

**CAS 2019/A/6500 Islamic Republic of Iran Judo Federation v. International Judo Federation**  
**CAS 2019/A/6580 Islamic Republic of Iran Judo Federation v. International Judo Federation**

## **ARBITRAL AWARD**

delivered by the

### **COURT OF ARBITRATION FOR SPORT**

sitting in the following composition:

President: Mr Franco **Frattini**, Judge, Rome, Italy  
Arbitrators: Mr Jahangir **Baglari**, Attorney-at-law, Tehran, Iran  
Mr Pierre **Muller**, Former Judge, Lausanne, Switzerland  
Clerk: Ms Stéphanie **De Dycker**, Attorney-at-Law, Lausanne, Switzerland

in the arbitrations between

**Islamic Republic of Iran Judo Federation**, Tehran, Iran  
Represented by Mr Amir Saed Vakil, Attorney-at-law, Tehran, Iran

- Appellant -

and

**International Judo Federation**, Lausanne, Switzerland  
Represented by Mr François Carrard and Mr Nicolas Zbinden, Attorneys-at-law with Kellerhals  
Carrard, Lausanne, Switzerland

- Respondent -

## **I. PARTIES**

1. The Islamic Republic of Iran Judo Federation (the “Appellant” or the “IRIJF”) is the governing body of judo in the Islamic Republic of Iran (“IRI”), which in turn is affiliated to the International Judo Federation.
2. The International Judo Federation (the “Respondent” or the “IJF”) is the governing body of judo worldwide.

## **II. FACTUAL BACKGROUND**

### **A. Introduction**

3. The present proceedings concern two different appeals filed against two decisions rendered in the same matter by the Disciplinary Commission of the IJF with respect to the IRIJF. The first decision appealed against, which was rendered on 18 September 2019, ordered a provisional suspension of the IRIJF from all activities organized or authorized by the IJF until the final decision of the IJF Disciplinary Commission in the same matter is rendered (the “Provisional Suspension Decision”). The second decision appealed against in the present proceedings is the final decision rendered by the IJF Disciplinary Commission in the same matter, which was rendered on 22 October 2019 and according to which the IRIJF is essentially ordered a suspension from all competitions, administrative and social activities organized or authorised by the IJF (the “Suspension Decision”; both the Provisional Suspension Decision and the Suspension Decision are hereafter jointly referred to as the “Appealed Decisions”).
4. The dispute between the Parties revolves around allegations, according to which the IRIJF would have instructed Mr Saied Mollaei, an Iranian judoka (the “Athlete”), to withdraw from competing to avoid a potential contest against an Israeli judoka, Mr Sagi Muki. The IRIJF disputes these allegations.
5. Below is a summary of the main relevant facts and allegations based on the Parties’ submissions and allegations. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.

### **B. Background of the dispute**

#### *(i) Events prior to the 2019 Judo World Championships in Tokyo*

6. During the Abu Dhabi Grand Slam on 28 October 2018, the Athlete, IJF World Champion in September 2018, lost against a competitor in the semi-finals of the competition. The winner of the second semi-final was Mr Sagi Muki.
7. At The Hague Grand Prix on 17 November 2018, the Athlete and Mr Sagi Muki were

in the same half of a draw. The Athlete lost his first round.

8. Around 30 November 2018, the Athlete contacted Ms Lisa Allan, IJF Competition Manager, saying that he was going through a difficult time because he was instructed not to race against Israel and enquiring about the procedure to change nationalities.
9. On 12 December 2018, during the Guangzhou World Masters, the Athlete and Mr Muki were in the same pool. The Athlete lost his first contest to a Japanese athlete. The winner of that contest could have faced the Israeli athlete, Mr Muki, in the second round.
10. On 17 December 2018, Ms Lisa Allan from the IJF provided the Athlete with a translation into Farsi of the procedural rules to change nationalities.
11. At the Paris Grand Slam on 9 February 2019, the Athlete was in the same half of the draw as Mr Sagi Muki. The Athlete lost at the stage of the quarterfinals against a Kazakh athlete, before he would have faced Mr Sagi Muki. Later, the Athlete won the bronze medal. However, he did not attend the medal ceremony.
12. On 1<sup>st</sup> March 2019, the IJF sent a letter to the Appellant as well as to the President of the Iran Olympic Committee and the Ministry of Sport and Youth of Iran, as follows:

*“ [...] In recent history, the international judo community witnessed several times a disturbing phenomenon, which involves the sudden “injury” or failure of weigh-in of Iranian athletes, phenomenon which is linked by many observers to the possible obligation of the given athletes to compete against certain countries.*

*Such is the example of Arash Miresmaeili, 66 kg, double World Champion 2001 and 2003, triple Asian Champion and top favorite for the 2004 Olympics, who was also flag bearer for Iran. The athlete shockingly failed the weigh-in and in his first contest he would have had to fight against Ehud Yaks (ISR). It is said he was awarded money by the IRI Government, the same amount given to Olympic gold medalists and on his return to the country, he was treated like a hero. [https://en.wikipedia.org/wiki/Arash\\_Miresmaeili](https://en.wikipedia.org/wiki/Arash_Miresmaeili).*

*The most recent case is that of Saeid Mollaei, 81 kg, current World Champion who in the Paris Grand Slam 2019, in the quarter final of pool A lost to a KAZ athlete. The athlete from ISR was in pool B quarter final which he also won. Saeid Mollaei won bronze in the repechage but then claimed an injury and did not attend the medal ceremony.*

*All these cases receive a lot of negative comments and attention from international media and public as well, which casts a shadow not only on Iran as a country, but also on Iranian sports and consequently the sport of judo.*

*Through this letter, I would like to ask you to present to the International Judo Federation, until March 15, 2019 a governmental letter which guarantees that all athletes from Iran will compete in IJF competitions, regardless of the nationality of the athletes they oppose and that they will participate in the medal ceremonies, regardless of the nationality of those who share the podium with them.*

*Iranian Judo is on a continuous development path with very good results and I believe that with the current international political climate and the sanctions imposed on Iran, sport remains one of the most important values for the image of your country in the*

world.

