

ETHICS and DISCIPLINARY COMMISSION

of the INTERNATIONAL WEIGHTLIFTING FEDERATION

EDC 2021/ 3 Mr. Attila Adamfi (HUN) v. Mr Maxim Agapitov (RUS)

DECISION

delivered by the

Ethics and Disciplinary Commission (EDC) of the International Weightlifting Federation (IWF)

sitting in the following composition:

Professor Dr Dr Moni Wekesa (KEN) – Chair of Tribunal

Mr Yoshihiro Takatori (JPN) – Tribunal Member

Ms Beatriz Merino (PERU) – Tribunal Member

in the procedure between

Mr. Attila Adamfi (HUN)

Represented by Dr. Katalin Csaszar, Attorney at Law (Budapest, HUN)

Complainant / Claimant

and

Mr Maxim Agapitov (RUS)

Represented by Mr. Artem Patsev and Ms Anna Antseliovich, Attorneys at Law, Moscow, RUS)

Respondent

I. PARTIES

1. Mr. Attila Adamfi, the complainant, is a former Director General of the International Weightlifting Federation (IWF) and a delegate of the Hungarian Weightlifting Federation (HWF) for the IWF Constitutional Congress
2. The Respondent is Mr Maxim Agapitov, President of the Russian Weightlifting Federation, Acting President of the European Weightlifting Federation (EWF) and member of the IWF Executive Board (IWF EB).
3. Both the Complainant and the Respondent are hereinafter referred to as the “Parties”.
4. The parties had offered themselves to contest for various position on the Executive Board of the IWF that were scheduled to be held on 20-21 December 2021.

II. FACTUAL BACKGROUND

1. Below is a summary of the relevant facts and allegations based on the parties’ written submissions. Additional facts and allegations found in the parties’ written submissions, pleadings and evidence are set out, where relevant, in connection with the legal discussion that follows. While the EDC has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Decision only to the submissions and evidence it considers necessary to explain its reasoning.
6. By letter dated 14th August 2021 [hereinafter the ‘impugned’ letter], the respondent, ostensibly on behalf of the European Weightlifting Federation (EWF) and using the letterheaded paper of EWF , wrote to Mr. Mathew Curtain (Non-Executive Director (Chair of the England Committee) of British Weightlifting Federation, expressing his displeasure with the apparent involvement of the Complainant in the Constitutional discussions going on at the time. The complainant attached a copy of a letter presumably authored by both himself and Mr. Curtain in which both made representations about the draft Constitution.
7. In the impugned letter, the respondent used very unflattering language against the complainant in which he wrote-

[...] we would like to clarify your position on these letters, which allegedly expresses your joint opinion with **Mr. Attila Adamfi**, who was implicated, or repeatedly mentioned in a negative context, in Professor McLaren's Report on IWF. In our opinion, such an alliance totally undermines the confidence of the weightlifting family in you personally and – what is even worse! – in British Weightlifting, which you represent, in general. In other words, **the mere close contacts with Mr. Adamfi who was undoubtedly one of the key persons responsible for the falling of the sport of weightlifting into the abyss of doping and corruption, let alone communications and discussions with him on the IWF governance issues, demonstrate your own support for the flawed system [...]. By such actions, now it is you who brings the weightlifting (including both the IWF and the EWF) into disrepute.** Moreover, as Mr. Adamfi is not currently a member of the weightlifting family, still less he holds any position within the IWF or any other weightlifting organization to our knowledge, we would like to clarify who provided him with the draft(s) of the IWF Constitution that has been circulated among the members on a confidential basis – was it British Weightlifting or you personally? These issues are truly disturbing, and both the weightlifters, including of course those who compete under the auspices of the British Weightlifting, and the weightlifting officials around the world have a right to

know who is this “black sheep in the flock” that gives the IOC an impression that the weightlifting is still a dirty and corrupted sport.

