

Case: trib_2022/04

Decision

delivered by the
Boxing Independent Integrity Unit's Tribunal,

Sitting in the composition of:

Malek Badri, Chairperson;
Adrian Stangaciu, Member; and
Ennio Bovolenta, Member,

on

22 January 2024

Regarding
disciplinary proceedings

involving

Ms. Hadia Kamal Khan, a female boxer affiliated to the Pakistan Boxing Federation
secretarygeneralpbf@gmail.com ; president@pakboxingfed.com ; gskpba@gmail.com

and

Mr. Sayyad Kamal Khan, a coach of the team of the Pakistan Boxing Federation
secretarygeneralpbf@gmail.com ; president@pakboxingfed.com ; gskpba@gmail.com

- Accused Parties -

and

Mr. Marco Steiner, Managing Director of the Boxing Independent Integrity Unit (BIIU),
acting as an Investigation and Prosecution Officer

director@biu.sport

- Accusing Party -

I. Parties

1. According to Art. 18 of the Amateur International Boxing Association (AIBA) Procedural Rules adopted by the AIBA Board on 8 April 2021 (AIBA Procedural Rules) [substantially equivalent to Art. 18 of the Boxing Independent Integrity Unit Procedural Rules adopted by the International Boxing Association (IBA) Board on 25 August 2023 (BIIUPR (Current))], the parties are the accusing and the accused party.

According to Art. 18 AIBA Procedural Rules, the accused party is a person bound by the AIBA Code of Ethics and/or the AIBA Disciplinary Code, who allegedly committed a breach of the regulations made by the IBA Board in accordance with the IBA Constitution.

2. Yury Zaytsev (Integrity Officer), an IBA Legal Counsel, who originally filed a brief as an Integrity Officer for sanction to the IBA Disciplinary Committee, which has been replaced by the Boxing Independent Integrity Unit's (BIIU) Tribunal (Tribunal), alleged that Ms. Hadia Kamal Khan and Mr. Sayyad Kamal Khan breached:
 - Article 8.1 (Forgery and Falsification) of the AIBA Disciplinary Code (adopted by the AIBA Executive Committee on 17 July 2013 (AIBA DC)).
3. Ms. Hadia Kamal Khan (Boxer) and Mr. Sayyad Kamal Khan (Coach, and together with the Boxer, Accused Parties) are the parties accused by the Integrity Officer. The Boxer is a female boxer affiliated with the Pakistan Boxing Federation. The Coach is a coach of the team of the Pakistan Boxing Federation. The Accused Parties are bound by the AIBA DC according to Art. 2.1 AIBA DC [substantially equivalent to Art. 2.1 of the IBA Disciplinary and Ethics Code adopted by the IBA Board on 15 July 2023 (Disciplinary and Ethics Code (Current))] and therefore falls under the Tribunal's jurisdiction.
4. According to Art. 18 AIBA Procedural Rules, Mr. Marco Steiner, the Managing Director of the BIIU, is the accusing party (Accusing Party), who replaced the Integrity Officer by the decision of the Managing Director of the BIIU (based on Art. 24.2 BIIUPR (Current), which is not regulated under the AIBA Procedural Rules) as an ad-hoc Investigation and Prosecution Officer (IPO) responsible for investigating and prosecuting the case based on the applicable regulations.
5. According to Art. 18 BIIUPR (Current) read in conjunction with Art 93.3 BIIUPR (Current), the IPO participates in the proceedings as an accusing party.

II. Factual background

1. From 27 February 2022 to 13 March 2022, the ASBC Youth & Junior Men & Women Boxing Championship (Tournament) was held in Amman, Jordan.
2. The Tournament was hosted by the Asian Boxing Confederation (ASBC), where the IBA sanctioned this tournament and included it in the IBA official calendar.
3. The Boxer participated in the Tournament as a Junior boxer being a part of the delegation of the Pakistan National Federation.
4. During the registration for the Tournament, as well as during the Sport Entries Check, the Boxer and the Coach provided a number of documents, including the Boxer's passport, according to which the Boxer's date of birth is 21 October 2007, which is confirmed by the Technical Delegate of the Tournament, Maria Karina Picson.
5. However, it appeared that in the IBA Database, there is a copy of another Boxer's passport, according to which the Boxer's date of birth is 21 October 2005.

