

World Aquatics Ethics Panel

Comprised of:

Mr. Raymond Hack	-	Chairman
Professor Rashid Alanezi	-	Member
Mr. Chris Fydler	-	Member

In the proceedings against Mr. Paolo Barelli ("The Respondent")

THE RESPONDENT

1. The Respondent is Mr. Paolo Barelli. At the time of the relevant facts, the Respondent was a Bureau Member and Honorary Secretary of World Aquatics, formerly known as FINA. He was also the President of the Italian Swimming Federation ("FIN") and the President of the Ligue Europeenne de Natation ("LEN").

PROCEDURAL HISTORY

2. On 1 April 2022, the World Aquatics Executive referred the present matter to the Ethics Panel for investigation and adjudication. In particular, the Ethics Panel was asked to investigate whether the Respondent had committed any violation of the World Aquatics regulations in relation to:
 - i. payments from World Aquatics as expenses in relation to his role of World Aquatics Honorary Secretary;
 - ii. payments from LEN to a company which he partially owns to reimburse his expenses;
 - iii. payments by LEN to other companies in relation to renewal of sponsorship and broadcasting agreements; and
 - iv. payments from LEN to LEN Member Federations to cover the costs of their respective appeals to the Court of Arbitration for Sport against World Aquatics.
3. On 1 April 2022, the Chair of the Ethics Panel, Mr. William Hybl, appointed Mr. Raymond Hack, Mr. Chris Fydler and Prof Rashid Alanezi to act as the hearing panel for this case.
4. On 6 April 2022, the Respondent was given an opportunity to provide his position on the matter.

5. On 23 April 2022, the Respondent was given another opportunity to provide his position on the matter, as the Ethics Panel had not heard back from him.
6. On 11 May 2022, the Ethics Panel sent its letters of 6 and 23 April to another email address of the Respondent, asking him to confirm receipt of the letters.
7. On 20 May 2022, the Swiss law firm HDC Legal informed the Ethics Panel that they had been appointed by the Respondent to represent him in this matter. Counsel of Respondent informed the Ethics Panel that criminal proceedings were ongoing in Switzerland in relation to these allegations and he requested that this matter be held in abeyance until an outcome had been received in regard to these criminal proceedings.
8. On 30 May 2022, the Ethics Panel granted the request and suspended the proceedings until 30 November 2022, on the proviso that should the criminal procedure be concluded prior to this date, the proceedings could be resumed earlier.
9. On 8 November 2022, the Respondent was suspended for two years by the World Aquatics Ethics Panel for multiple violations of the World Aquatics Constitution and Code of Ethics. The suspension of the Respondent runs from 14 September 2022 until 14 September 2024. This suspension was related to allegations separate from the present matter.
10. On 30 November 2022, the Respondent informed the Ethics Panel that the investigative phase of the Swiss criminal proceedings was finished, but that no decision had been received yet. He asked for the Ethics Panel to extend the suspension of the proceedings until 15 January 2023.
11. On 5 December 2022, the Ethics Panel informed the Respondent that the suspension of the proceedings was extended until 15 January 2023, on the proviso that should the Swiss criminal procedure be concluded prior to this date, the proceedings could be resumed earlier.
12. On 7 December 2022, the Swiss criminal procedure against the Respondent was closed without any charges being brought against the Respondent. Copy of the reasoned decision of the Swiss authorities in this respect was obtained by the Ethics Panel. The reasoned decision dealt with

allegations that are part of the present matter, at the exception of the payments from World Aquatics as expenses in relation to Respondent's role as World Aquatics Honorary Secretary.

13. On 15 December 2022, the Ethics Panel informed the Respondent that the proceedings were resumed and afforded him an opportunity to provide a defence.
14. On 30 December 2022, the Respondent submitted his defence to the matter and asked to be provided again with further documentation related to this matter. He also asked to be granted an opportunity to supplement his explanations following receipt of the documentation.
15. On 4 January 2023, the Ethics Panel provided the requested documentation to the Respondent and afforded him an opportunity to supplement his defence.
16. On 24 January 2023, the Respondent provided a supplementation of his defence to the Ethics Panel.