8. In the said impugned letter, the respondent even threatened Mr. Curtain with disciplinary action because he believed any association with the complainant was tantamount to bringing the sport of ‘weightlifting into disrepute’.
9. This impugned letter was copied to CEO-British Weightlifting, Prof. Richard McLaren, Innovative Dispute Resolution Ltd, EWF Executive Board (EWF EB), IWF EB, some officials within the International Olympic Committee (IOC) and to the International Testing Authority (ITA).
10. This impugned letter was also published on the EWF Website on 16th August 2021.
11. Both the complainant and Mr. Curtain had made joint representations through mail dated 13th August 2021 to the Committee reviewing the IWF Constitution (now approved) indicating that there was need to have a *‘strongest constitution according to the IOC’s expectations’*. [own emphasis]
12. On the 16th August 2021 Dr. Milan V. Mihajlovic, the General Secretary of EWF, wrote ‘an open’ letter copied to many recipients largely within the IWF fraternity saying –

Due to the high amount of inquiries, I would like to inform you that the letter sent by the EWF Interim President Mr. Maxim Agapitov on August 14, 2021, is a personal statement that does not refer to the activities/consultations of the EB EB [*sic*].
13. In a signed letter that is undated, four members of the EWF EB (including two Vice Presidents) expressed their dissatisfaction with the manner the respondent was running the affairs of EWF. Needless to mention that this letter does not mention the complainant.
14. On 16th August 2021, the respondent wrote a letter to the President and the Director of the Hungarian Weightlifting Federation asking them to exclude persons implicated in the McLaren Report. In that letter he mentions the complainant together with another person as being the ‘architects and key drivers of the rotten system’ probably in the IWF, and singles out the complainant as having been implicated in the ‘double cash payments’.
15. This impugned letter was circulated to the EWF EB, IWF EB, Prof. Richard McLaren, Innovative Dispute Resolution Ltd, the ITA, and to the World Anti-Doping Agency (WADA).
16. On 17th August 2021, the complainant wrote to the respondent expressing shock and disgust at the respondent’s letter dated 14th August 2021 and which was posted on the EWF Website on 16th August 2021. Complainant refuted what is contained in the McLaren Report and attached thereto his communication with Prof. McLaren.
17. Complainant demanded evidence of wrongdoing and removal of the impugned letter from the website.
18. By letter dated 24th August 2021, the HWF President responded to the letter of 16th August 2021 maintaining that the complainant had been chosen as a delegate representing the HWF in accordance to IWF Constitution articles 4.1.4 and 4.1.5 and by-law 4.1, and that the complainant had already participated in the June Congress and would continue to do so in August 2021.
19. On 6th November 2021, respondent produced a video with the title ‘SAY NO DOPING. SAVE WEIGHTLIFTING’ (hereinafter the ‘impugned’ video). This video can be accessed on Youtube at <https://youtube.be/43HD2GuEOCY> as well as on other platforms such as Facebook, Instagram and LinkedIn.
20. In the impugned video, respondent posted a picture of the complainant with the following texts: ‘[...] people who were part of the old doping system ... are trying to restore the doping empire [...]’ from minute 0.47, and ‘[...] his attempt to come back to the world of weightlifting shocked everyone who really loved this sport [...]’ from minute 1.10

21. On 8th November 2021, the respondent promoted the impugned video widely through an email to member federations of the EWF.

III. OVERVIEW OF THE PROCEEDINGS BEFORE THE EDC

22. The Complainant approached the EDC with his complaint dated 8th October 2021 in which he indicated his advocates through a Power of Attorney. To the letter were attached numerous documents namely a letter to Mr. Curtain signed by the respondent, responses thereto from the EWF General Secretary and another from four executive Board members, a letter from the respondent to the Hungarian Weightlifting Federation (HWF), a response from HWF, a press statement from the complainant about changes at IWF, a letter of reference for the complainant signed by the IWF interim President, a copy of the McLaren Report, and letter of complainant to EWF
23. Upon receipt of the complaint, the same was sent to the respondent for their response. In his response dated 11 November 2021, respondent attached the independent Investigator Report to the Oversight and Integrity Commission of the International Weightlifting Federation published on 4 June 2020, a Sworn statement of Prof. Richard McLaren, *CAS OG 20/04 Maxim Agapitov v. International Olympic Committee*, and the Power of Attorney indicating his legal representatives.
24. By letter of 17 November 2021, the EDC Tribunal asked the applicant to make any responses to the reply from the respondent and to furnish further information. In particular, the applicant was asked to furnish evidence of the ‘no confidence vote’ in Mr. Agapitov as the interim President of EWF and evidence of his rebuttal to the McLaren report. Respondent was asked to furnish further evidence relating to his being the ‘spokesperson’ of EWF.
25. The complainant submitted a further response dated 24 November 2021 which was accompanied by his rebuttal to the McLaren Report, Minutes of the EWF Congress, letter from EWF Secretariat dated 14 October 2021, and excerpts from the IWF Constitution of 2017
26. Respondent gave further information through their letter dated 20 November 2021 in which they attached a copy of the EWF Constitution.
27. Further information was furnished by the respondent on 30 November 2021 to which they attached an affidavit by Mr. Agron S. Haxhiyseni of Albania. This was after the deadline given by the tribunal.
28. On 7 December 2021, the complainant sent further information together with a declaration in his support from Ms Ursula Garza Papandrea, former IWF Vice President and IWF Interim President. This was after the deadline given by the tribunal.
29. Late submissions from the parties were not considered unless both parties had expressed themselves to the issues therein.
30. The parties were also asked to indicate whether they wanted a hearing or if they would be comfortable with the EDC Tribunal relying on their pleadings and submissions. Both parties were agreeable to the EDC Tribunal proceeding based only on the parties documentation.