III. Proceedings

1. On 27 April 2022, the IBA Disciplinary Committee opened these disciplinary proceedings against the Accused Parties.
2. On 4 December 2023, given the elimination of the role of Integrity Officer replaced by the Investigation and Prosecution Officer under the BIIUPR (Current), the Managing Director of the BIIU informed the Chairperson of the Tribunal (Chairperson of the Tribunal) that he decided to act himself as an ad-hoc IPO.
3. On 8 December 2023, the Chairperson of the Tribunal issued a decree namely:
 - informing the Accused Parties about the appointment of Mr. Marco Steiner as an IPO;
 - requesting the Parties to make a submission within five (5) days from the receipt of this decree if
 - (1) they wish the application of the current Boxing Independent Integrity Unit Procedural Rules to these proceedings, instead of the AIBA Procedural Rules adopted by the AIBA Board on 8 April 2021;
 - (2) they wish to make any additional submissions; and
 - (3) they wish a physical or an online hearing of the Tribunal to be held, and failure to do so within the provided deadline will be construed as no request or submission and these proceedings will be closed accordingly.
4. On 11 December 2023, the IPO made the submission (1) requesting the application of the BIIUPR (Current); (2) confirming no further submissions from the IPO; and (3) requesting that no physical hearing be held.
5. The Accused Parties have not made any submission.
6. On 15 December 2023, the Chairperson of the Tribunal, according to Art. 33.1 AIBA Procedural Rules [substantially equivalent to Art. 32.1 BIIUPR (Current)], Art. 45 AIBA Procedural Rules [substantially equivalent to Art. 44 BIIUPR (Current)] and Art. 46.1 AIBA Procedural Rules [substantially equivalent to Art. 45.1 BIIUPR (Current)], issued a decision on closing of proceedings namely:
 - informing the Accused Parties about the application of AIBA Procedural Rules;
 - informing the Parties about the closing of the proceedings;
 - announcing that the Tribunal would deliberate by videoconference on 10 January 2024;
 - announcing the Tribunal's composition; and
 - informing that any request for the removal of any of the arbitrators must be submitted in substantiated writing to the BIIU Managing Board within five (5) days from the discovery of the grounds of challenge.
7. There has been no request for the removal of any of the arbitrators.
8. Due to the schedule conflict of the members of the Tribunal, the Tribunal deliberated on 22 January 2024.

IV. Submissions of the Parties

A. The Integrity Officer's Submissions and Requests for Relief

1. On 21 April 2022, the Integrity Officer submitted the brief to the IBA Disciplinary Committee what follows:

“26. Taking into account that the Boxer participated in the Tournament as a Junior boxer, the Boxer’s passport was obviously forged in order the Boxer’s age corresponded to the age classification for the Junior category.

(...)

Thus, it is obvious that the Coach was also aware of the forgery of the Boxer’s passport.”

and

“(a) Given the above, the undersigned counsel acting as Integrity Officer requests the Disciplinary Committee to open disciplinary proceedings against Ms. Hadia Kamal Khan and Mr. Sayyad Kamal Khan under the Procedural Rules.

(b) The undersigned counsel acting as Integrity Officer requests that the Disciplinary Committee rules as follows:

1. Ms. Hadia Kamal Khan breached Article 8.1 of the Disciplinary Code;

2. Ms. Hadia Kamal Khan shall be imposed the fine of CHF 3,000 and suspension from all boxing activities for 3 years;

3. Mr. Sayyad Kamal Khan breached Article 8.1 of the Disciplinary Code;

4. Mr. Sayyad Kamal Khan shall be imposed the fine of CHF 5,000 and suspension from all boxing activities for 3 years.”

2. On 1 June 2022, the Integrity Officer submitted the supplementary brief to the Disciplinary Committee what follows:

“Taking into account the mentioned in this Supplementary Brief coupled with the allegations stated in the Brief of April 21, 2022, it becomes evident that there may be no other sane explanation of sending by the Accused Parties this two different passports to IBA than that they had sent the Old Passport (which is most probably the original one) to IBA and then, having successfully issued another passport with the younger age, tried to mislead IBA that the Boxer’s factual date of birth is 21 October 2007 in order to procure an advantage for the Boxer from her real age.

In this regard the undersigned counsel acting as Integrity Officer requests the Disciplinary Committee to rule as it was indicated in the Brief of April 21, 2022.”

B. The Accused Parties’ Submissions and Requests for Relief

3. On 15 May 2022, the Accused Parties made the submission of what follows:

“We humbly submit that the age of Boxer was recorded incorrectly in her previous passport numbered NU 4141461 and the same was therefore got rectified, and the Government of Pakistan issued a fresh passport in lieu of the old passport numbered NU 4141462 with accurate date of birth.

(...)

We are requesting IBA authorities to kindly cancel the charges made against us.”

