

Case: trib_2023/07

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

Federacao Angolana de Boxe, boxing national federation of the Republic of Angola, member of the IBA and the AFBC
faboxeangola@gmail.com

- Accused Party -

and

Mr. Giulio Palermo, an Italian attorney, member of the Geneva Bar,
BIIU Investigation and Prosecution Officer
gpalermo@archipel.law

- Accusing Party -



I. Parties

1. According to Art. 18 of the Boxing Independent Integrity Unit (BIIU) Procedural Rules adopted by the International Boxing Association (IBA) Board on 25 August 2023 (BIIUPR), the parties are the accusing and the accused party.

According to Art. 18 BIIUPR, the accused party is a person bound by the IBA 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. Yury Zaytsev, an IBA Legal Counsel (IBA Legal Counsel), who originally filed a complaint to the Managing Director of BIIU (Managing Director) and requested the BIIU's Tribunal (Tribunal) to open disciplinary proceedings, alleged that Federacao Angolana de Boxe breached:
 - Article 20 (Disparagement of IBA's Reputation and Interests) of the IBA Disciplinary and Ethics Code adopted by the IBA Board on 15 July 2023 (Disciplinary and Ethics Code).
3. Federacao Angolana de Boxe (Accused Party) is the party accused by the IBA Legal Counsel. The Accused Party is the boxing national federation of the Republic of Angola and a member of the IBA and the African Boxing Confederation (AFBC). 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. According to Art. 18 BIIUPR, Mr. Giulio Palermo (Italian attorney, member of the Geneva Bar, whose address is Ruelle du Couchant 11, 1207 Geneva, Switzerland) is the accusing party (Accusing Party), following his appointment by the Managing Director (under Art. 24 BIIUPR) as an Investigation and Prosecution Officer (IPO) responsible for investigating and prosecuting the case based on the applicable regulations.

II. Factual background

1. On 25 September 2023, the Nomination Unit of the BIIU (BIIU Nomination Unit) rendered decisions by which it declared Mr Mohamed El Kabbouri and Mr Bertrand Magloire Roland Mendouga eligible for the AFBC presidential election.
2. On 28 September 2023, the BIIU Nomination Unit additionally rendered decisions by which it declared Mr Moses Muhangi conditionally eligible for the AFBC presidential election and Mr Ferdinand Ilunga Luyoyo ineligible for the AFBC presidential election.
3. On 30 September 2023, the Accused Party issued a "Statement of the Vote of No Confidence on IBA BIIU Nomination Unit" (Statement), which contained the logos of 30 African national boxing federations that allegedly endorsed the Statement. The accompanying email was signed by Agostinho Cassequele, the Interim Secretary General of the Accused Party, and it was sent to the IBA, the BIIU and the AFBC.

III. Proceedings

1. On 1 October 2023, the IBA Legal Counsel submitted a complaint (the IBA Complaint) whereby he (i) asked the BIIU to investigate the Statement and (ii) requested the Tribunal to open disciplinary proceedings if it is necessary.
2. On 9 October 2023, the IBA Complaint was transmitted to the Tribunal, which was requested to hear it *ex officio*.
3. On 23 October 2023, the Chairperson of the Tribunal opened disciplinary proceedings against the Accused Party and the decree was communicated to the parties on 24 October 2023.

4. On 3 January 2024, the Chairperson of the Tribunal issued the Request for Submission dated 28 December 2023 and allowed the Accused Party to submit a written reply to the Accusing Party's submission on 16 November 2023 within five (5) business days from the receipt of the Request.
5. On 15 January 2024, the Chairperson of the Tribunal, according to Art. 32.1 BIIUPR, Art. 35.2 BIIUPR, Art. 44 BIIUPR and Art. 45.1 BIIUPR, issued a decision on closing of proceedings namely:
 - informing the Parties about the closing of the proceedings;
 - announcing that the Tribunal would deliberate by videoconference on 22 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.
6. There has been no request for the removal of any of the arbitrators.

IV. Submissions of the Parties

A. The Accusing Party's Submissions and Requests for Relief

1. On 16 November 2023, the Accusing Party communicated to the Tribunal his submission (IPO Submission) as follows:

"Based on the above, the IPO concludes with comfortable satisfaction that FABOXE violated Article 20 of the Code by issuing the Statement.

(...)