IV. SUBMISSIONS OF THE PARTIES

SUBMISSIONS BY THE COMPLAINANT

31. The complainant’s submissions, in essence, may be summarized as follows:

31.1 That the respondent abused his position of EWF Interim President contrary to the provisions of the IWF EDC art 120. In particular, the complainant avers that the respondent published the impugned letter on the letterhead of EWF and used the pronoun “we” implying it to have been released by the Executive Board of EWF although there was no consultation with the rest of the EB members. The said

letter was sent from the EWF's email and was published on the EWF Website. The complainant produced in evidence letters from the General Secretary of EWF and another one from four other members of the EWF EB dated 16 August 2021, whose contents point to the fact that there was neither consultation between the respondent and the EWF EB nor that the impugned letter represented the position of the EWF EB.

31.2 That the respondent interfered in the internal matters of the Hungarian Weightlifting Federation (HWF) and making untrue allegations contrary to the IWF EDC at articles 114(a), (b) and (c). He produced a letter addressed to the President and the Director of HWF dated 16 August 2021 in evidence. The complainant was particularly aggrieved by a statement in that letter which says "invite the Hungarian Weightlifting Federation to review the list of Representatives ... and to exclude the person implicated in the Prof. McLaren's Report from the list."

31.3 That the respondent defamed the complainant through the impugned letter dated 14 August 2021 and a subsequent video published on 8 November 2021. The alleged defamatory words in the impugned letter are presented in paragraphs 19-31 which include but are not limited to allegations of 'bribery of voters', 'bringing the sport 'into the abyss of doping and corruption', supporting a 'flawed system created by the previous leadership of the IWF', of not being 'currently a member of the weightlifting family or an official in any IWF body', of being one of the architects and key drivers of 'this rotten system', of being implicated in the McLaren's Report in 'double cash payments' and of 'bribing voters with cash during the Electoral Congress 2017' amongst others. This letter was circulated widely to members of EWF EB, IWF EB, IOC, ITA, WADA, media and on the EWF Website

31.4 That the complainant wrote to respondent on 17 Aug 2021 asking that the respondent (i) produces evidence of the defamatory statements, and (ii) to remove the impugned letter from the EWF website immediately. There was no response from the respondent.

31.5 That in spite of the complainant's said letter to the respondent, the respondent proceeded to produce a video that contained defamatory materials on the complainant and that this video was widely circulated to multiple recipients

32 That the complainant asks the Tribunal to consider that the respondent's actions constitute aggravating circumstances based on the fact the respondent repeated the contents of his letters even after they had been challenged by some members of the EWF EB, and on the fact that the respondent holds high level positions as interim President of EWF, IWF EB member, and President of Russian Weightlifting Federation.

33 That the Tribunal considers a non-monetary sanction based on the most serious breach, considering that the respondent committed many breaches to wit articles 114 (a), (b), (c), art 120 and art 121

34 The complainant therefore requests that the EDC

34.1 Determines that Mr. Agapitov violated the IWF EDC interim Rules in multiple cases,

34.2 Render a sanction against Mr. Agapitov as it deems appropriate,

34.3 Determine that Mr. Agapitov shall pay a fine of 10.000 USD to the complainant within 10 days for the reputational damage and for the cost of repairing the reputation of the complainant, and

34.4 Enforce a letter of apology signed by Mr. Agapitov addressed to the complainant within 5 days [of the decision of the EDC] with the following content:

"I, the undersigned Maxim Agapitov, falsely stated in my letters published recently that Attila Adamfi:

