

IN RE:

**THE EXECUTIVE COMMITTEE OF THE**

**FEDERATION INTERNATIONALE DE NATATION ("FINA")**

**COMPLAINANT**

and

**MR PAOLO BARELLI**

**RESPONDENT**

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## **FINDINGS**

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### INTRODUCTION

This is the ruling of the FINA Ethics Hearing Panel which comprised of:

Mr R Hack	-	(Chairman)
Professor Rashid Alanezi	-	Panel Member
Mr Chris Fydler	-	Panel Member

The Chairman confirmed that the FINA Ethics Hearing Panel was properly constituted in terms of Article 3.2 of the Procedural Code, and that the members in question had no conflict of interest.

#### 1. THE PARTIES

The Complainant is THE EXECUTIVE COMMITTEE OF THE FEDERATION INTERNATIONALE DE NATATION, represented by the Executive Director Mr Brent Nowicki;

The Respondent is MR PAOLO BARELLI, represented by Attorney Mr Etienne Campiche of the Law Firm HDC Legal.

## 2. BACKGROUND TO THE MATTERS INVOLVING THE RESPONDENT

The recordal of the undermentioned matters is being referred to hereunder due to the fact that based on same the FINA Ethics Hearing Panel issued a provisional suspension on 14 September 2022, and as such in determining the second referral which is dealt with hereunder, the question of the provisional suspension needed also to be dealt with.

2.1 The First Referral - the Respondent was advised in writing on the 1<sup>st</sup> day of April 2022, of the first referral of allegations filed against him by the Complainant, in terms of the decision of the Chairman of the FINA Ethics Hearing Panel reviewing the latest referral from the Executive Committee.

In regard to the initial charge, the Respondent requested that the matter be held in abeyance until conclusion of the criminal aspect and this indulgence was duly given, with the request that the written submissions be submitted within a period of six (6) months (i.e. until 30 November 2022). After receipt of submission, the FINA Ethics Panel will render a decision in due course.

2.2 The Second Referral - For the sake of clarity, FINA considers that the present referral should be handled separately from its first Referral of 1 April 2022 as the respective allegations relate to different events.

On the 19 July 2022, following on the referral of 1 April 2022, the FINA Executive was made aware of additional allegations of wrongdoing against Mr Paolo Barelli, President of the Italian Swimming Federation, former FINA Bureau Member and former Ligue Europeenne de Natation ("LEN") President.

On 24 August 2022 the FINA Ethics Hearing Panel received a further referral of allegations filed against him by the Complainant, and duly notified the Respondent. The Respondent's attorneys were granted an extension until 25 October in order to respond to the charges in this matter.

The Respondent elected to have the matter dealt with in terms of Article 9, by rendering written submissions.

In regard to the second Referral, it was agreed that written submissions should be presented by 26 September 2022. The Respondent acknowledged receipt of the submission filed on 26 September 2022 and hereby renders its decision on this charge.

- 2.4 The Third Referral - on the 9<sup>th</sup> day of September 2022, following on its referrals of 1 April and 19 July respectively, the FNA Executive was made aware of additional allegations of wrongdoing against Mr Paolo Barelli, President of the President of the Italian Swimming Federation, former FINA Bureau Member and former Ligue Europeenne de Natation ("LEN") President.
- 2.5 In regard to the third allegation, the Respondent was given the opportunity to present written submissions at its convenience. After receipt of the Respondent's submission, the FINA Ethics Hearing Panel hereby renders its decision.
- 2.6 In order to ensure that this matter be heard as expeditiously as possible for all concerned, the suggestion was put to the Respondent's attorney to furnish the committee with written submissions in respect of either the second allegation and/or the third allegation by no later than Monday 4 October to enable the committee to consider submissions. Obviously, upon receipt of such submissions the decision of the provisional suspension would automatically be reviewed.

The procedures referred to above have not been joined, and the referrals are treated separately. In this matter only the second referral is dealt with simultaneously with the provisional suspension.

### 3. CHARGES

THAT Respondent had allegedly had violated the FINA Ethics Code in terms of Articles D and F.