*Should you be unable to fulfill the above request, unfortunately the International Judo Federation will have to suspend the Iran Judo Federation for an unlimited period, and we believe that the international sports community will follow this example. In order to protect the athletes, they will be allowed to participate in IJF competitions, but only under IJF flag and only if they agree to compete against all nationalities and to share the podium with all nationalities, without discrimination. [...]*”

13. After several exchange of letters, the President of the National Olympic Committee of the IRI and the President of the Appellant jointly wrote to the IJF on 9 May 2019, as follows:

*“Please rest assured that your considerations are also our concerns and of our mutual interest [...] we would like to restate that our NOC has worked hard in cooperation with the Ministry of Sport and Youth in the recent years to improve the implementation of good governance and the Olympic Movement principles amongst the Iranian sports community, and judo is one of those sports which is now in good standing in terms of institutional and competitive stability. [...]*

*By means of this letter, we would like to confirm that the I.R. Iran NOC shall fully respect the Olympic Charter and its non-discrimination principle, and the I.R. Iran Judo Federation shall fully comply with the Olympic Charter and the IJF Statutes. In the meantime, in collaboration with the I.R. Iran Ministry of Sport and Youth, we are sparing no effort in negotiating with the Parliament so that we could identify the proper legal resolutions.”*

14. After the above letter from the Iranian authorities, the Athlete was able to compete in two different Grand Prix in Hohhot (China) and Zagreb (Croatia), but no Israeli athlete was up against him.

***(ii) The Tokyo World Championships Senior and the IJF Report on the Delegation from the IRI at the Tokyo World Championships Senior***

15. The Athlete participated in the Judo World Championships which took place from 25 to 31 August 2019 in Tokyo, Japan. The detailed facts around this competition are disputed between the Parties. What is undisputed, however, is that the Athlete lost the semi-finals against the Belgian competitor, Mr Matthias Casse, and that the winner of that contest was set to face Mr Sagi Muki, Israeli competitor, in the finals; the Athlete also lost his contest against the Georgian competitor, Mr Luka Maisuradze, in a game for the bronze medal.
16. On 2 September 2019, the IJF issued a report entitled ‘Tokyo World Championships Senior Report on Delegation from Iran September 2 2019’ (the “IJF Report”), which provides as follows:



**Tokyo WCS 2019 Report on Delegation from Iran  
September 2 2019**

In the Abu Dhabi Grand Slam (28 October 2018) Mollaei appeared to deliberately lose to Casse (BEL) in the semi-final. The other semi-final had been won by Muki (ISR). He then lost the bronze contest against Khamza (KAZ), an athlete he is capable of beating.

In the Hague Grand Prix (17 November 2018), Muki (ISR) was in the same half of the draw, Mollaei lost against Ivanov (BUL) in the first contest. Again, it appeared to be an intentional loss.

On 28 November 2018 he contacted Lisa Allan, IJF Competition Manager and EC member via Whats app saying it was difficult for him because he was being repeatedly told not to compete against athletes from Israel. She told him they could discuss it when they met in the Masters (15-16 December 2018).

Guangzhou World Masters 16 December 2018 he was in the same pool as Muki (ISR). He lost his first contest to Sasaki (JPN) and then left the sport hall so no conversation with IJF took place.

He then asked about the procedure for changing nationality. We got it translated into Farsi and sent it to him.

Paris GS 2019 (9 February 2019) was his first competition of 2019. Muki (ISR), the eventual silver medallist, was in the same half of the draw, Mollaei lost in the quarterfinal to Mussayev (KAZ). He then won the bronze medal but after the contest asked to go to the medical room with a sore ankle. Here both he and his coach, Mohammad Mansouri, told the IJF Competition Manager he could not go to the podium to collect his medal. Mollaei was in distress crying and saying all he wanted to do was be a judoka and go to the Olympic Games. He did not attend the awarding ceremony.

The IJF Competition Manager informed the Presidential Office.

In February 2019, on occasion of the Judo Grand Slam Düsseldorf, IJF Project manager Teodor Pop met Mr JUNK, Sebastian, familiar with Mr Mollaei, as his sister is the partner of Mr Mollaei. He asked to have a meeting with an IJF representative to inform about the situation of the Irani athletes and particularly of Mr Mollaei.

It turned out that Iran Judo Federation was not allowing the team and Mr Mollaei to attend World Judo Tour events, in order to avoid contact with athletes from Israel. To attend the 2020 Tokyo Olympics and the World Championships, Mr Mollaei would like to switch to another nation, possibly to Azerbaijan, the country of his mother.

IJF informed him that, according to the rules, it is not possible to have an accelerated process and he needed to wait the regular three years. Furthermore, we agreed to stay in contact and to follow the case progression.

Repeatedly Mr. Pop had phone talks with Mr. Junk who confirmed that the situation was not becoming better.

Mr. Pop met Mr. Junk and Mr. Mollaei during the Grand Slam in Baku where he wasn't registered in the competition. He mentioned that this would continue, and he is more and more convinced that he will be not able to defend his World Champion title.

In the first day of the World Championships in Tokyo he met Mr Mollaei as he was looking to talk with him. He told him that he was in big trouble because the new president of the Iran Judo Federation, Arash Miresmaeili told him that would be better for him to not return in Iran if he fights in Tokyo. Mr. Arash Miresmaeili, 66 kg, double World Champion 2001 and 2003, triple Asian Champion and top favorite for the 2004 Olympics, was also flag bearer for Iran. The athlete shockingly failed the weigh-in and in his first contest he would have had to fight against Ehud Vaks (ISR). It is said he was awarded money by the IRI Government, the same amount given to Olympic gold medalists and on his return to the country, he was treated like a hero.  
[https://en.wikipedia.org/wiki/Arash\\_Miresmaeili](https://en.wikipedia.org/wiki/Arash_Miresmaeili)

He added that he was lucky to have his passport but his team mate, who was registered as well for Tokyo, could not travel, the Iranian authorities taking his passport, as it was confirmed by the athlete himself on his Instagram account (please see attached screenshots).

On March 1, 2019, the International Judo Federation sent a letter addressed to Mr. Masoud Soltanifar - Minister of Sport and Youth Iran, Mr. Syed Reza Salehi Amiri - President Iran Olympic Committee and Mr. Mohamed Reza Emadi - at that time Acting President Iran Judo Federation, detailing the various incidents recorded and reported to the IJF, during IJF events, involving Iranian athletes who refuse or avoid competing against Israeli athletes and asking for a commitment to stop these practices, with 1 month delay to answer.

Upon the answer of the Acting President of Iran Judo Federation, asking for the extension of the deadline due to upcoming elections in the Iran Judo Federation, Mr. Marius Vizer, IJF President, accepted the request and extended the delay to April 15.

