

DECISION OF THE **ADJUDICATORY BODY**

As per Article 32.3 of the World Aquatics Integrity Code

Decision by:

Raymond Hack (South Africa), Chairperson
Alexandre Miguel Mestre (Portugal), Member
Elliot Saccucci (Canada), Member

In the matter related to:

Mr. Kiril Todorov (Mexico), Respondent

Regarding:

Article 33.8 of the World Aquatics Integrity Code

Lausanne, 29 October 2024

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I. Overview

1. The present case relates to the breach of the provisional suspension of Mr. Kiril Todorov (the “Respondent” or “Mr. Todorov”) who served as President of the Mexican Swimming Federation (“MSF”) from 2009 to 2022.
2. More precisely, the Respondent has been provisionally suspended by the Chief Ethics and Compliance Officer (the “CECO”) of the Aquatics Integrity Unit (“AQIU”) due to various potential acts of misconduct. These include allegations of misappropriation of funds from the MSF, which were intended for athletes and the organisation of competitions between 2009 and 2019 which are currently under investigation by Mexican criminal authorities. In this context, the Respondent has violated the provisional suspension imposed by the AQIU by continuing to act as President of the MSF.
3. For the sake of clarity, the subject of this decision is solely the Respondent’s breach of his provisional suspension, which constitutes an independent violation of the World Aquatics Integrity Code (the “Integrity Code”). His other potential violations of the Integrity Code in relation to embezzlement of funds and failure to cooperate will be dealt with in a separate decision.

II. Factual and procedural background

4. The following summary of the facts does not purport to include every single contention put forth by the parties during these proceedings. However, the Adjudicatory Body of the AQIU has thoroughly considered all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its positions and in the ensuing discussion on the merits.
5. On 31 March 2023, after being made aware of various acts of misconduct apparently committed by the Respondent, including possible embezzlement of funds destined to the MSF between 2009 and 2019 currently under investigation before Mexican courts, the AQIU began an investigation into the matter.
6. On 6 April 2023, the AQIU informed the Respondent that it had decided to impose on him a provisional suspension from taking part in any Aquatics related activity, including acting as President of a World Aquatics Member Federation. pursuant to Article 33.8 of the Integrity Code:
“During any period of ineligibility or provisional suspension, a Covered Person may not (i) participate in any Event; (ii) attend any other Aquatics-related activity organised by or on behalf of the World Aquatics or any Continental Organisation or World Aquatics Member, save that at the World Aquatics’ invitation the attendance is allowed in an educational capacity as part of an integrity programme organised by the World Aquatics; and (iii) hold or be a candidate for any position (or have any dealings) as a World Aquatics Official or Other Official. Any potential violation of the period of ineligibility shall be considered an Integrity Code Violation and shall be pursued in accordance with Chapter D.”
7. On 20 June 2023, in accordance with Article 22.3 of the World Aquatics Integrity Code (“Integrity Code”), the AQIU requested the Respondent to provide the following documents, along with an English translation, by 3 July

2023 (“Demand”):

- a. Any and all evidence adduced against Respondent by the Mexican Financial Intelligence in relation to the bank transfers he made between 2009 and 2019;
 - b. Any supporting letter and/or decision in relation to the charges laid against Respondent on 25 September 2021;
 - c. An English translation of the exhibits Respondent sent on 12 April 2023;
 - d. The decision of 4 May 2023 in relation to Respondent’s criminal case in Mexico;
 - e. The decision of 14 June 2023 in relation to Respondent’s criminal case in Mexico.
8. The AQIU also informed the Respondent in the Demand that refusal to provide the aforementioned documents could constitute an independent Integrity Code violation in accordance with Article 22.4 of the Integrity Code.
9. Articles 22.3 and 22.4 of the Integrity Code provide as follows:
- 22.3 The Chief Ethics and Compliance Officer may at any stage after he/she considers there to be a Prima Facie case (including after the notice of charge) make a written Demand to a Covered Person to provide any document, information, or item that the Chief Ethics and Compliance Officer reasonably believes may evidence or lead to the discovery of evidence of an Integrity Code Violation.*
- 22.4 A refusal or failure by a Covered Person to comply immediately with the Demand shall constitute an independent violation of Article 6 of this Integrity Code and any attempted or actual damage, alteration, destruction or hiding of such document, information, or item upon receipt of or after the Demand shall constitute an independent violation of Article 6 of this Integrity Code.*
10. On 2 July 2023, the Respondent refused to provide the requested documents. Over the following months, several exchanges between the AQIU and the Respondent took place in order to convince the Respondent to comply with the Demand.
11. On 11 September 2024, the AQIU was made aware of a letter that the Respondent sent on 7 September 2024 to the governors of the states of the Mexican Republic and the head of the government of Mexico City. He signed this letter as President of the MSF. In the same letter, he also referred to the organisation by the MSF of a technical congress on 31 August 2024.
12. On 19 September 2024, the AQIU informed the Respondent that this conduct may constitute a violation of his provisional suspension and offered him an opportunity to provide his position on this potential violation of the Integrity Code. This letter remained unanswered.
13. On 1 October 2024, the Respondent sent another letter that he signed as President of the FMN. This time, it was an invitation to a Water Polo Webinar

