

Case: trib_2023/14

Suspension of proceedings

issued by the
Chairperson of the Boxing Independent Integrity Unit's Tribunal

on **07 May 2024**

regarding
disciplinary proceedings

involving
Kenneth Minimah,
Nigeria Boxing Federation (the boxing national federation of the Federal Republic of Nigeria,),
ngrboxfed@yahoo.com

- Accused Party -

and
Mr. Giulio Palermo, 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 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 International Boxing Association ("IBA") Disciplinary and Ethics Code, as set forth in 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 ("IBA Complaint") to the Boxing Independent Integrity Unit's Tribunal ("Tribunal") referred that Mr. Kenneth Minimah breached:
 - Art. 5.2 of the IBA Membership Policy (adopted by the IBA Board on 31 January 2022);
 - Art. 11.1(h) of the IBA Constitution;
 - Art. 15 (Violation of Constitution and Regulations) of the Disciplinary and Ethics Code, adopted by the IBA Board on 17 July 2023 ("Disciplinary and Ethics Code") [equivalent to Art. 15 of the IBA Disciplinary and Ethics Code adopted by the IBA Board on 8 December 2023 ("Current Disciplinary and Ethics Code")];
 - Art. 20 (Disparagement of IBA's Reputation and Interests) of the Disciplinary and Ethics Code [equivalent to Art. 20 Current Disciplinary and Ethics Code];
 - Art. 41 (Participation in other international boxing associations or organisations) of the Disciplinary and Ethics Code [equivalent to Art. 41 Current Disciplinary and Ethics Code]; and
 - Art. 46 (Abuse of Position) of the Disciplinary and Ethics Code [equivalent to Art. 46 Current Disciplinary and Ethics Code].
3. Mr. Kenneth Minimah ("Accused Party") is the party accused by the Complainant. The Accused Party is an individual associated with the Nigerian Boxing Federation. The Accused Party is bound by the Disciplinary and Ethics Code according to its Art. 2.1 and, therefore, falls under the Tribunal's jurisdiction.
4. Mr. Giulio Palermo, Italian lawyer based in Switzerland, was designated by the BIIU Managing Director as an Investigation and Prosecution Officer (IPO) and, thus, holding the capacity of Accusing Party responsible for investigating and prosecuting the case in accordance with Art. 25 and 26 BIIUPR, based on the IBA complaint.

II. Factual background

5. On 20 October 2023, the online media, *Insidethegames*, as well as the boxing organisation, *World Boxing*, published, on their respective websites, articles announcing the affiliation of the Nigeria Boxing Federation ("NBF") with World Boxing.
6. On 31 October 2023, the Secretary General of IBA filed a complaint against the Accused Party before the Tribunal, and namely requested the following:

"The IBA Head Office kindly requests the Tribunal to open formal proceedings against Mr Minimah for illegitimately leading NBF to affiliate and participate in another international boxing organisation as well as and against those who can be identified in the future with the investigation by the IPO."

"I am writing ... to denounce the actions of the President of the Nigerian Boxing Federation ("NBF"), Lt. Gen. Kenneth Minimah, and his attempts for NBF to join the rogue so-called World Boxing (Home - World Boxing), wishing to replace International Boxing Association ("IBA") as well as the supposed fact that he is continuing exercising the powers and functions of de facto president after his tenure at the NBF has concluded as denounced by the Vice President of the NBF."

(...)

The participation of NBF in the parallel rogue international boxing federation constitutes a serious breach and violations of the IBA Constitution, IBA Membership Policy and IBA Disciplinary and Ethics Code.

(...)

On 28 October 2023, the Vice President of NBF, Mr Azania Omo-Angege, sent a letter to IBA informing about the supposed fact that Mr Minimah is continuing exercising the powers and functions of de facto president in NBF, when he allegedly has served the maximum allowable term limit according to the NBF Constitution.”