On March 31 2019, Mr. Syed Reza Salehi Amiri - President Iran Olympic Committee asked for a meeting with Mr. Marius Vizer, IJF President. This meeting took place in Fujairah, Abu Dhabi - on the occasion of the Asian Judo Championships 2019. On May 2, the International Judo Federation sent a final letter to all Iranian parties involved and mentioned here above, in order to receive a final answer and position regarding the request of the IJF.

On May 9, the International Judo Federation received a letter from the Iranian Judo Federation and the Iranian Olympic Committee, committing to full compliance with the Olympic Charter regarding participation of athletes in international competitions.

Mollaei wanted to compete in other IJF events but was only allowed to go to Hohhot Grand Prix 2019 (25 May 2019) where he easily won. The Israeli male team did not take part. Our system allowed National Federations to see which athletes had inscribed in each category. He then competed in Zagreb GP (27 July 2019) winning bronze. The Israeli men's team took part but there was no athlete from Israel entered in his weight category (81 kg).

Removal of athlete entries by category from public viewing was done mid-June (too late for Zagreb GP).

In the Tokyo World Championship Seniors 2019 (Japan) on August 28 after the contest between Mollaei against the Portuguese judoka Carlos Luz the coach from Tajikistan Vahid Sarlak (himself an Iranian former refugee now resident in Germany) came to the IJF Competition Manager and inform her that Mollaei need her help urgently as he had been given orders to withdraw from the competition when Muki (ISR) went in to the round of 16.

Dr Allan went to see the athlete accompanied by IJF General Secretary Mr Jean-Luc Rouge and IJF EC member Mr Gerard Benone. Mollaei told them that his coach, Seyed Majid Zareian, told him not to compete against the Russian athlete Khalmurzaev Khasan. When IJF representatives asked why, he said that Iranian legislation does not recognize Israel and he needed to lose before they met in the draw.

The athlete was immediately taken to IJF President Mr. Vizer accompanied by Mr Sarlak (to act as a translator).

At the meeting an extremely emotional and distraught Mollaei told Mr. Vizer (via Mr Sarlak) that because of the law in Iran and prudence he is obliged to not fight against the Israeli opponent and he needed to lose to the Russian opponent now to not create suspicion because the Iranian NOC signed an agreement which allowed IRI athletes to compete with all opponents even with Israeli ones. He said he was afraid of the consequences for his family and himself if he competed. Mr Vizer told Mollaei that the IJF guaranteed to support and help him regardless of his choice.

After the meeting Mollaei had to run to the field of play for the next contest with the Russian because the contest was imminent. An IJF staff member, Mr Abdullo Muradov accompanied him from this point on. He beat Khalmurzaev and fought against the law of Iran and the instruction of Olympic Committee of Iran and Ministry of Sport. The coach did not sit in the mat-side chair during this contest.

After this contest Mollaei met again IJF President Mr. Vizer and thanked him for opportunity to fight for his dream. He said he has no problem to compete with Israeli. He is athlete, not a politician and has been ever involved in politics. He wants only to comply with the Olympic Charter.

After, he came back to warm up to prepare for the next contest and his Iranian coach Seyed Majid Zareian started connecting Mollaei with the 1st Deputy Minister of Sport of Iran, Dawar Zani on the phone. The call was on speaker and Mr Muradov can understand and speak Farsi. Mollaei was told that he needed to lose to the Canadian athlete Valois- Fortier Antoine or he would have problems in Iran. Mollaei asked the IJF for people around him. IJF managed discrete security for him composed of IJF and local staff. Mollaei won the contest. This time the coach went to the mat-side chair.

The coach Seyed Majid Zareian was in possession of the athlete's passport so the IJF asked him to give the passport to the IJF Competition Manager, he complied.

According to eye-witnesses, the Deputy Head of Mission Minister Counsellor, Mr Mohammad Reza Loghnamani and First Secretary Economics Affairs, Mr Mohsen Shah Mohammadi from the Embassy of Iran came to the venue and tried to see him (venue security monitored their movements). Mollaei started to be very nervous, shaking and crying and he was afraid of them removing him from the venue, because he was continuing to compete.

One of authorities from Embassy of Iran took the accreditation card of Seyed Majid Zareian and sneaked into the warm-up area to talk with him (using this ID) and urged Mollaei to lose and not to go to podium because the Israeli athlete would be on podium for sure. IJF staff asked him to leave.

The coach came back immediately before the contest with the Belgian athlete Casse, with the Iran Olympic Committee President Reza Salehi Amiri on video chat call who told him not to fight or the end will be not happy. IJF staff asked Mollaei if they should remove the coach but Mollaei was too scared. He was wondering what would happen after this next contest. If he won, then he would be against Israel. So, he lost to comply with the law of his country.

The NOC President called him again and told him that National Security were in his parent's house. Mollaei friends from Iran also texted him that people came to his house and asked his father to tell his son to follow the law or he would have problems.

For the bronze medal contest against the Georgian athlete Maisuradze, Mollaei said he did not think about the contest or even anything to do with winning. His fear for his family's safety was too great.

His performance in the final block was not what was expected from him and the reason for this is open to speculation.

The IJF Media Team call Mollaei for interview, but his coach didn't want to allow him. But Mollaei said "I want to make the interview, I will tell everything". IJF made an interview with him. The coach went outside the room and said to IJF Competition Manager "I am afraid". Please refer to the attached links for full story, video and interview with subtitles.

IJF staff continued to accompany Mollaei to be sure he was safe. When we went to his hotel to collect his stuff and luggage the authorities from Embassy came to find him.

The local organisers arranged a safe new hotel and the IJF arranged a flight to Germany so Mollaei could leave Japan. He has a 2-year Schengen visa.

Today, September 1 2019, the International Judo Federation also received the attached email from another Iranian judoka, Mohammad Mohammadi Barimanlou.