that he sent using the official letterhead of the FMN.

III. CONSIDERATIONS OF THE ADJUDICATORY BODY

A. Jurisdiction, applicability of the Integrity Code and request for a hearing

14. In accordance with Article 17 of the Integrity Code, the AQIU is responsible for adjudicating cases of potential violations of the Integrity Code, including breaches of provisional suspension.
15. The Respondent's alleged breach of the provisional suspension occurred after the entry into force of the Integrity Code.
16. The above shows that the AQIU, and, more precisely, the Adjudicatory Body, has jurisdiction over the case and is entitled to pass a decision on the basis of the Integrity Code.
17. Pursuant to Article 29.1 of the Integrity Code, the Adjudicatory Body has full discretion to decide whether or not a hearing shall be convened. In this case, the Adjudicatory Body considers itself sufficiently informed to render a decision based on the written submissions. In coming to this conclusion, the Adjudicatory Body noted the fact that the Respondent was afforded an opportunity to provide his position by the Adjudicatory Body.
18. The Adjudicatory Body also notes that the subject of this decision is solely the Respondent's breach of his provisional suspension, which constitutes an independent violation of the Integrity Code. His other potential violations of the Integrity Code in relation to embezzlement of funds and failure to comply with the Demand will have to be dealt with separately.

B. Burden and Standard of proof

19. The above having been established, the Adjudicatory Body recalled that, as a general rule, the AQIU will have the burden of establishing that an Integrity Code violation has been committed.
20. The standard of proof will be the balance of probabilities. Facts shall be established by any reliable means. The Panel shall at its own discretion determine the admissibility, relevance, materiality and weight of the evidence offered.
21. The principle of strict liability applies. Therefore, violations are punishable regardless of whether they have been committed intentionally, recklessly, and/or negligently.
22. Having clarified the foregoing, the Adjudicatory Body proceeded to consider the merits of the case.

C. Merits of the case

23. Article 33.8 of the Integrity Code stipulates as follows:

"During any period of ineligibility or provisional suspension, a Covered Person may not (i) participate in any Event; (ii) attend any other Aquatics-related activity organised by or on behalf of the World Aquatics or any Continental

Organisation or World Aquatics Member, save that at the World Aquatics' invitation the attendance is allowed in an educational capacity as part of an integrity programme organised by the World Aquatics; and (iii) hold or be a candidate for any position (or have any dealings) as a World Aquatics Official or Other Official. Any potential violation of the period of ineligibility shall be considered an Integrity Code Violation and shall be pursued in accordance with Chapter D."

24. After reviewing the full case file, the Adjudicatory Body considers it has been established that the Respondent's conduct falls under this provision.
25. Article 33.8 of the Integrity Code clearly states that individuals who are provisionally suspended cannot hold any position as a World Aquatics Official.
26. World Aquatics Officials is defined in the Integrity Code as "*Any person elected or appointed to any position within World Aquatics, a Continental Organisation or a World Aquatics Member, including but not limited to: - The President, Vice-Presidents, Bureau members, Honorary Life Presidents, Immediate Past President, Treasurer, and any candidates for election to the Bureau [...]*".
27. On 6 April 2023, the Respondent was clearly informed that a provisional suspension had been imposed on him. The letter also added that this provisional suspension prevented him from acting as president of any Member Federation of World Aquatics.
28. It is uncontested that on 7 September 2024, after he had been informed of the provisional suspension imposed on him, the Respondent sent a letter in his capacity as President of the FMN.
29. It is also uncontested that after being put on notice by the AQIU that this could be considered a violation of the Integrity Code, on 1 October 2024 the Respondent sent another letter that he signed as President of the FMN.
30. In light of the foregoing, the Adjudicatory Body deems that the Respondent clearly violated Article 33.8 of the Integrity Code.