III. Proceedings

1. On 02 November 2023, disciplinary proceedings against the Accused Party were opened by decision of the Chairperson of the Tribunal as a result of the IBA Complaint. The said proceedings are related to alleged breaches of Art. 5.2 of the IBA Membership Policy, Art. 11.1(h) of the IBA Constitution, Art. 15 (Violation of Constitution and Regulations), Art. 20 (Disparagement of IBA's Reputation and Interests), Art. 41 (Participation in other international boxing associations or organisations) and Art. 46 (Abuse of Position) of the Disciplinary and Ethics Code.
2. On 10 November 2023, the Chairperson of the Tribunal issued a decision provisionally suspending the Accused Party from all boxing activities, in any capacity, including Official Competition Official, for the duration of ninety (90) days.
3. On 13 January 2024, the Tribunal notified the Parties of the closing of the proceedings and the composition of the Tribunal, while indicating that it *“will deliberate by videoconference on 22 January 2024 solely based on the documentary evidence”*.
4. On 22 January 2024, the Tribunal declared itself competent to hear the case and decided to postpone the hearing of the case to 05 February 2024.
5. On 25 January 2024, the IBA submitted to the Tribunal a request for disciplinary proceedings suspension for three (3) months.
6. On 05 February 2024, the Chairperson of the Tribunal issued a decision of suspension of proceedings and suspended these proceedings for three (3) months.

IV. Submissions of the parties

1. On 24 November 2023, the Accusing Party, communicated his submission on the current proceedings (IPO Submission) to the Tribunal as follows:

“35. The IPO thus concludes with comfortable satisfaction that Mr Minimah violated Article 11.1 (h) of the IBA Constitution, but that the violations of Article 5.2 of the IBA Membership Policy and Article 41 of the Code are not established.

(...)

43. In absence of any evidence to the contrary, the IPO concludes with comfortable satisfaction that Mr Minimah acted in violation of Article 46 of the Code.

(...)

47. Therefore, the IPO finds with comfortable satisfaction that Mr Minimah acted in violation of Article 20 of the Code.

(...)

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

(i) Impose on Mr Minimah a fine; and/or

(ii) Suspend Mr Minimah from all boxing activities for a defined period”.

2. On 22 December 2023, the Chairperson of the Tribunal issued the Request for Submission and allowed the Accused Party to submit a written reply to the IPO Submission within five business days from the receipt of the request. Also, in the same request, the Chairperson of the Tribunal informed that failure to file the submission within the provided deadline will be construed as no submission and these proceedings will be closed accordingly.
3. No submission was made by the Accused Party within the indicated deadline.
4. On 25 January 2024, the IBA submitted to the Tribunal a request for disciplinary proceedings suspension for three months.

V. Jurisdiction

1. According to Art. 25.1 of the Boxing Independent Integrity Unit Rules adopted by the IBA Board on 8 December 2023, 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. Disciplinary proceedings against the Accused Party were opened by the decision of the Tribunal Chairperson as a result of the IBA Complaint. The proceedings are related to alleged breaches of (essentially) several provisions of the Disciplinary and Ethics Code.
3. The Accused Party, being an official of an IBA member federation, is unequivocally bound by the Disciplinary and Ethics Code, pursuant to Art. 2 of the said code.
4. In light of the above, the Tribunal shall declare itself competent to hear the case.

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.
2. According to Art. 52.2 of the Current 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.”*
3. Since it is alleged by the Complainant that the breaches of the Accused Party were conducted during October 2023, the Disciplinary and Ethics Code shall be applied in these proceedings.
4. According to Art. 33 BIIUPR: *“The Chairperson may at his own initiative or upon request, suspend the proceedings at any point if (s)he considers it necessary to do so”.*

VII. Merits

1. According to the aforesaid Art. 33 BIIUPR, the Chairperson of the Tribunal may upon the Complainant’s request, suspend the proceedings before or after the closing of the proceedings if he considers it necessary.
2. Considering the previous suspension of proceedings by decision of the Chairperson of the Tribunal on 05 February 2024, and as the Tribunal has not been notified about the unsuccessful outcome of negotiations between the IBA and AFBC with the NBF, the Chairperson of the Tribunal deems it in the organization’s best interest to suspend the proceedings against the Accused Party for an additional relatively short period. Afterwards, the Tribunal may reopen the current proceedings for the purpose of considering if any sanction should be imposed.

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 disciplinary proceedings related to the IBA Complaint shall be suspended for sixty (60) days as from the date of this decision. The Tribunal may reopen the proceedings for the purpose of considering if any sanction should be imposed.
2. No procedural costs are imposed.
3. The Parties shall bear their own costs incurred by this procedure.
4. The present decree is notified to the Parties and the Complainant by email, immediately.

Yours sincerely,

Boxing Independent Integrity Unit's Tribunal



Malek Badri, Chairman

There is no independent right of appeal against this decree.

Copy by email to:

- Boxing Independent Integrity Unit, Managing Director, director@biu.sport
- Nigeria Boxing Federation, ngrboxfed@yahoo.com