### **C. Procedure before the IJF Disciplinary Commission**

17. Following the events of August 2019 at the Judo World Championships in Tokyo, Japan, the IJF Executive Committee decided, on 10 September 2019, to initiate a disciplinary procedure against the Appellant before the Disciplinary Commission of the IJF.
18. The same day, the IJF President appointed the members of the IJF Disciplinary Commission.
19. On 13 September 2019, the IJF General Secretary informed the IRIJF that a disciplinary procedure was open against it and requested the latter to choose between the written procedure or the hearing.
20. On 18 September 2019, the IRIJF chose the written procedure.
21. On 18 September 2019, the Disciplinary Commission of the IJF issued the following decision (the "Provisional Suspension Decision"):
  - *"Pronounces against the Iran Judo Federation a protective suspension from all competitions, administrative and social activities organized or authorized by International Judo Federation and its Unions, started from 18 September 2019 to the final Commission decision regarding this case.*
  - *Decides that this protective suspension is immediately enforceable even if the sanction is not yet final. [...]*
  - *Informs the Iran Judo Federation that this decision is subject to appeal with the Court of Arbitration for Sport. The time limit for appeal shall be twenty-one days from receipt of the decision appealed against."*
22. The grounds of the Provisional Suspension Decision, which were notified to the IRIJF together with the operative part of the Provisional Suspension Decision on 18 September 2019, can be summarized as follows:

*"[...] The International Judo Federation (IJF) has been informed that the August 28th 2019, during the last 2019 World Championships in Tokyo, a judoka from Iran Mr. Saeid MOLLAEI (-81 kg) has been instructed by the Iranian authorities and the Iran Judo Federation to withdraw from competing to avoid a potential contest against an Israeli athlete, in this case, Mr. Sagi MUKI.*

*These facts and actions are in gross contradiction with the content of the letter sent to the IJF on May 8th, 2019 under the signature of Presidents Seyed Reza SALEHI AMIRI,*

*President of the I.R. Iran NOC and Arash MIRE SMAEILI, President, I.R. Iran Judo Federation, which categorically confirms that "...by means of this letter, we would like to confirm that the I.R. Iran NOC shall fully respect the Olympic Charter and its non-discrimination principle and the I.R. Iran Federation shall fully comply with the Olympic Charter and the IJF Statutes ...".*

*Furthermore, they constitute a serious breach and gross violation of the Statutes of the IJF, its legitimate interests, its principles and objectives as well as of, in particular, but not limited to, the IJF Code of Ethics and the Olympic Charter.*

*Without prejudice to any further allegations, these facts and actions constitute specifically a breach of the following texts:*

- *the IJF Statutes and especially :*
  - the article 1.2.2 (respect of the principle of the universality and political neutrality of the IJF).*
  - the article 1.2.4 (rejection of all forms of discrimination, no matter the reason, in particular related to race, colour, sex, sexual orientation, language, RELIGION, POLITICAL or other opinions, NATIONAL OR SOCIAL ORIGIN, wealth, birth or any other situation).*
- *the IJF Sport and Organisation rules (SOR) and especially :*
  - the article 1.2.2 (match fixing and competition manipulation).*
- *the IJF Code of Ethics.*
- *the Olympic Charter.*

*[...]*

*The Commission note that the article 28.2 of the IJF statutes is applicable to the case.*

*The alleged actions are serious enough to consider the application of a protective suspension in accordance with the article 28.2.4 of the IJF statutes.*

*The Commission note that similar actions were observed by the past. During the 2004 Olympic Games the actual President of the Iran Judo Federation, Mr. Arash MIRE SMAEILI, has been instructed by the Iranian authorities to withdraw from competing to avoid a potential contest against an Israeli athlete. The same situation happened also during the 2019 Paris Grand Slam regarding Mr. Saeid MOLLAEI.*

*The Commission note that the next IJF event will be the Tashkent Grand Prix on 20<sup>th</sup> September 2019.*

*The Commission has a strong reason to believe that the Iran Judo Federation will continue or repeatedly engage in misconduct or commit any other offence against the legitimate interests, principles or objectives of the IJF.[...]"*

23. On 4 October 2019, the IRIJF filed a written submission with the IJF Disciplinary Commission.
24. On 22 October 2019, the IJF Disciplinary Commission issued the following decision (the "Suspension Decision"):
  - *"To pronounce against the Iran Judo Federation a suspension from all competitions, administrative and social activities organized or authorised by the IJF and its Unions, until the Iran Judo Federation gives strong guarantees and proves that they will respect the IJF Statutes and accept that their athletes fight against Israeli athletes;*

- *To ask to the IJF Executive Committee to determine the modalities of the guarantees to be given and actions to be undertaken in order to demonstrate its commitments to respect the IJF Statutes by the Iran Judo Federation;*
- *Decides that the Commission protective suspension on 18 September 2019 still is valid until this decision will gain force.”*

25. The grounds of the Suspension Decision, which were notified to the IRIJF together with the operative part of the Suspension Decision on 22 October 2019, can be summarized as follows:

*“[...] Mr. Saeid MOLLAEI's allegations are confirmed by the statement of Mr. Abdullo MURADOV, who speaks Farsi and who was together with the athlete during the World Championship in Tokyo and who clearly confirmed that the athlete received a phone call, from 1st Deputy Minister of Sport of Iran and a video chat and a phone call from the Iran National Olympic Committee's President asking to the athlete not to fight in order to avoid a contest against the Israeli athlete.*

*In the light of the case file especially the above mentioned statement, the Commission considers that Mr. Saeid MOLLAEI's allegations have to be taken into consideration.*

*The Commission takes duly note that the Iran Judo Federation “shall fully comply with the principles of the IJF Statutes and the Olympic Charter”. However, this statement was already done by the federation in the letter sent to the IJF on May 8th, 2019 under the signature of Presidents Seyed Reza SALEHI AMIRI, President of the I.R. Iran NOC and Arash MIRE SMAEILI, President, I.R. Iran Judo Federation, which categorically confirms that “... by means of this letter, we would like to confirm that the I.R. Iran NOC shall fully respect the Olympic Charter and its non-discrimination principle and the I.R. Iran Federation shall fully comply with the Olympic Charter and the IJF Statutes ...” and yet, the situation exposed by the athlete is in gross contradiction with the content of this letter.*

*These facts and actions constitute specifically a breach of the IJF Statutes and especially the article 1.2. [...]*

*This situation constitute also a match fixing or competition manipulation define in the IJF SOR: [...]*

*Finally, this situation is a violation of the Olympic charter and the IOC Code of Ethics. [...]*”

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

26. On 7 October 2019, in accordance with Article R47 of the Code of Sports-related Arbitration, edition in force since 1 January 2019 (the “CAS Code”), the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (“CAS”) against the Respondent to challenge the Provisional Suspension Decision. In its Statement of Appeal, the Appellant nominated Mr Jahangir Baglari, attorney-at-law in Tehran, IRI, as an arbitrator and applied for the stay of the execution of the Provisional Suspension Decision. The case was assigned to the Appeals Arbitration Division of the CAS under the reference CAS 2019/A/6500.