*-was undoubtedly one of the key persons responsible for the falling of the sport of weightlifting
 -created the flawed system
 -is not currently a member of the weightlifting family
 -was the architect and the key driver of this rotten system, and he had to resign
 -was involved in the “double cash payments” hidden system and into bribing voters with cash
 during the IWF Electoral Congress in 2017
 I apologize for my untrue and defamatory statements.”*

Submissions by Respondent

- 35 The respondent averred
- 35.1 that he was very shocked when the complainant was mentioned in the McLaren Report as a participant in the inner circles of the former President and of being involved in some illegal/corruption schemes organized by the former president, and more specifically in vote-buying and questionable financial deals. He attached a sworn statement of Prof. Richard McLaren and the Independent Investigator Report to the Oversight and Integrity Commission of International Weightlifting Federation published on 4 June 2020 (the McLaren Report). Respondent also produced a written affidavit sworn by Agron S Haxhihyseni, former General Secretary of the Albanian Weightlifting Federation and European Master of Sport, World Ambassador of Peace, to show how closely the complainant worked with the former IWF President.
- 35.2 That on the matter of violation of art 114 of the EDC Interim Rules – the respondent has always adhered to the ‘highest principles of integrity and honesty and has always stood for the observance of the EWF and IWF Constitutions. And that he sent out the impugned letter as a way of cleaning up the image of weightlifting and to show the sporting world that there are some people within the IWF who want to eliminate all traces of doping and corruption, and to emphasize that it is important for weightlifting to remain within the Olympic family. In a further submission, respondent stated that there was no indication that the press release was from the EWF but that the press release was issued by the EWF President on his own
- 35.3 That on the alleged violation of art 120 (abuse of position), respondent said that communication of the President to members cannot be abuse of position and that the complainant did not show how respondent could use such communication for ‘advantage of their position for private aims or gains’. He further states that his intention was only ‘to remind the official a national federation (which is a member-federation associated with the EWF) that everyone should refrain from doing anything that might bring the sport of weightlifting into disrepute.’
- 35.4 That on the allegation of violation of art 121 (public statements of a defamatory nature”), respondent denies defaming the complainant but states that the contents were based on the McLaren’s Report, which report he considers unchallenged. Respondent was persuaded that the McLaren’s Report was based on concrete evidence. Respondent considers it ‘bizarre that Mr. Adamfi still considers himself a full member of the weightlifting family, only because he has been appointed a delegate to the Constitutional Congress...’. Respondent disputes that art 126 of the EDC Interim Rules does not provide for reparation of reputational damage. He further states that the complainant was registered ‘as a candidate for the upcoming IWF Elections. As a result, no damage resulted from Mr. Agapitov’s letter regarding Mr. Adamfi in the August 14 letter.’
- 35.5 That on the matter of ‘repeated violation’ that the expression can only apply where ‘to qualify violation as repeated, the person shall be properly notified of the first offence, and such offence shall be proven in court or in an independent tribunal’.

- 36 Respondent wondered why the complainant raised the matter of ‘vote of no confidence’ as this had been done in a ‘totally unconstitutional’ manner and that respondent is still the EWF interim President. In a further response dated 30 November 2021, respondent reiterates that the ‘vote of no confidence’ was unconstitutional and states that it had nothing to do with the complainant.
- 37 Respondent also took issue with complainant’s mention of ‘an old anti-doping violation of 27 years ago’ and produced in evidence a decision that absolved him in *CAS OG 20/04 Maxim Agapitov v International Olympic Committee*.
- 38 Respondent further submitted that the ‘Court of Arbitration for Sport has long ago established that Prof. McLaren’s conclusions made during his investigations can in no way be characterized as “*suggestions, personal opinions, subjective views lacking any evidence are not legal categories*”. Rather those are made on the “beyond reasonable doubt” standard.’ Respondent did not furnish any specific CAS reference to enable the Tribunal follow his line of argument. In particular, the Tribunal was not able to establish whether CAS has pronounced itself on matters touching on the McLaren Report on IWF or whether the respondent was referring to other investigative reports authored by Prof. McLaren.
- 39 Respondent holds the view that the matters of ‘a vote of no-confidence’ and of an old anti-doping violation are irrelevant to the matter at hand.
- 40 Respondent prayed that the EDC rules that –
 -Mr. Adamfi’s complaint is dismissed in its entirety, and
 -Mr. Adamfi is ordered to pay Mr. Agapitov a fair contribution towards the legal and other costs incurred by him in the framework of this proceeding, in an amount to be determined at the discretion of the Panel.

