

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

Any reference to previous referrals which may be referred to by the FINA Ethics Hearing Panel hereunder, is 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 THIRD referral which is dealt with hereunder, the question of the provisional suspension needed also to be dealt with.

2.1 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 FINA 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 FINA Ethics Hearing Panel with written submissions in respect of either the second allegation and/or the third allegation by no later than Monday 24 October to enable the FINA Ethics Hearing Panel 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 third referral is dealt with simultaneously with the provisional suspension.

### 3. CHARGES

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

#### The Third Referral –

- 3.1 On 10 May Mr Barelli signed an addendum to the hosting contract for the 2022 LEN European Aquatics Championships to grant the Italian Swimming Federation a significant fee reduction (between EUR 500'000 and EUR 1'500'000 depending on certain conditions). Moreover, it was alleged that Mr Barelli did not consult the LEN Bureau and LEN Treasurer prior to signing the addendum, even though he was required to do so pursuant to the LEN Constitution.
- 3.3 These allegations were reported in the media which negatively impacted the image of Aquatic Sports.
- 3.4 In light of the above, the FINA Executive, based on FINA Rule C 24.5 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 the FINA Code of Ethics and/or of the FINA Constitution, and/or any other FINA Rules.

### 4. THE HEARING

The FINA Ethics Hearing Panel convened on 27 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 FINA Ethics Hearing 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 respectively.

#### 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 Ethics 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 could not find any correspondence dated 13 September as referred to in the Respondent Attorney's letter of 24 October, and therefore could only deal with the contents of the letter of the 26 September as well as the letter of 24 October and rejects the contentions as referred to in the above letter.
- 4.3 The FINA Ethics Hearing Panel is of the opinion that there is a clear conflict of interest as the Respondent was both the President of LEN and the Italian Swimming Federation, and as such signed an addendum which benefitted the Italian Federation without complying with the provisions of Article 11.3.2.3 as well as Article 11.5.1.5 of the LEN Constitution, in regard to the signing of the addendum to the Hosting Contract for the 2022 LEN European Aquatics Championship.

#### 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 expiry of the sanction previously imposed by the FINA Ethics Hearing Panel on 2 November 2022 in respect of the Second Referral.

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



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**R Hack**

**CHAIRPERSON**

For and on behalf of

**FINA ETHICS HEARING PANEL**