

Case: trib/2023/02

Decision

delivered by the
Boxing Independent Integrity Unit's Tribunal,
sitting in the composition of

Malek Badri, Chairperson
Faisal Alobidan, Member,
Ennio Bovolenta, Member,

on

22 September 2023

regarding
disciplinary proceedings

involving

Alexander KLEMENKO, President of the Boxing Association of Montenegro,
c/o
The Boxing Association of Montenegro, Bulevar Oktobarske Revolucije 128, ME-81000 Podgorica,
bokserskisavezmne@gmail.com, g.marija@t-com.me,

- Accused Party -

and

the **International Boxing Association**,
represented by its Secretary General / Chief Executive Officer Chris Roberts OBE,
Maison du Sport International, CH-1007 Lausanne,
chris.roberts@iba.sport

- Complainant -

I. Parties

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

According to Art. 18 BIIUPR, 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 IBA Constitution.

2. IBA (Complainant) who originally submitted a complaint referred that Mr. Alexander Klemenko breached the Disciplinary and Ethics. In this specific case, the Complainant is the accusing party.
3. Mr. Alexander Klemenko (Accused Party) is the party accused by the Complainant. As the Boxing Association of Montenegro's President, the Accused Party is bound by the Disciplinary and Ethics Code and therefore falls under the Tribunal's jurisdiction.

II. Factual background

1. On 27 February 2023, the Complainant filed a complaint against the Accused Party and namely requested what follows.

"The IBA Head Office kindly requests the Tribunal to open formal proceedings against Mr Klemenko for making defamatory statements against the IBA Secretary General/CEO who shall be responsible for his individual conduct as per article 3.1 of the IBA DEC."

According to the Complainant, the alleged defamatory statements had taken place by letter dated 16 February 2023 and read as follows:

"If your today's appeal to us is indeed made by you with all responsibility and in your right mind, then I suggest that you immediately resign. These actions on the part of you, as the Secretary General of the IBA, speak of your complete incompetence or deliberate desire to sabotage the actions of the IBA and compromise its international authority.

Also, your absolute disrespect, misunderstanding and disregard for the activities of national federations, both for those who are still trying to take the initiative and organize such sports events at their own expense, and for athletes and coaches who are looking for various financial opportunities to participate in them, are completely obvious.

I am aware that by entering into such a dialogue with you, I may be subject to various sanctions from the IBA, but at the same time, nevertheless, I hope that it was exclusively your revanchist (here we all remember and understand each other) personal initiative and not a collegial decision of the IBA management.

(...)

I ask you to rise above your personal ambitions, forget old grievances, show proper respect and care for ordinary athletes and stop endlessly compromising the IBA in front of the world sports community with such hedonistic manipulations."

2. The Complainant withdrew its complaint on 28 June 2023.

III. Proceedings

1. Disciplinary proceedings against the Accused Party were opened on 7 March 2023 by the Interim Chairperson of the BIIU Tribunal as a result of the IBA's complaint dated 27 February 2023. They are related to an alleged breach of Art. 18 - Attempt to undermine honour and Art. 38.1(a) - Human dignity of the Disciplinary and Ethics Code, committed on 16 February 2023.
2. After submissions exchanges, the Complainant withdrew its complaint on 28 June 2023.
3. Following the abovementioned withdrawal, the scheduling of investigations was discontinued by the Boxing Independent Integrity Unit's Managing Director on 29 June 2023, referring the case to the Tribunal's Chairperson and proposing its dismissal.
4. On 12 September 2023, the Tribunal's Chairperson, based on Art. 27.2, Art. 32.1, Art. 44 and Art. 45.1. BIIUPR namely:
 - informed the parties about the closing of the investigations,

- notified the parties about the closing of the proceedings,
- announced that the Tribunal would deliberate by videoconference on 22 September 2023 afternoon,
- announced the Tribunal's composition,
- awarded that any request for the removal of any of the arbitrators must be submitted in substantiated writing to BIIU's Managing Board within five (5) days from the discovery of the grounds of challenge.

5. There has been no request for the removal of any of the arbitrators.

IV. Submissions of the parties

1. There have been no submissions by the parties before the Tribunal.

V. Jurisdiction

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

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

2. On 27 February 2023, the Complainant filed a complaint against the Accused Party.

Disciplinary proceedings against the Accused Party were opened on 7 March 2023 by the Interim Chairperson of the BIIU Tribunal as a result of the aforementioned complaint. The proceedings are related to an alleged breach of Art. 18 - Attempt to undermine honour and Art. 38.1(a) - Human dignity of the Disciplinary and Ethics Code, committed on 16 February 2023.

3. The Complainant's complaint relates to an alleged breach of the regulations made by the IBA Board in accordance with IBA Constitution.

4. Considering what precedes, the Tribunal therefore has jurisdiction to hear the case.

VI. Applicable Law

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

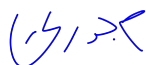
1. According to Art. 47 BIIUPR, no procedural costs shall be imposed. The Tribunal therefore does not impose procedural costs.

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 proceedings are dismissed.
2. No procedural costs are imposed.
3. The parties shall bear their own costs incurred by this procedure.
4. Any application or any request for relief is dismissed.
5. The present decision is notified to the parties by email (bokserskisavezmne@gmail.com, g.marija@t-com.me, chris.roberts@iba.sport), immediately.

**Boxing Independent Integrity Unit
Tribunal**



Malek Badri
Chairman



Faisal Alobidan
Member



Ennio Bovolenta
Member

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 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