ON THE MERITS

17. The Ethics Panel investigated the matter to determine whether the Respondent had committed a breach of any World Aquatics regulations.
18. In doing so, the Ethics Panel carefully considered the arguments raised and the submissions made by the Respondent.
19. At the outset, the Ethics Panel wishes to clarify that is not bound by the decision of the Swiss authorities with regard to the criminal proceedings. The Ethics Panel is not a state court, and the two proceedings are completely separate. The present matter before the Ethics Panel is a sport disciplinary dispute related to violations of Swiss association's Constitution and Ethics Code. While the actions of the Respondent may not constitute a criminal offense under Swiss criminal law, they may amount to a violation of the World Aquatics regulations.
20. Eventually, just for good order, and without any influence on

the present decision, the Panel notes that based on the submissions received, there is no evidence proving that criminal proceedings in Italy involving Respondent have been closed and/or terminated.

21. Furthermore, the Ethics Panel is totally free in the evaluation and assessment of the evidence.
22. The Ethics Panel considered that no hearing was needed in this case and thus proceeded to issue this decision based on the elements in file.

Findings on payments from World Aquatics as expenses in relation to Respondent's role as World Aquatics Honorary Secretary

23. It is undisputed that World Aquatics made payments for reimbursement of secretarial services to Mr. Barelli for his role of Honorary Secretary of World Aquatics. While the Respondent was Honorary Secretary of World Aquatics (i.e. between September 2009 and July 2017), he received EUR 3000 per month as a reimbursement of his secretarial expenses, totalling an amount of EUR 297 540, VAT inclusive. The payments have remained undisputed. Disputed is only the issue of their legitimacy and compliance with the applicable rules and regulations of World Aquatics.
24. The Ethics Panel is comfortably satisfied that the Respondent did not have any basis for claiming these payments from World Aquatics. There was never any basis for any Bureau Members, including the Honorary Secretary, to have the services of a personal secretary covered by World Aquatics with a fixed monthly amount. Pursuant to Article C 17.11 of the Constitution in force at the time of the relevant facts, the World Aquatics Bureau Members, including the Honorary Secretary, were only allowed reimbursement of travel and hotel expenses incurred when traveling on missions or appointments for World Aquatics.
25. The Ethics Panel did not find any contract or decision from the World Aquatics Bureau which would otherwise provide a

valid legal basis for such payments. To the contrary, World Aquatics had issued a press release in 2015 clarifying the costs covered by World Aquatics for Bureau Members, including the Honorary Secretary:

"In answer to the IOC President Thomas Bach and Agenda 2020's call for transparency, FINA, one of the most important stakeholders of the Olympic programme states that the President, the honorary secretary, the honorary treasurer and the Bureau members do not receive any kind of indemnity.

"They are considered volunteers and do not receive a salary.

"Until December 31 2014 they received \$300 per diem for the days of travel for FINA business and from January 1 2015, \$400 per diem.

"The travel expenses are covered in business class."

26. While the Respondent claimed that a decision of the then Executive Director of World Aquatics would have formed the basis for the payments received by him, the Ethics Panel notes that it has not seen any evidence in this respect. In addition, it can be noted that, in any event, in accordance with the applicable rules of World Aquatics, the Executive Director did not have the authority to make such kind of decisions.
27. In light of the above, the Ethics Panel considers that the Respondent breached Article V.C.4 of the Code of Ethics which prohibits all corrupt practices, when he claimed and accepted these undue payments. The definition of corruption includes dishonest behaviours and claiming, receiving and accepting these undue payments was, at the very least, a dishonest act from the Respondent.
28. Whether World Aquatics was induced to make these payments to the Respondent is irrelevant as the sole fact of claiming these undue payments constitutes a violation Article V.C.4 of the Code of Ethics.
29. Even if there had been any basis for these payments, *quod non*, the Ethics Panel is comfortably satisfied that the

Respondent was never provided with such secretarial services to fulfil his duties of Honorary Secretary of World Aquatics, at least not to the point of justifying a cost of EUR 3000 per month. The following elements led the Ethics Panel to this conclusion.