27. On 16 October 2019, the Appellant filed its Appeal Brief.

28. On 18 October 2019, the Respondent filed a challenge to the nomination of Mr. Jahangir Baglari, attorney-at-law in Tehran, IRI, as arbitrator in the present matter.
29. On the same day, the CAS Court Office informed the Parties that, in light of the fact that Mr Baglari had not yet accepted his nomination as arbitrator in the present case, the Respondent's challenge was premature.
30. On 24 October 2019, in light of the issuance by the Respondent of the Suspension Decision, the Respondent requested the CAS Court Office to invite the Appellant to withdraw its appeal and filed its position as to the Appellant's request for a stay.
31. On 30 October 2019, the Appellant informed the CAS Court Office that it wished to maintain its appeal against the Provisional Suspension Decision.
32. On 31 October 2019, the Respondent nominated Mr Pierre Muller, former Judge in Lausanne, Switzerland, as arbitrator.
33. On 4 November 2019, the CAS Court Office notified to the Parties the Order on Request for a Stay rendered by the Deputy President of the Appeals Arbitration Division of the Court of Arbitration for Sport, rejecting the Appellant's request to stay the Provisional Suspension Decision.
34. On 9 November 2019, in accordance with Article R47 of the CAS Code, the Appellant filed a second Statement of Appeal and Appeal Brief with the CAS against the Respondent to challenge the Suspension Decision. In its second Statement of Appeal/Appeal Brief, the Appellant also nominated Mr Jahangir Baglari, attorney-at-law in Tehran, IRI, as an arbitrator and applied for the stay of the execution of the Suspension Decision. The case was assigned to the Appeals Arbitration Division of the CAS under the reference CAS 2019/A/6580.
35. On 18 November 2019, the Respondent requested this case be submitted to the same Panel as the case CAS 2019/A/6500, and nominated Mr Pierre Muller, former Judge in Lausanne, Switzerland, as arbitrator in the case CAS 2019/A/6580.
36. On 24 November 2019, the Appellant informed the CAS Court Office that it agreed that the CAS cases 2019/A/6500 and 2019/A/6580 be submitted to the same Panel and that both procedures be decided upon in a single award.
37. On 25 November 2019, Mr Jahangir Baglari, attorney-at-law in Tehran, IRI accepted his nomination as arbitrator in both cases.
38. On 28 November 2019, the Respondent filed its position as to the Appellant's request for a stay of the Suspension Decision in the case CAS 2019/A/6580.
39. On 2 December 2019, the Respondent challenged the nomination of Mr Jahangir Baglari, attorney-at-law in Tehran, IRI as arbitrator in cases CAS 2019/A/6500 and CAS 2019/A/6580.
40. On 9 December 2019, the Appellant filed its comments on the Respondent's petition for

challenge of Mr Jahangir Baglari as arbitrator.

41. On 12 December 2019, the Respondent informed the CAS Court Office that it maintained its petition for challenge against the nomination of Mr Jahangir Baglari as arbitrator.
42. On 23 December 2019, the Respondent filed its Answer in the cases CAS 2019/A/6500 and CAS 2019/A/6580.
43. On 31 December 2019, the CAS invited the Parties to inform the CAS Court Office whether they preferred a hearing to be held in this matter or for the Panel to issue an award based solely on the Parties' written submissions.
44. On 6 January 2020, the Appellant informed the CAS Court Office that it preferred a hearing to be held in this matter and, on 7 January 2020, the Respondent indicated that it had no objection to a hearing being held in this matter.
45. On 21 January 2020, the Challenge Commission of the International Council of Arbitration for Sport rejected the Petition for challenge against the nomination of Mr Jahangir Baglari as arbitrator in the cases CAS 2019/A/6500 and CAS 2019/A/6580.
46. On 28 January 2020, the CAS Court Office informed the Parties that the Panel appointed to decide the cases CAS 2019/A/6500 and CAS 2019/A/6580 was constituted as follows:  
  

President: Mr Franco Frattini, Judge in Rome, Italy

Arbitrators: Mr Jahangir Baglari, Attorney-at-law in Tehran, Iran  
Mr Pierre Muller, Former Judge in Lausanne, Switzerland.
47. On 3 February 2020, the CAS Court Office informed the Parties that it had decided to hold a hearing in this matter and consulted the Parties as to a possible hearing date.
48. On 7 February 2020, the CAS Court Office informed the Parties that a hearing will be held in this matter on 8 April 2020 in Lausanne, Switzerland and invited the Parties to provide the CAS Court Office with the list of all persons who will attend the hearing, which the Parties did on 21 February 2020.
49. On 24 February 2020, the CAS Court Office issued on behalf of the President of the Panel an order of procedure (the "Order of Procedure") confirming *inter alia* the CAS jurisdiction and the hearing date, and invited the Parties to return a completed and signed copy of it. On 28 February 2020, the Respondent returned a signed copy of it to the CAS Court Office, and the Appellant did the same on 9 March 2020.
50. On 10 March 2020, the Appellant requested the postponement of the hearing due to the pandemic of COVID-19.
51. On 12 March 2020, the Respondent informed the CAS Court Office that, in light of the

COVID-19 pandemic, it agreed with the postponement of the hearing.

52. On 13 March 2020, the CAS Court Office confirmed the postponement of the hearing due to the COVID-19 pandemic.
53. On 15 April 2020, the CAS Court Office notified to the Parties the Order on Request for a Stay rendered by the Panel, rejecting the Appellant's request to stay the Suspension Decision.
54. On 7 May 2020, after having consulted the Parties as to possible new hearing dates, the CAS Court Office informed the Parties that the hearing in this matter will be held on 16 September 2020 in Lausanne, Switzerland and invited the Parties to provide the CAS Court Office with the names of all attendees.
55. On 15 May 2020, the Appellant requested the Panel to grant both Parties with the possibility to submit post-hearing briefs as well as to hear Dr Seyed Nasrollah Sajadi, consultant to the President of the Iranian National Olympic Committee, as a new witness. On 20 May 2020, the Respondent objected to both requests.
56. On 20 May 2020, the CAS Court Office informed the Parties, on behalf of the Panel, that the Appellant's request to submit post-hearing briefs is rejected, and invited the Appellant to comment on the Respondent's objection to hear the new witness. On 22 May 2020, the Respondent informed the CAS Court Office that it maintained its objection as to hearing Dr Seyed Nasrollah Sajadi as a witness.
57. On 27 May 2020, the Appellant informed the CAS Court Office of the reasons why it requested to hear Dr Seyed Nasrollah Sajadi as a witness and why Dr Seyed Nasrollah Sajadi was not heard earlier.
58. On 4 June 2020, the CAS Court Office informed the Parties that the Panel had decided to admit Dr Seyed Nasrollah Sajadi as a witness.
59. On 16 September 2020, a hearing was held in Lausanne. In addition to the Panel, Mr Matthieu Reeb, Director General to the CAS, Mr Antonio De Quesada, Head of Arbitration to the CAS, and Ms Stéphanie De Dycker, Clerk to the CAS, the following persons attended the hearing in person or by video-conference:

