

Case: trib_2023/09

Decision on Request for Provisional Measures

delivered by the
Chairperson of the Boxing Independent Integrity Unit's Tribunal,

on
01 November 2023

regarding
disciplinary proceedings

involving
Michael Muller, German Boxing Association, *Deutscher Boxsport-Verband*,
m.mueller@boxverband.de ; r.abraham@boxverband.de ; kanzlei@kern-cherkeh.de

- Accused Party -

and
the **International Boxing Association**,
represented by its Secretary General / Chief Executive Officer, Chris Roberts OBE,

chris.roberts@iba.sport

- Complainant -

I. Parties

1. According to Art. 18 of the Boxing Independent Integrity Unit Procedural Rules (BIUUPR) the parties are the accusing and the accused party.

According to Art. 18 BIUUPR, the accused party is a person bound by the International Boxing Association (IBA) Disciplinary and Ethics Code (Disciplinary and Ethics Code) enshrined at its Art. 2, who allegedly committed a breach of the regulations made by the IBA Board in accordance with the IBA Constitution.

2. IBA (Complainant) who originally submitted a complaint referred that Mr. Michael Muller breached:
 - Article 5.2 of the IBA Membership Policy.
 - Article 11.1(h) of the IBA Constitution.
 - Article 20 of the IBA Disciplinary and Ethics Code. Disparagement of IBA's Reputation and Interests.
 - Article 41 of the IBA Disciplinary and Ethics Code. Participation in other international boxing associations or organisations.
3. Mr. Michael Muller (Accused Party) is the party accused by the Complainant. The Accused Party is an individual associated with the German Boxing Association. The Accused Party is bound by the Disciplinary and Ethics Code according to Art. 2.1 Disciplinary and Ethics Code and therefore falls under the Tribunal's jurisdiction.
4. The McLaren Independent Investigation Team (MIIT) is the accusing party, who is appointed as an Investigation and Prosecution Officer (IPO) responsible for investigating and prosecuting the case in accordance with Art. 25 and Art. 26 BIUUPR, based on the aforesaid complaint.

II. Factual background

1. On 25 April 2023, the Complainant filed a complaint against the Accused Party and other persons and namely requested what follows:

"The IBA Head Office kindly requests the Tribunal to open formal proceedings against those who illegitimately participate in another international boxing organisation herein identified and against those who can be identified in the future with the investigation by the IPO."

According to the Complainant, the Accused Party and other federations, boxers and officials participated in another association that intends to govern amateur boxing worldwide and alleged as follows:

"I am writing ... to denounce the participation of affiliated members, including National Federations ("NFs"), Boxers and Officials, in a recent created association that intends to govern amateur boxing worldwide, namely World Boxing (Home - World Boxing), wishing to replace International Boxing Association ("IBA")."

(...)

If the participation of the individuals, Boxers and Officials, and National Federations in the parallel international boxing federation is proven, this constitutes a serious breach and violations of the IBA Constitution, IBA Membership Policy and IBA Disciplinary and Ethics Code.

(...)

On 14 April 2023, IBA sent a letter to each of the individuals, Boxers and Officials, and to the National Federations allegedly involved to request clarification of their participation in World Boxing and granting until 17 April 2023 to reply", but "(a)s per individuals, none of the above-mentioned objected their participation in the World Boxing in return to IBA letter of 14 April 2023".

2. Also, in the same complaint, the Complainant requested the imposition of provisional measures and namely requested what follows:

"In the matter at stake, IBA and its affiliated members will be affected if no provisional measures are not taken against the investigated parties."

This procedure cannot take months as the following IBA owned and sanctioned competitions are taken place in the following months: IBA Men’s World Boxing Championships in Uzbekistan in May 2023, Southeast Asian Games in Cambodia in May 2023, OCBC Youth & Junior Men’s & Women’s Oceania Boxing Championships in Samoa in end of May 2023, European Games in Poland in end of June 2023, OCBC Oceania Boxing Championships in New Zealand in July 2023, etc. (Calendar – IBA)

(...)

the provisional measures shall be granted and provisional suspension immediately applied to the Respondents, especially on the specific individuals, until a final decision by the Tribunal is issued in this dispute.”

III. Proceedings

1. Disciplinary proceedings against the Accused Party were opened on 31 May 2023 by the Tribunal Chairperson as a result of the Complainant’s letter dated 25 April 2023. These proceedings are related to alleged breaches of Art. 5.2 of the IBA Membership Policy, Art. 11.1(h) of the IBA Constitution, Art. 20 (Disparagement of IBA’s Reputation and Interests) and Art. 41 (Participation in other international boxing associations or organisations) of the Disciplinary and Ethics Code.

IV. Submissions of the parties

1. On 2 June 2023, the Accused Party submitted the response to the request for provisional measures to the Tribunal through his federation’s Vice President Legal Affairs (Mr. Ronny Abraham, German Boxing Association) what follows:

“Mr. Müller expressly reserves all rights and expressly objects to any implied waiver of rights.

(...)

Mr. Müller will comment on this unreasonable deadline by June 8th, 2023 through a law company that still may have to be commissioned.”