In light of the above, the undersigned IPO respectfully requests the BIIU Tribunal to:

 - (i) Impose on FABOXE a fine of up to CHF 10,000 (ten thousand Swiss francs); and/or*
 - (ii) Make a referral to the IBA Board in order for FABOXE to be suspended in accordance with the IBA Constitution".*

B. The Accused Party' Submissions and Requests for Relief

2. On 09 January 2024, the Accused Party provided its written submission signed by its President, emphasizing the following elements:

"3. (...) this statement against the BIIU Nominating Unit is an expression of the common frustration and anger of the majority of African Boxing Federations who were stunned by the result of the candidates vetting (selection) process.

4. Indeed, until now, the National Federations signatories of this declaration do not understand, precisely, how the BIIU Nomination Unit dared to clear, for example, Mr. Mohamed El Khabouri (...)? Did the BIIU Nomination Unit not receive any support to investigate this matter? (...) Did the rigor in morality investigations of the candidates only seem to be deployed for some (...) and not for others? Why does the BIIU Nomination Unit have to apply (...) double standards?

5. Dear sir, since 2017, the Angolan Boxing Federation has always voiced its concerns regarding governance in AFBC (...). In fact, the lack of proper governance continues to delay the development of Boxing in Africa, and I think that the role of the BIIU should be as much as to assist in addressing that situation instead of fulfilling hidden agendas which allow incompetent people to access the leadership of the Confederation.

6. (...) It is really sad to constate that (...) all the others presidents who succeeded one another at the AFBC Office (...) left without accountability; and you, therefore, understand (...) that they fill they have been denied an opportunity to choose a president with a profile corresponding to their aspirations.

7. (...) my federation had no particular interest in harming the image of the BIIU or any other IBA institution. Besides, (...) we only acted for the sake of good governance and in solidarity with other Federations who felt betrayed (...)."

V. Jurisdiction

1. According to Art. 25.1 of the Boxing Independent Integrity Unit Rules adopted by the IBA Board on 23 September 2022 (BIIUR), 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.
2. According to Art. 11.1 BIIUPR, the Tribunal shall declare whether it is competent to hear the case.
3. On 1 October 2023, the IBA Legal Counsel submitted a complaint (the IBA Complaint) against the Accused Party.
4. Disciplinary proceedings against the Accused Party were opened on 23 October 2023 by the Chairman of the Tribunal as a result of the IBA Complaint. The proceedings are related to alleged breaches of Art. 20 (Disparagement of IBA's Reputation and Interests) of the Disciplinary and Ethics Code.
5. The IBA Complaint 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 Disciplinary and Ethics Code, the Disciplinary and Ethics Code applies to all officials, boxers, coaches, managers, promoters, and other persons elected, appointed, contracted or accredited by the IBA, a Confederation or a National Federation.

VI. Applicable Law

1. According to Art. 93.1 BIIUPR: *"These Procedural Rules are adopted (...) on 25 August 2023 (...) and comes into force with immediate effect."*
2. Since the disciplinary proceedings against the Accused Party were opened on 23 October 2023, the BIIUPR shall be applied to these proceedings.
3. According to Art. 52.1 Disciplinary and Ethics Code: *"This Code is adopted by the Board on 15 July 2023 and comes into force immediately"*.
4. According to Art. 52.2 Disciplinary and Ethics Code: *"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)."*
5. Since it is alleged by the Accusing Party that the breaches of the Accused Party were conducted on 30 September 2023, the Disciplinary and Ethics Code shall be applied in these proceedings.

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 ordered to pay a fine of CHF 2,500 (Two thousand five hundred Swiss Francs) for having infringed Art. 20 of the Disciplinary and Ethics Code. The fine shall be settled within 30 days from the date that this Decision is communicated.
2. The other requests by the Accusing Party are dismissed.
3. No procedural costs are imposed.
4. The Parties shall bear their own costs incurred by this procedure.
5. 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. 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. 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 adopted by the IBA Board on 25 August 2023, 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.

Note relating to the Payment of the fine

Payment can be made in Swiss francs (CHF) to the account with the following details:

IBAN: CH44 0872 6000 0506 4201 0
SWIFT: BOFACH2X
Account Name: Convera Switzerland, LLC, Zurich Branch
Reference: IBA – International Boxing Association
Beneficiary's bank: Bank of America (BOAM)
Bank address: Stockerstrasse 23, 8002 Zürich, Switzerland

Ref: (Parties' name and Case reference number)

Boxing Independent Integrity Unit

– Tribunal



Copy by email to:

- Boxing Independent Integrity Unit, Managing Director, director@biu.sport
- International Boxing Association (IBA), represented by its CEO and Secretary General, info@iba.sport and its Legal Counsel, zaytsev@silalawyers.com