For the Appellant: Mr Arash Miresmaeli, President of the IRIJF (in person)  
Dr Amir Saed Vakil, Counsel (in person)  
Dr Pouria Askay, Assistant to Counsel (in person)  
Dr Seyed Nasrollah Sajadi, Consultant to the President of the IRI National Olympic Committee, witness (in person)  
Mr Mohammadreza Davarzani, Ex-vice Minister of Ministry of Sport, witness (in person)  
Mr Seyedmajid Zareian, Supervisor & Head Coach of Iran National Judo Team, witness (in person)  
Ms Katayoun Hosseinnejad, translator (in person).

For the Respondent: Mr François Carrard, counsel (in person)  
Mr Nicolas Zbinden, counsel (in person)  
Mr Marius Vizer, IJF President (in person)  
Mr Gérard Benone, Delegate of the IJF President (in person)  
Mr Vlad Marinescu, IJF Chief Media & Marketing Officer (in person)  
Ms Larisa Kiss, IJF International Relations Manager (in person)  
Mr Saied Mollaei, witness (in person)  
Ms Lisa Allan, witness (by video-conference)  
Mr Abdullo Muradov, witness (by video-conference)  
Mr Mohamad Mansouri, witness (in person)  
Mr Vahid Sarlak, witness (in person)  
Mr Teodor Pop, witness (by video-conference)  
Mr Komronshoh Ustopiriyon, witness (by video-conference)  
Mr Oybek Imashev, witness (by video-conference)  
Mr Richard Trautmann, witness (by video-conference)  
Ms Alexandra Volkova, interpreter (in person)

60. At the outset of the hearing the Parties declared that they had no objections as to the constitution of the Panel. The Panel heard evidence from Dr Seyed Nasrollah Sajadi, Consultant to the IRIJF, Mr Mohammadreza Davarzani, Ex-vice Minister of Ministry of Sport, and Mr Seyedmajid Zareian, Supervisor & Head Coach of Iran National Judo Team, all of them in quality of witnesses named by the Appellant. The Panel also heard the evidence from Ms Lisa Allan, Mr Abdullo Muradov, Mr Mohamad Mansouri, Mr Vahid Sarlak, Mr Teodor Pop, Mr Komronshoh Ustopiriyon, Mr Oybek Imashev and Mr Richard Trautmann, all of them in quality of witnesses named by the Respondent. All witnesses were invited by the President of the Panel to tell the truth subject to the sanctions of perjury under Swiss law. The Parties and the Panel had the opportunity to examine and cross-examine the witnesses. The Panel also heard the testimony of the Athlete.
61. Thereafter, the Parties were given a full opportunity to present their case, submit their arguments and submissions, and answer the questions posed by the Panel. At the end of the hearing, the Parties' counsel confirmed that they were satisfied with the hearing and that their right to be heard was provided and fully respected.
62. At the end of the hearing, the Parties jointly requested the proceedings to be suspended to allow the Parties to investigate the possibility to solve the present matter amicably.
63. On 19 and 26 October 2020, the IJF and the IRIJF however requested the CAS Court Office to resume the proceedings and issue an award in the present matter.
64. On 19 and 26 October 2020, the CAS Court Office advised the Parties that the Panel will issue the award in due course.

#### IV. THE PARTIES' SUBMISSIONS

65. The following summary of the Parties' positions and submissions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Panel, however, has carefully considered all of the submissions made by the Parties, even if no explicit reference is made in what immediately follows.

##### A. The Appellant

66. The Appellant's submissions may be summarized as follows:

- The allegations made by the Respondent lack evidence: they are based on the Athlete's statements, which were motivated by the latter's asylum application in Germany; there is no evidence as to who from the "Iranian authorities" or the "IRIJF" did instruct the Athlete to lose deliberately the competitions; also, drawing the line between intentional and unintentional losses is practically impossible; and, *in casu*, several indications show that the Athlete was under no pressure or threat to avoid competing against an Israeli opponent; also, certain allegations made by the Athlete are contradicted by (i) Mr Mohammad Mohammadi Brimanloo, (ii) the Athlete's physician (who certified that the Athlete was not in state to attend the awarding ceremony of the Paris Grand Slam 2019 because he was injured) and (iii) the President of Iran Olympic Committee, the First Deputy Minister of Sport of Iran as well as the President of the IRIJF (who deny the facts and allegations imputed to them in the IJF Report).
- Even if the Respondent's allegations were true – *quod non* –, these facts must be read in their context: (i) Iranian judo is on a continuous development path and significant improvements in the field of judo management have been made in IRI; (ii) the IJF approached for the first time the IRIJF on this matter only around 6 months prior to the Provisional Suspension Decision and sanctioned the IRIJF only four months after the letter dated 9 May 2019 for the case of the Athlete; and (iii) the Athlete's case is the only case that was raised after the letter dated 9 May 2019.
- The reference to a "serious breach" and a "gross violation" of the IJF Statutes, the IJF Code of Ethics and the Olympic Charter, as provided in the Appealed Decisions, is legally unjustified: whether a violation is serious or not depends on a series of factors, including in particular the forms of harm. In the present case, the Respondent's allegations against the IRIJF cannot be defined as "serious" for their context and circumstances; in addition, the term "breach" is reserved for legally binding obligations, which the IJF legitimate interests, principles and objectives are not; finally, the allegations cannot be attributed to the IRIJF.
- The Appellant did not violate the principle of political neutrality, as provided in article 1.2.2 of the IJF Statutes, since the alleged withdrawal of Iranian judokas from contests against Israeli rivals does not undermine the Israeli judokas' rights. Similarly, the principle of universality is not contradicted since this principle concerns the IJF's executives. In turn, the Respondent's behaviour in this matter casts doubt as to the respect of the principle of fairness as the first instance procedure

was flawed in several aspects and several obligations provided for in Article 3 of the Olympic Movement Code on the Prevention of the Manipulation of Competitions, in particular the initiation of investigation procedures including a fair and impartial hearing prior to any disciplinary decision were not respected.