2. On 6 June 2023, the Accused Party submitted the response to the request for provisional measures to the Tribunal through his attorney (Prof. Dr. Kern Cherkeh, Hannover) what follows:

“We will comment on this and also on the 104-page document within a reasonable period of time, namely by (as of today) 20.07.2023.

(...)

Our client has long since suspended his activities as a member of the “Interim Executive Board” at WORLD BOXING. (...) For this reason alone, any interim measures against our client are ruled out from the outset – apart from the fact that my client’s conduct was and is not objectionable from any point of view.”

3. On 20 July 2023, the Accused Party submitted the response to the request for provisional measures to the Tribunal through his attorney (Prof. Dr. Kern Cherkeh, Hannover, Germany) what follows:

“Before we comment conclusively on your letter of 31.05.2023 (in addition to the comments made in our letter of 06.06.2023), we will, for reasons of procedural economy, await the response of CEO Chris Roberts, which is also a matter of courtesy.

After evaluating Mr Roberts’ reply and discussing it in the DBV committees, we will come back to your letter of 31.05.2023.”

V. Jurisdiction

1. According to Art. 25.1 of the Boxing Independent Integrity Unit Rules (BIUR), the Tribunal has jurisdiction to hear cases where a breach of the regulations made by the IBA Board (in accordance with the IBA Constitution) allegedly accrued.

According to Art. 11.1 BIIUPR, the Tribunal shall declare whether it is competent to hear the case.

2. On 25 April 2023, the Complainant filed a complaint against the Accused Party.

Disciplinary proceedings against the Accused Party were opened on 31 May 2023 by the Chairperson as a result of the aforementioned complaint. The proceedings are related to alleged breaches of Art. 5.2 of the IBA Membership Policy, Art. 11.1(h) of the IBA Constitution, Art. 20 (Disparagement of IBA's Reputation and Interests) and Art. 41 (Participation in other international boxing associations or organisations) of the Disciplinary and Ethics Code.

3. The Complainant's complaint relates to an alleged breach of the regulations made by the IBA Board in accordance with the IBA Constitution.
4. According to Art. 2.1 Disciplinary and Ethics Code, the Disciplinary and Ethics Code shall apply to all officials, boxers, coaches, managers, promoters, and other persons elected, appointed, contracted or accredited by the IBA, the Confederation or National Federation.
5. According to Art. 17.1 BIIUPR, the Tribunal Chairperson on behalf of the Tribunal may pronounce, alter and annul provisional sanction or measure on his own initiative or following the request of the Parties.
6. Pursuant to Art. 26.3 (c) BIIUR, the Tribunal Chairperson may take decisions as single arbitrator to pronounce, alter and annul provisional sanction or measure.
7. Considering what precedes, the Tribunal therefore has jurisdiction to hear the Complainant's request for provisional measures, and the Tribunal Chairperson has authority to rule, as a single arbitrator.

VI. Applicable Law

1. According to Art. 12 BIIUPR, in their application and adjudication of law, the Tribunal shall apply the IBA Constitution as well as the regulations made by the IBA Board in accordance with the IBA Constitution, and, subsidiarily, Swiss law.

VII. Merits

1. According to Art. 27.2 BIIUR, the Tribunal has decided not to communicate the grounds of a decision in this case.

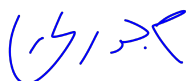
VIII. Costs

1. According to Art. 47 BIIUPR, no procedural costs shall be imposed. The Tribunal therefore does not impose procedural costs.
2. According to Art. 48 BIIUPR, no costs of the parties related to the proceedings are awarded. Therefore, the parties shall bear their own costs incurred by this procedure.

**The Boxing Independent Integrity Unit's Tribunal,
decides what follows.**

1. The Accused Party is provisionally suspended from all boxing activities, in any capacity, including Official Competition Official, for the duration of one hundred twenty (120) days.
2. No procedural costs are imposed.
3. The parties shall bear their own costs incurred by this procedure.
4. The present decision is notified to the Accused Party by email, immediately.
5. The present decision is notified to the Complainant and the IPO (as the Accusing Party), immediately.

Boxing Independent Integrity Unit's Tribunal



Malek Badri, Chairman

Request for grounds of decision

According to Art. 27.2 of the Boxing Independent Integrity Unit Rules, the parties have ten (10) days from receipt of this decision to request, in writing, the grounds of the decision, and that failure to do so will result in the decision becoming final and binding.

According to Art. 27.3 of the Boxing Independent Integrity Unit Rules, if a party requests the grounds of the decision, the motivated decision will be communicated to the parties in full, written form. The time limit to lodge an appeal, where applicable, begins upon receipt of this motivated decision.

Notice of appeal

According to Art. 89 of the Boxing Independent Integrity Unit Procedural Rules, the present decision may be appealed in English within twenty-one (21) days after its reception before the Court of Arbitration for Sport in Lausanne, Switzerland, which will resolve the dispute definitively in accordance with its procedural rules.

Copy by email to:

- Boxing Independent Integrity Unit, Managing Director, director@biu.sport
- McLaren Independent Investigation Team (as an Investigation and Prosecution Officer), McLaren Global Sports Solutions Inc., Ontario, Canada (richard.mclaren@mckenzielake.com)