4. On 24 June 2022, the Accused Parties made the submission of what follows:

“We reiterate that the age of Ms. Hadia Kamal Khan was never changed to procure any advantage since she did not win bout rather she was last in her category as ASBC Junior Boys & Girls Championship 2022. We reiterate that we had submitted all the documents in our first reply which present the true picture of events that led to this confusion. We earnestly request the august Committee to consider that there was never any advantage procured by the accused parties that penalty being imposed for an unintentional error is very high beyond the means of accused parties since no forgery was committed.”

V. Jurisdiction

1. According to Art. 12.3.1 AIBA DC [substantially equivalent to Art. 25.1 of the Boxing Independent Integrity Unit Rules adopted by the IBA Board on 23 September 2022 (BIIUR)], the Tribunal has authorization to sanction any violation which does not fall under the jurisdiction of another body or arises from a matter or a case which has been transferred, delegated, referred or assigned by another body to the Tribunal.
2. According to Art. 11. AIBA Procedural Rules [substantially equivalent to Art. 11.1 BIIUPR (Current)], the Tribunal shall declare whether it is competent to hear the case.
3. On 21 April 2022, the Integrity Officer filed an allegation against the Accused Parties.
4. Disciplinary proceedings against the Accused Parties were opened on 27 April 2022 by the IBA Disciplinary Committee as a result of the aforementioned allegation. The proceedings are related to alleged breaches of Art. 8.1 (Forgery and Falsification) AIBA DC.
5. The Integrity Officer's allegation relates to an alleged breach of the regulations made by the IBA Board in accordance with the IBA Constitution.
6. According to Art. 2.1 AIBA DC [substantially equivalent to Art. 2.1 Disciplinary and Ethics Code (Current)], the AIBA DC applies to all AIBA Competitions, the Confederations and National Federations, all persons subject to the AIBA Statutes and other AIBA regulations, all Officials, all Boxers and the other persons listed thereunder.

VI. Applicable Law

1. According to Art. 93.3 BIIUPR (Current): *"The procedures which are pending before adoption of these Procedural Rules remain subject to the IBA Procedural Rules approved by the IBA Board on 8 April 2021 and 5 November 2022 respectively, unless both Parties request the application of these Procedural Rules. In case the IBA Procedural Rules approved by the IBA Board on 8 April 2021 and/or 5 November 2022 do not regulate any matter significant for the proceedings, these Procedural Rules shall apply"*.
2. Since the disciplinary proceedings against the Accused Parties were opened on 27 April 2022, the AIBA Procedural Rules shall be applied to these proceedings.
3. According to Art. 52.2 Disciplinary and Ethics Code (Current): *"This Code applies to any Disciplinary or Ethics proceedings which have been formally opened after the date when this Code came into force. Any offence shall be governed by the substantive rules in force on the date of which the offence has been committed, unless the principle of lex mitior applies (implying that this Code is more favourable to the offender than prior regulations)."*
4. Since it is alleged by the Integrity Officer that the breaches of the Accused Party were conducted between 27 February 2022 and 13 March 2022, the AIBA DC shall be applied in these proceedings.

VII. Merits

1. According to Art. 47.2 AIBA Procedural Rules [substantially equivalent to Art. 27.2 BIIUR], in principle, the Tribunal issues the terms of decisions without grounds.

VIII. Costs

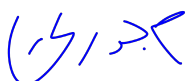
1. According to Art. 48 AIBA Procedural Rules [substantially equivalent to Art. 47 BIIUPR (Current)], no procedural costs shall be imposed. Therefore, no procedural costs will be imposed by the Tribunal.

2. According to Art. 49 AIBA Procedural Rules [equivalent to Art. 48 BIIUPR (Current)], 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 charges against the Accused Parties are dismissed. Consequently, the proceedings are closed.
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 Parties by email, immediately.

Boxing Independent Integrity Unit's Tribunal



**Malek Badri,
Chairman**



**Adrian Stangaciu,
Member**



**Ennio Bovolenta,
Member**

Request for grounds of decision

According to Art. 47.2 of the AIBA Procedural Rules adopted by the AIBA Board on 8 April 2021 [substantially equivalent to Art. 27.2 of the Boxing Independent Integrity Unit Rules adopted by the IBA Board on 23 September 2022], 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 said decision becoming final and binding.

According to Art. 47.2 and 47.3 of AIBA Procedural Rules [substantially equivalent 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. 52 of the AIBA Procedural Rules adopted by the AIBA Board on 8 April 2021 [substantially equivalent to Art. 89 of the Boxing Independent Integrity Unit Procedural Rules adopted by the IBA Board on 25 August 2023], the decision may be appealed **within thirty (30) 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:

- International Boxing Association (IBA), represented by its CEO and Secretary General, info@iba.sport
- Asian Boxing Confederation (ASBC), represented by its Secretary General (info@asbcnews.org)