- The Appellant did not violate article 1.2.4 of the IJF Statute regarding the prohibition of discrimination. The alleged practice of losing deliberately in order to avoid competing against an Israeli athlete does not impair or nullify the enjoyment and exercise of Israeli athletes' rights. In addition, dis-competing is not harmful to the opponent but purely in favour of that opponent.
- The Appellant did not violate article 1.2.2 of the IJF Sport and Organization Rules ("SOR") regarding match fixing and competition manipulation. Match fixing requires a motivation for financial gain or human network; besides, the Athlete did not report to the IJF at the first available opportunity any information about the match fixing, which is also a duty under the SOR.
- The Respondent did not act consistently with the provisions of the IJF Code of Ethics since the latter dictates IJF officials not to stand between the athletes and their national federations but instead to assist both in developing the spirit of the sport.
- The Appealed Decisions contradict the principle of *nulla poena sine lege* since the IJF Rules are not sufficiently explicit as to the sanction to be applied. In addition, in accordance with the *contra proferentem* rule, the relevant provision that a person is charged of having breached will have to be construed in a strict manner.
- The disciplinary sanctions imposed upon the Appellant violate the latter's personality rights as they will have unpredictable and unbearable side-effects for the community of Iranian athletes as a whole.
- Finally, the Appealed Decision violate the principle of fairness because the IJF rules contain serious flaws, including as to the composition of the Disciplinary Committee that rendered the Appealed Decisions and because the sanction imposed is disproportionate.

67. In his Appeal Brief filed in CAS case 2018/A/6500, the Appellant requested the Panel to decide as follows:

- *"That the Court has jurisdiction under the [CAS Code] to entertain the dispute and to rule upon the claims submitted by the IRIJF;*
- *[...]That the laws and measures adopted by the IJF (as referred to above) and in issue in this case are, to the extent determined by the Court, inconsistent with the provisions of the IJF Statutes and obligations of the IJF under the Olympic Charter;*
- *[...]That by its acts referred to above, the IJF has breached its obligations to the IRIJF, inter alia, fairness, impartiality, due process, non-interference, etc;*
- *[...]That the IRIJF is entitled to attend all international competitions, and contribute social and administrative activities organized or authorized by the IJF and its Unions with respect to international standards of Olympism and vital social values*

*of members of International Federations;*

- *[...]That the IJF is under an obligation to make full reparations, moral and material, to the IRIJF for the violation of its international obligations in an amount to be determined by the Court at a subsequent stage of the proceedings;*
- *[...]That the Respondent shall refrain from any other action, approach or gesture which might prejudice the rights of the Appellant under all applicable rules, specially the IJF Statutes, the IJF Code of Ethics, and the Olympic Charter; and*
- *[...]Any other remedy the Court may deem appropriate.”*

68. In his Appeal Brief, which was filed together with the Statement of Appeal in CAS case 2019/A/6580, the Appellant requested:

- *“That the Court has jurisdiction under the [CAS Code] to entertain the dispute and to rule upon the claims submitted by the IRIJF;*
- *That the measures adopted by the IJF (as referred to above) and in issue in this case are, to the extent determined by the Court, inconsistent with the provisions of the IJF Statutes (Articles 1.2, 4.3, 28.2.2. and 28.2.4) (Annex No. 24); the IJF Disciplinary Code (Articles 4, 5, 9, 10, 12.2.c and last paragraph, and 14) (Annex No. 25); the IJF Code of Ethics (Article 6 (1), (2), (5), and (10)) (Annex No. 26); and obligations of the IJF under the Olympic Charter (Fundamental Principles and Olympism, Articles 5, 26.1.2, and 50.2) (Annex No. 27).*
- *That by its acts referred to above, the IJF has breached its obligations to the IRIJF, inter alia, fairness, impartiality, due process, non-interference, public policy, personal rights, etc;*
- *[...]That the IRIJF is entitled to attend all international competitions, and contribute social and administrative activities organized or authorized by the IJF and its Unions with respect to international standards of Olympism and vital social values of members of International Federations;*
- *[...]That the IJF is under an obligation to make full reparations, moral, material, as well as arbitral costs to the IRIJF for the violation of its international obligations in an amount to be determined by the Court at a subsequent stage of the proceedings;*
- *[...]Any other remedy the Court may deem appropriate.”*

## **B. The Respondent**

69. The Respondent’s submissions may be summarized as follows:

- The relevant facts are confirmed not only by the Athlete but also by the testimony of other persons, including IJF staff members and other athletes and athletes’ support staff who have no reason whatsoever not to tell the truth. In particular, Mr Abdullo Muradov confirmed in his witness statement that he had heard the First Deputy Minister of Sport of Iran requesting the Athlete to lose a specific contest, and Mr Vahid Sarlak, coach of the Tadjikistan team, was present when the IRIJF’s President instructed the Athlete’s coach to inform the Athlete

that he shall withdraw from the competition as well as when this order was passed on to the Athlete. The Respondent also fails to see why, assuming the Athlete was under no pressure at all from the Iranian authorities and/or the Appellant, he would be so willing to change his Iranian sporting nationality to compete for Azerbaijan or Mongolia.

