmed it never had any supervision on any seminar.
44. In view of the above, no anti-doping seminar was organized in each six months of the suspension period. There should have been at least four seminars during this period, none of which has been organized. This Panel will grant no consideration to EWF's argument that it could not be organized due to safety and precautions.

During the Covid-19 pandemic, the sports world reorganized around online meetings and seminars, and EWF does not allege that it would have at least attempted to organize an online seminar under the supervision of IWF. It further appears from the emails produced by EWF that it is upon recall by IWF, on 1 October 2021, of the seven conditions that shall be met in order to eliminate the remaining fine that EWF informed IWF of an upcoming seminar on 6 October 2021. EWF did not seek any supervision from IWF but simply asked IWF to "please let us know of any information or suggestion".

45. Consequently, the Panel finds that the seventh condition is not met.

viii. Final consideration

46. The Panel finds EWF to be careless in its consideration of the IMFSP Decision and the consequences that it entails. This Panel has found that five of the seven conditions set by the IMFSP Decision are not met. It shall be highlighted that EWF pretended to have inserted all whereabouts information of its National Team Athletes, which proved wrong in five cases out of eleven (second and third conditions). No action whatsoever was anticipated to fulfil the condition regarding, the localization of training camps (fourth condition), the identification of Athlete Support Personnel (sixth condition) and the organization of anti-doping seminars (seventh condition). EWF relied on merely logistical issues that can be easily solved (impossibility to enter coaches on entry forms, impossibility to hold presential seminars) or simply did not take any action. This lack of care in handling the structural reforms that the IMFSP Decision induced is worrying on the opinion of the Panel as it suggests that the IMFSP Decision was not even properly addressed in order to implement best practices and compliance with the relevant regulations.

VI. Decision

In consideration of all facts and relevant regulations, the IMG decides:

1. The conditions to eliminate the fine of \$ 160'000.— imposed on EWF by the IMFSP Decision dated 12 September 2019 are not met.
2. All other prayers are dismissed.

\* \* \*

The Panel

Philippe Vladimir Boss, Chair

Davide Delfini

Sarah Shibutse

Lausanne  November 2021