V. JURISDICTION

41. The jurisdiction of the EDC is contained in the IWF Constitution (2017 & 2021) as well as in the EDC (interim-) Rules
42. At the time of commission of the impugned conduct, the 2017 Constitution and the interim EDC Rules were in operation.

VI. APPLICABLE LAW

43. Article 5 of the EDC Procedural Rules provides as follows:

The EDC Interim Rules govern every subject to which the text or the meaning of its provisions refers. The applicable law in case of lacunae in the EDC Interim Rules is Swiss law along with the general principles of law..”

44. Article 50 of the EDC Interim Rules speaks to late submissions and states as follows -

"50. The EDC shall conduct the hearing as it sees fit, respecting at all times the due process and the parties’ right to be heard. Evidence submitted late shall not be admitted by the EDC save for exceptional circumstances or if all parties to the procedure agree." [own emphasis].

45. No party pleaded exceptional circumstances. There was no agreement of the parties on late submission of (further) evidence. Where the tribunal considered that a party needed to respond to a particular submission, the party was given time to do so. Therefore, the Tribunal did not consider any evidence submitted after the given timelines

VII. MERITS

46. The issues we have distilled from the robust submissions by the parties are –
1. Whether the McLaren Report has the status of a (quasi-) judicial decision
 2. Whether respondent defamed the complainant
 3. Whether the respondent abused his position
 4. Whether there are any aggravating circumstances in line with the EDC Rules
- A.** Whether the McLaren Report has the status of a (quasi-) judicial decision
47. The McLaren Report on IWF contains results of an investigation conducted by ----- . In it several people are mentioned in connection with their various roles and how they performed in those roles. The report dwelt in the main on doping matters, financial management and general governance issues.
48. As the respondent submitted, the report is very detailed and well done by a group of professionals.
49. The report has fingered a number of people as having conducted the affairs of IWF in a manner that can be described as improper. The complainant is one of those mentioned adversely in the report.
50. The respondent picked on such adverse mentions of the complainant in the Report to demand that the complainant be excluded from activities of IWF, such as being a delegate to a constitutional conference. Respondent went further to ‘adopt’ some of the findings of the report and publicize the same as the grounds for excluding people like the complainant from activities of IWF.
51. In his submissions, respondent is persuaded that complainant actually committed the ‘offences’ mentioned in connection with him in the said Report. Complainant says he wrote to Prof. McLaren to debunk some of those findings. Indeed we have seen the said writing. Respondent considers the Complainant guilty of those accusations because according to him (respondent), complainant has not taken any legal steps to clear his name.
52. We have already observed and agreed with respondent that the Report is thoroughly well written. The said Report was submitted to the IWF EB. As a matter of procedure, the IWF EB is supposed to conduct further investigations with a view to according those mentioned therein an opportunity to defend themselves before an independent and impartial forum like a (quasi-) judicial tribunal. At such a forum, the dictates of the rule of law would require that those adversely mentioned are furnished with the ‘charges’ against them; the available evidence; and to hear and, if possible, to cross-examine witnesses. In short, those adversely mentioned should be given an opportunity to fully defend themselves. At the end of such a process, the (quasi-)judicial tribunal can pronounce itself regarding the guilt or otherwise of those adversely mentioned in the Report. The IWF Constitution provides for a variety of sanctions that can be applied to those found guilty. Hence, IWF has a mechanism of cleansing itself.
53. Without subjecting the findings of the report to an elaborate adjudication in accordance with the principles of the rule of law, the report remains just that - a report without any specific force of law.
54. It is trite law that ‘no man shall be condemned unheard’. This is usually captured in the Latin phrase *‘audi alteram partem’*. This principle of law has global application. To therefore use the contents of a report – however well written, however well detailed, however well intentioned – as if they were a decision of an adjudicatory body is tantamount to condemning someone unheard.
55. The McLaren Report contains strong but rebuttable evidence which ought to be tested through an independent tribunal.
56. Respondent, as a member of IWF EB, has not indicated what steps the IWF EB has taken to subject those adversely mentioned in the McLaren Report to disciplinary proceedings. He has not even pointed out his own such efforts within the IWF EB to help ‘clean’ up the sport. If indeed,

the Respondent was concerned with ‘cleaning’ up IWF, as he states, nothing would have been easier than to cause the McLaren Report be subjected to disciplinary proceedings.