D. Applicable sanction

31. As per Article 33.8, any breach of provisional suspension imposed by the AQIU shall be pursued and sanctioned as a violation of the Integrity Code.
32. As per Article 33.1 of the Integrity Code, any one or more of the following sanctions may be imposed for an Integrity Code Violation:
 - a) *a warning as to future conduct;*
 - b) *a reprimand;*
 - c) *a fine in an amount proportionate to the seriousness of the violation;*
 - d) *an order of reimbursement or restitution;*
 - e) *a suspension from carrying out specific activities on behalf of World Aquatics and/or Continental Organisation and/or World Aquatics Member for a specified period;*


- f) a period of ineligibility, the length of which is to be determined based on what is proportionate in the circumstances of the case, taking into account in particular (i) the nature of the violation(s), (ii) the degree of fault of the Covered Person, (iii) the harm that the violation(s) has/have done to the sport, (iv) the need to deter future violations, and (v) any specific aggravating or mitigating factors; and*
- g) any other sanction deemed appropriate, including, but not limited to disqualification of results, annulment of results of any Event, removal from office, forfeiture of points and/or of quota places and/or of hosting rights, other loss of privileges, no contact directives, requirement to complete educational or other programs, and return of World Aquatics awards.*

33. Pursuant to Article 33.2 of the Integrity Code, the sanction(s) to be imposed in a particular case shall be determined by reference to all of the relevant circumstances of the case, including an assessment of the seriousness of the violation, and any mitigating or aggravating factors that may be present.
34. The Panel considers that the Respondent's breach of the provisional suspension was very serious and cannot be taken lightly. The respect of provisional suspensions is essential to preserve the integrity and image of Aquatics. If individuals would be allowed to simply disregard provisional measures imposed by the AQIU to safeguard the sport, Aquatics would be under existential threats.
35. The Panel also considers that many aggravating factors are present in this case. First, Mr. Todorov is an experienced official and a former President of a World Aquatics Member. The fact that he sent a second letter after being notified by the AQIU that such actions amounted to an Integrity Code violation is also evidence that he was acting intentionally. There is no doubt for the Panel that he knew that his conduct was in breach of his provisional suspension, but he chose to disregard the authority of the AQIU.
36. Considering the above, the Adjudicatory Body is convinced that it is essential to issue a significant sanction and impose on the Respondent a suspension for a fixed period of two (2) years from holding any position within World Aquatics and/or Continental Organisation and/or World Aquatics Member. The suspension imposed on the Respondent shall also prevent him from taking part in any Aquatic-related activities and/or events on behalf of World Aquatics, and/or Continental Organisation and/or World Aquatics Member, as well as attending in any capacity, any aquatics International Competition, as defined at Article 2.2 of the World Aquatics Competition Regulations.

V. DECISION OF THE ADJUDICATORY BODY

- (i) The AQIU has jurisdiction over this matter.**
- (ii) The Respondent has violated Article 33.8 of the World Aquatics Integrity Code.**
- (iii) The Respondent is sanctioned with a two-year period of ineligibility from holding any position within World Aquatics and/or Continental Organisation and/or World Aquatics Member. The suspension imposed on the Respondent shall also prevent him from taking part in any Aquatic-related activities and/or events on behalf of World Aquatics, and/or Continental Organisation and/or World Aquatics Member, as well as attending in any capacity, any aquatics International Competition, as defined at Article 2.2 of the World Aquatics Competition Regulations. The sanction begins on the day this decision is issued i.e. 29 October 2024.**
- (iv) This decision is rendered without costs and be made public.**
- (v) As per Article 35 of the World Aquatics Integrity Code, this decision can be appealed to CAS within twenty-one (21) calendar days of the appealing Party's receipt of the written reasoned decision in question by email.**

On behalf of the Panel of the Adjudicatory Body of the Aquatics Integrity Unit:



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