

Case: trib_2022/05

Decision

delivered by the
Boxing Independent Integrity Unit's Tribunal,

Sitting in the composition of:

Malek Badri, Chairperson;
Sally Clark, Member; and
Ennio Bovolenta, Member,

on

22 January 2024

Regarding
disciplinary proceedings

involving

Mr. Ali Mujahed Ali Ahmed Al-Fadhli, a male boxer affiliated with the Yemen Boxing Federation

alialfdhli@gmail.com

- Accused Party -

and

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

director@biuu.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 (BIUUPR (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Counsel, who originally filed a brief as an Integrity Officer for sanction to the IBA Disciplinary Committee, which has been replaced by the Boxing Independent Integrity Unit's (BIIU) Tribunal (Tribunal), alleged that Mr. Ali Mujahed Ali Ahmed Al-Fadhli 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. Mr. Mr. Ali Mujahed Ali Ahmed Al-Fadhli (Accused Party) is the party accused by the Integrity Officer. The Accused Party is a male boxer affiliated with the Yemen Boxing Federation. The Accused Party is 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 BIUU, is the accusing party (Accusing Party), who replaced the Integrity Officer by the decision of the Managing Director of the BIUU (based on Art. 24.2 BIUUPR (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 BIUUPR (Current) read in conjunction with Art 93.3 BIUUPR (Current), the IPO participates in the proceedings as 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 Accused Party participated in the Tournament as a Junior boxer being a part of the delegation of the Yemen National Federation.
4. During the registration for the Tournament, as well as during the Sport Entries Check, the Boxer provided a number of documents, including the Accused Party's passport, according to which the Accused Party's date of birth is 20 March 2006.
5. However, after the Accused Party won over a Jordanian boxer by RSC in bout 15, the ASBC received a complaint from the Jordanian Boxing Federation concerning doubts about the Accused Party's actual age.

6. In this regard, the ASBC formed a special committee to investigate this matter (Committee). The Committee consisted of Ms. Karina Picson (Tournament Technical Delegate), Dr. Dilshod Kazakov (chairman of the ASBC medical committee) and Mr. Ali Salameh (ASBC Executive Director).
7. The Committee examined the documents and concluded that the Accused Party was ready to attend the World Military Boxing Championship, which was held in 2021 and, thus, there was a serious concern about the age of the Accused Party.
8. In this respect, the Committee requested an age examination (Wrist X-Ray) to be done on the Accused Party.
9. However, the Accused Party refused to pass the specified age test.
10. Based on the above, the Committee decided to disqualify the Accused Party from the Tournament.

III. Proceedings

1. On 27 April 2022, the IBA Disciplinary Committee opened these disciplinary proceedings against the Accused Party.
2. On 5 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 10 December 2023, the Chairperson of the Tribunal issued a decree namely:
 - informing the Accused Party 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. On 12 December 2023, the Accused Party informed the Chairperson of the Tribunal that he would respond within three days, and on 15 December 2023, the Accused Party made the submission of what follows:

“However, I steadfastly declined individual testing, instead insisting on comprehensive testing for all participating boxers. I have consistently expressed my willingness to undergo testing.”

But, the Accused Party was silent on the points of the application of the BIIUPR (Current) and the hearing.

6. On 18 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 25 April 2022, the Integrity Officer submitted the brief to the IIBA Disciplinary Committee what follows:

"32. 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."

and

"(a) Given the above, the undersigned counsel acting as Integrity Officer requests the Disciplinary Committee to open disciplinary proceedings against Mr. Ali Mugahed Ali Ahmed Al-Fadhli under the Procedural Rules.

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

- 1. Mr. Ali Mugahed Ali Ahmed Al-Fadhli breached Article 8.1 of the Disciplinary Code¹;*
- 2. Mr. Ali Mugahed Ali Ahmed Al-Fadhli shall be imposed the fine of CHF 3,000 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 25, 2022, it becomes evident that there may be no other sane explanation of the Boxer's refusal to pass the age test as to hide his real age in order to procure an advantage. 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 25, 2022."

B. The Accused Party' Submissions and Requests for Relief

3. On 16 May 2022, the Accused Party made the submission of what follows:

¹ Tribunal's note: the AIBA Disciplinary Code adopted by the Executive Committee on 17 July 2013.

“In conclusion, I request your justice for fairness, and I will send you all the official documents that prove my innocence and the false allegations against me before the expiry of the time given to me, which is set on 17/5/2022.”

4. On 23 June 2022, the Accused Party made the submission of what follows:

“I have complete confidence in your justice to provide me with my rehabilitation, and I renew to you my readiness to conduct the examination if your justice so requests.”

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 25 April 2022, the Integrity Officer filed an allegation against the Accused Party.
4. Disciplinary proceedings against the Accused Party 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 Party 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. The Tribunal therefore does not impose procedural costs.
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 Party 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**



**Sally Clark,
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)
- Yemen Boxing Federation (noc.yemen@y.net.ye ; yemenboxingfed@hotmail.com; yemenboxingfed@yahoo.com)