57. It is not in dispute that the complainant has been mentioned adversely in the said Report. It is also a fact that the Report is in the hands of the IWF EB, of which the respondent is a member. It is also obvious from the submissions by the parties that persons adversely mentioned in the said Report have not been summoned to defend themselves before an independent and impartial tribunal. The respondent is fully aware of these facts – being a member of the IWF EB. It therefore offends public odium to treat the complainant as if he was found guilty (and or sanctioned) by an independent tribunal.

B. Whether the Respondent defamed the complainant

58. Halsbury’s Laws of England ¹ defines a defamatory statement as:-

A defamatory statement is a statement which tends to lower a person in the estimation of right thinking members of society generally or to cause him to be shunned or avoided or to expose him to hatred, contempt or ridicule or to convey an imputation on him disparaging or injurious to him in his office, profession, calling, trade or business.

59. The complainant, having served as Director General of IWF, was well known to the IWF community. The defamatory materials were circulated to a section of this community that knew the defendant very well.
60. We find that the impugned letters authored by the respondent uses words that are defamatory of the complainant. Even in the video, defamatory words are said and a picture of the complainant is attached, making it obvious that the complainant is a subject of the defamatory words in the video. Simply put, the basic ingredients of defamation are thus far satisfied.
61. It is also globally accepted that persons who hold positions in public trust should be subjected to a higher standard of scrutiny and criticism to seek for public interest. In such a way, such persons are prevented from using the law of defamation to impede freedom of expression. To therefore prove defamation against such persons, a complainant should be able to prove another element, that is malice, or that the person went overboard in his expression, which can be regarded as beyond seeking for public interest.
62. The complainant served in various capacities at the IWF including as Director General, a position that exposed him to the limelight and in which he had decision making power. It is obvious that those who disagree with his decisions will want to criticise them, sometimes very loudly, like through the media. The complainant is therefore one of those people who should be subjected to a higher standard of scrutiny.
63. In this particular instance, the complaint centres on the findings contained in the McLaren Report which was made public a long time ago. It is freely available on the internet.
64. The Report does not represent a final (quasi-) judicial determination. Those adversely mentioned in the Report have not had an opportunity to defend themselves. Respondent knows this very well. Nay, it is within his mandate to cause those mentioned in the Report to be subjected to an adjudicatory tribunal.
65. In his defence, Respondent says that his main concern is cleaning IWF of all past wrongs and that those who were involved in giving the sport of IWF bad name should be excluded from any new governance roles. That sounds like a noble cause. However, we disagree with his approach. Being a member of the IWF EB, he had and still has the opportunity to push for those named in the McLaren Report to be subjected to disciplinary hearings.

¹ <https://www.wildy.com/isbn/HLV/halsbury-s-laws-of-england-5th-edition-bound-volumes-lexisnexis-butterworths>

66. Respondent, like all other members of IWF, has an obligation to respect other people's right to be heard or opportunity to defend.

67. For a person who wishes to argue, as the respondent herein has argued, that they relied on public interest to publish what they did, some guidelines have been offered by the House of Lords in the matter of *Reynolds v. Times Newspapers Limited and Others* as follows-²

1. *The seriousness of the allegation, i.e. if the allegation is not true what will be the level of misinformation to the public and what will be the corresponding harm to the individual.*

2. *The nature of the information and the extent to which the subject-matter is a matter of public concern.*

3. *The source of the information and whether it is reliable or motivated by malice and/or avarice.*

4. *Whether suitable steps have been taken to verify the information.* [own emphasis]

5. [...]

68. Respondent chose to treat the contents of the Report as if they were a final decision of a tribunal. He did this by circulating several publications to very many recipients. He even threatened an official (one of the recipients) with possible sanctions. He asked a national federation, to wit the HWF, to exclude the complainant from their list of delegates. Even after the complainant had expressed his displeasure with Respondent's first letter, Respondent proceeded to write another one and even publish a video containing content defamatory to the complainant. All publications complained of had the intent of portraying the complainant as an undesirable person in IWF circles, who should be excluded from all IWF activities.