30. First, the Ethics Panel has been unable to find any evidence that Mr. Concordia and/or C.I.R. A.U.R assisted the Respondent in relation to his duties of Honorary Secretary between 2009 and 2017. The Ethics Panel has not seen any communication from Mr. Concordia and/or C.I.R. A.U.R, other than invoices, in relation to the duties of Honorary Secretary which, pursuant to the Constitution in force at the time, were to coordinate the following, in collaboration with the Executive Director:

- i. Coordinate the FINA relations with the Continental Organisations;
- ii. Coordinate the World Competition Calendar;
- iii. Coordinate the FINA Committees agendas; and
- iv. Finalize the minutes from the meetings of Congress, Bureau and Executive.

31. Also, after looking into Mr. Franco Concordia, the Ethics Panel could not find anything to suggest that he provided secretarial services for a living. To the contrary, the information collected by the Ethics Panel confirmed that he was over 73 years old at the time and suggested that he is not even fluent in English. This makes it highly unlikely that he could have provided secretarial services for the duties of Honorary Secretary.

32. As for the company C.I.R. A.U.R, the Ethics Panel has not received or uncovered any evidence that this company provided any secretarial services for the duties of Honorary Secretary. Further, it seems quite telling that the Respondent only started to provide the invoices in the name of this company, of which he has 80% ownership and was the sole administrator, after a communication from the World Aquatics Finance Department which said they needed evidence of Mr. Concordia's status as independent

contractor, his tax registration number or his company's fiscal code in order to continue to process these payments.

33. In light of the above, the Ethics Panel is further comforted in its finding that that the Respondent breached Article V.C.4 of the Code of Ethics which prohibits all corrupt practices, when he claimed these undue payments.

34. In addition to this, the Ethics Panel is comfortably satisfied the Respondent breached Article F.12 of the Code of Ethics then in force which stipulates as follows:

"When performing an activity for FINA or before being elected or appointed, the candidate or Official shall disclose to the Ethics Panel any personal interests that could be linked with their prospective FINA activities. (...)"

35. The Respondent's 80% ownership in the company C.I.R. A.U.R was a clear personal interest linked to his role of Honorary Secretary of World Aquatics because he was asking World Aquatics to make payments to this very company in relation to his Honorary Secretary role. Thus, he had an obligation to report this personal interest to the Ethics Panel and, based on the evidence available, he failed to do so. This breached Article F.12 of the Code of Ethics then in force.

Findings on the other allegations

36. As the Ethics Panel is already satisfied that violations of the Code of Ethics were committed, it finds there is no need at the present stage to make a determination on the other allegations of this case. The Ethics Panel reserves the right to further investigate and take a decision at a later stage on such other allegations that are not determined in the present decision.

SANCTION AND CONSEQUENCES

37. Having determined that violations of the World Aquatics regulations were committed, the Ethics Panel must now determine the disciplinary consequences to be imposed on the Respondent for such violations.
38. The Ethics Panel considers that the violations of the Code of Ethics for corrupt practices and for his failure to report a personal interest to the Ethics Panel are serious violations which tarnish the image and reputation of Aquatics. This even more when such violations are committed by such an experienced and high official as Respondent. Thus, the Ethics Panel has decided to impose on the Respondent a suspension for a fixed period of one year from taking part in any Aquatic-related activities under the auspices of World Aquatics or any of its members. Such suspension shall commence at the end the period of suspension currently being served by the Respondent, i.e. 14 September 2024. In accordance with the applicable rules, any appeal filed against the present decision shall not have any suspensive effect.

39. The Ethics Panel also orders the Respondent to reimburse to World Aquatics the totality of the undue payments received i.e. net EUR 297'540. The one-year ban imposed on the Respondent shall remain in force even after its expiry if the amount of net EUR 297'540 has not been reimbursed in full to World Aquatics.

40. Any procedural costs determined by the World Aquatics administration shall also be borne by the Respondent.

DATED at JOHANNESBURG on this 28th day of FEBRUARY 2023

A handwritten signature in blue ink, appearing to be 'R Hack', written in a cursive style.

R Hack

CHAIRPERSON

For and on behalf of

World Aquatics Ethics Panel