1. The Second Referral –
  - 1.1 On 10 March 2022 the appeal chamber of the Court of Auditors of Italy found that Mr Barelli caused pecuniary damages to a company related to the Italian Olympic Committee (i.e. CONI SERVIZI SPA) in April 2013, by claiming its reimbursement of expenses which had already been paid for by a grant of the Ministry of Economy and Finance of Italy. The expenses were claimed on behalf of the Italian Swimming Federation and were related to the renovation of the swimming pool of the Foro Italico. As a result, Mr Barelli was sentenced by the Court of Auditors to pay EUR495 587.22 in damages to CONI SERVIZI SPA.
  - 1.2 (The Court of Auditors ruling and its English translation are attached to this Referral.)
  - 1.3 This ruling was reported extensively in the media, which negatively impacted the image of Aquatic Sports.
  - 1.4 In light of the above the FINA Executive, based on FINA Rule C24.5 decided to refer this matter to the FINA Ethics Hearing Panel for investigation and adjudication as per the FINA Rules. In particular, the FINA Executive would request a determination on whether Mr Barelli committed a violation of Article C.4 of the 2013 FINA Code of Ethics and/or Article C.12.1.3 of the 2013 FINA Constitution and/or any other FINA Rules.

*C FAIR PLAY*

4. *Betting on Aquatics and other corrupt practices relating to the sport of Aquatics BY ANY PERSON BEING SUBJECT TO THIS CODE, INCLUDING IMPROPERLY INFLUENCING THE OUTCOMES AND RESULTS OF AN EVENT OR COMPETITION ARE PROHIBITED. Any person being subject to this Code is forbidden from having stakes, either actively or passively, in any entity or organisation that promotes, brokers, arranges or conducts such activities or transactions.*

*C.12.1 Any Member, member of a Member, or individual member of a Member may be sanctioned:*

*(...)*

*C.12.1.3 for bringing the sport into disrepute.*

### 3. THE HEARING

The FINA Ethics Hearing Panel convened on 26 October 2022 and conducted the hearing in terms of the FINA Ethics Code, taking into account the provisions of Article D and F of the Code, as well as complying with Articles 7,8, 9. and 10 of the Ethics Procedural Guidelines.

In this regard the panel reviewed, considered and assessed the written submissions of the Respondent's attorneys as set out in its letters of 24 August, 26 September and 24 October 2022.

### 4. FINDINGS

4.1 After deliberation of all aspects of the matter, the FINA Ethics Hearing Panel resolved to again record and highlight that the FINA Ethic Hearing Panel is not a Court of Law, but is governed in terms of the Constitution, Rules and Regulations of FINA operating as a Sporting body, and as such confirms that all members and officials are bound by the aforementioned Constitution, Rules and Regulations, and by virtue of their membership agree to the provisions thereof.

4.2 In arriving at their decision, the FINA Ethics Hearing Panel rejects the contentions as set out in the Respondent's attorney's correspondence specifically of 24 October namely –

4.2.1 THAT the matter in question is a mere accounting matter, as exists in all businesses, private and public, and that such matter cannot impact the reliability of a person.

4.2.2 THAT the GENERAL ACCEPTED ACCOUNTING PRINCIPLES should apply to all accounting matters, and in the event of a so-called double-invoice or double-payment, this could be construed as negligence on the part of the Respondent.

4.2.3 THAT the fact that the alleged "mere accounting matter" was not dealt with by the Respondent immediately it was discovered, is unexplained, and could be perceived as negligence on the part of the Respondent.

## 5. DECISION OF THE PANEL

The FINA Ethics Hearing Panel unanimously, in applying the provisions of Article C.24.9 (d) imposes "A ban for a fixed period of one year from taking part in any Aquatic-related activities under the auspices of FINA or its members." Such ban shall commence from the date of the provisional suspension previously imposed by the FINA Ethics Hearing Panel on 14 September 2022.

## 7. COSTS

Any procedural costs determined by the FINA Administration shall be borne by the Respondent.

DATED at JOHANNESBURG on this the 8<sup>th</sup> day of NOVEMBER 2022



**R Hack**

**CHAIRPERSON**

For and on behalf of

**FINA ETHICS PANEL**