69. The relevant EDC article on defamation provides-

122. Public statements of a defamatory nature: *Persons bound by the Ethics and Disciplinary Code are forbidden from making any public statements of a defamatory nature towards the Federation and/or towards any other person or Organization bound by the Ethics and Disciplinary Code in the context of IWF events. Officials bound by the Ethics and Disciplinary Code shall refrain from making any public statement (including in the media or social media) in respect or in connection with the Federation, its Members, the Sport, the Olympic Movement any Athlete or official of the Federation without the express permission of the President or the Executive Board.*

70. On the one hand, the defamatory statements complained of were published a long time ago in the McLaren Report which is available on the internet. On the other hand, the conduct of the respondent in publishing the defamatory materials to the world severally, including through a video, is beyond the call of public duty to inform or seeking for public interest. We therefore have no hesitation in finding that the Respondent took a dangerous trajectory and defamed the complainant.

71. We observe that the defamatory material contained in the video constitutes a continuing defamation.

72. However, we do not agree with the Complainant that we should order for an apology and more so, in the manner desired by the Complainant, or at all.

C. Whether the respondent abused his position

73. Complainant submits that Respondent abused his position as EWF Interim President by issuing a statement (the impugned letter) purporting it to be on behalf of the EWF, and of attempting to coerce a National Federation (here the HWF) to exclude him from the list of delegates. Complainant produced evidence in the form of responses from the General Secretary of EWF and

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from the President of the HWF refuting and or refusing to comply with the ‘directions’ contained in the impugned letters.

74. Respondent on his part produced a copy of the EWF Constitution that empowers him to speak on behalf of the EWF. Confronted with a rebuttal authored by the General Secretary of EWF denying that the contents of Respondent’s impugned letter represented the views of EWF, Respondent said he was expressing his own views.
75. The applicable rule on abuse of position states-
- 121. Abuse of position: Persons bound by the Ethics and Disciplinary Code shall not abuse their position in any way, especially to take advantage of their position for private aims or gains. Officials bound by the Ethics and Disciplinary Code shall never attempt to improperly influence the outcome of any official Decision.*
76. Respondent submitted that the Complainant has not proved how the Respondent ‘took advantage of their position for private aims or gains’. We agree.
77. However, Article 10 (as above cited) generally refers to ‘*abuse their position in any way, ...*’. Although Respondent changed tact to state that he was expressing his own views, one would be left wondering what ‘personal’ authority the Respondent had to threaten Mr. Curtain and British Weightlifting Federation or even to attempt to prevail upon the Hungarian Weightlifting Federation to change its officials.
78. It is our finding that both the tenor and language of the impugned letters to Mr. Curtain and to the HWF amount to abuse of office.

D. Whether there are any aggravating circumstances in line with the EDC Rules

79. The relevant rule on aggravating circumstances states –
- 131. Repeated offenses or the fact that a person holds a high position in the sport of weightlifting shall be considered aggravating circumstances, allowing the IWF EDC to go beyond the maximum limit provided for a violation of the relevant rules foreseen in the Ethics and Disciplinary Code.*
80. It is obvious from the rule that persons who hold high positions are expected to conduct themselves with utmost care. Respondent is the President of the Russian Weightlifting Federation, Interim President of the European Weightlifting Federation and an executive board member of the IWF. Obviously, these are all very high positions.
81. The Tribunal considers the actions Respondent as aggravating circumstances based on the high position of the Respondent at National level, Regional level and international level in the sport of Weightlifting.

VIII. COSTS

82. In accordance with Rule 70 of the EDC Interim Rules, “*Under certain exceptional circumstances, the EDC may award costs against a party. Otherwise, the proceedings shall be borne by the IWF but the parties have to bear their own legal costs, particularly in relation to legal representation, experts and interpreters*”.
83. We therefore make no order as to legal costs.

ON THESE GROUNDS

The Ethics and Disciplinary Commission decides as follows: The complaint filed by Attila Adamfi on 8 October 2021 is largely upheld.

1. We reprimand the Respondent for the reputational damage caused to the Complainant.
2. Respondent is hereby directed to pull down or withdraw the impugned video from all platforms within seven (7) days from the date of this decision.
3. Respondent is hereby ordered to pay to the complainant USD 7,000.00 as compensation for reputational damage within seven (7) days of this decision.
4. All other requests are dismissed.

Seat of the EDC: Lausanne, Switzerland

Date: 17 December 2021

The Ethics and Disciplinary Commission of the International Weightlifting Federation




Prof. Dr Dr Moni Wekesa

Chair



Mr Yoshihiro Takatori



Ms Beatriz Merino