- Other contextual elements support the version of events of the Athlete and the IJF: Mr Mohamad Mansouri, the former head Coach of the Iranian national team, stated in his witness statement that he was threatened for the eventuality that the Athlete would fight against an Israeli competitor or in case he would support the Athlete in any way. The statistics also support the Athlete's statement of facts and many representatives of the Iranian authorities have publicly stated that the Iranian athletes will not compete against Israeli athletes. Finally, it was confirmed by Mr Zareian that, over the past 25 years, he never coached an Iranian athlete to compete against an Israeli athlete.
- The facts constitute relevant violations of various provisions of the IJF Statutes and trigger the application of Article 28.2.1 of the IJF Statutes. Even assuming that the IRIJF were found to have breached only one of the relevant provisions of the IJF Statutes, it would be a sufficient basis to trigger the application of sanctions. First, the Appellant violated the principle of political neutrality, which is provided under Article 1.2.2 of the IJF Statutes; this principle manifestly requires no governmental or political influence on the activities of sporting organisations; in the present matter, the facts evidently reveal that there was a political influence on the sporting activities since in particular the Athlete was requested to lose certain contests in order to avoid an Israeli opponent. The Appellant's reference to the concept of fairness is absurd since the IRIJF had the opportunity to present its explanations before the IJF Disciplinary Commission and that any procedural flaws are cured before the CAS under Article R57 of the CAS Code. The Appellant breached the prohibition of discrimination as provided under Article 1.2.4 of the IJF Statutes by instructing the Athlete to avoid competing against Israeli athletes, while allowing him to compete against others is a clear act of discrimination expressly prohibited by the IJF Statutes. The Respondent further contends that the Appellant's acts violate the Olympic Charter (Fundamental Principles 4, 6 and 7), and that, pursuant to Article 26.1.3 of the Olympic Charter, the Respondent is also responsible for the enforcement of the Olympic Charter. As a result, any failure of the Respondent to act against the Appellant could expose the Respondent to be considered as having itself violated the Olympic Charter.
- As to the suspension which was imposed upon the Appellant pursuant to Article 28.2.1 of the IJF Statutes, the Respondent states that it is appropriate and proportionate as it is strictly dependent on the actions of the Appellant. In addition, the risk that the Appellant would face a suspension was already expressed in the IJF letter of 1st March 2019 to the Appellant, to which the latter confirmed, on 9 May 2019, that it would respect the IJF Statutes and Olympic Charter. The events which occurred thereafter clearly demonstrate that the

Appellant had no intention to abide by its commitments.

70. The Respondent requested the Panel to decide as follows:

- I. The appeals filed by the Islamic Republic of Iran Judo Federation are dismissed.*
- II. The arbitration costs (if any) are borne by the Islamic Republic of Iran Judo Federation.*
- III. The Islamic Republic of Iran Judo Federation is ordered to significantly contribute to the International Judo Federation's legal and other costs."*

#### **V. TESTIMONY OF THE WITNESSES AND THE ATHLETE**

71. At the hearing, the Panel heard the evidence from Dr Seyed Nasrollah Sajadi, Consultant to the President of the IRI National Olympic Committee; Mr Mohammadreza Davarzani, former First Deputy Minister of Sport and Youth of the IRI; and Mr Seyedmajid Zareian, Supervisor & Head Coach of IRI National Judo Team, all of them in quality of witnesses named by the Appellant. The Panel also heard the evidence from Ms Lisa Allan, an IJF employee; Mr Abdullo Muradov, IJF employee; Mr Mohamad Mansouri, former head coach of the Iranian judo national team; Mr Vahid Sarlak, head coach of the Tajikistan judo national team; Mr Teodor Pop, IJF employee; Mr Komronshoh Ustopiriyon, judo athlete from Tajikistan; Mr Oybek Imashev, coach of the judo Kazakhstan national team and Mr Richard Trautmann, coach for the German judo national team; all of them in quality of witnesses named by the Respondent. The Panel also heard the testimony of the Athlete. The content of such evidence can be summarized as follows:

- Dr Seyed Nasrollah Sajadi: Dr Seyed Nasrollah Sajadi, Consultant for the President of the Iran National Olympic Committee, stated that, on 28 August 2019, he received a phone call from Mr James McLeod of the International Olympic Committee informing him that the President of the IOC, Mr Thomas Bach, had tried to enter into contact with the President of the IRI National Olympic Committee ("IRI NOC"), Mr Salehi Amiri. Dr Sajadi replied that the President was not available at this moment and that he would forward the message to him, which he did. Dr Sajadi also confirmed that he is aware of the letter sent by the IRI NOC to the IOC on 9 May 2019.
- Mr Seyedmajid Zareian: Mr Seyedmajid Zareian is the head coach of the judo national team of IRI for the Tokyo Olympic Games. He is not an employee of the IRIJF but rather an employee of the IRI Government. He has 25 years of experience in coaching of judo IRI national teams. At the Judo World Championships in Tokyo, Mr Zareian and the Athlete had prepared a strategy for each contest of the Athlete. On 28 August 2019, the Athlete won his contest against his Moroccan competitor and then against his Portuguese competitor. Before the contest against the Russian competitor, the Athlete began to speak out in a way that was incomprehensible to him and started controversy. The Athlete told Mr Zareian that he no longer needed his assistance as a coach and

received the assistance from someone else. Mr Zareian then left the premises and contacted the President of the IRIJF who asked him to go back to the warm-up area and to continue his efforts. There, Mr Zareian saw that the Athlete was protected by two bodyguards. As the Athlete had a good chance to win the gold medal, members of the IRI Embassy were present to support him. Mr Zareian coached the Athlete for his contest against the Canadian opponent, but later, the Athlete rejected Mr Zareian's assistance as coach for his match against the Belgian opponent. The Athlete lost the contest against the Belgian opponent in the semi-finals. After that, the Athlete was crying and confused. He lost his contest against the Georgian opponent. After his contests, the Athlete gave an interview for the IJF. Mr Zareian was waiting for the Athlete outside of the room where the interview took place. At the end of the interview, Mr Zareian was informed that the Athlete was going to speak with the President of the IJF and later on, he was informed that the President of the IJF would take care of the Athlete's transportation to his hotel. Upon arrival at the Athlete's hotel, the Athlete had left the hotel and Mr Zareian understood that the Athlete had fled to Germany. Mr Zareian stated that there is no such rule in the IRI that prevents an Iranian athlete to compete against an Israeli athlete. Mr Zareian also stated that so far, in his entire career, he never coached an Iranian athlete for a contest against an Israeli athlete yet.

- Mr Mohammadreza Davarzani: Mr Mohammadreza Davarzani was at the time of the relevant facts, First Deputy Minister of Sports and Youth of the IRI. He has never had any responsibility in the IRIJF. In his capacity of First Deputy Minister of Sports of the IRI, on 28 August 2019, Mr Davarzani was on a site visit and as such, he was not able to reach Mr Saied Mollaei by telephone for the entire day. Mr Davarzani confirmed that there is no such rule in the IRI that prohibits Iranian athletes to compete against Israeli athletes. The national sports federations in the IRI are autonomous from the IRI Government, whose role is limited to the provision of financial and logistical support for the athletes to participate in sports events. Mr Davarzani stated that the decision as to the composition of the IRI delegations of athletes for each specific competition lies with the concerned sports federation only.
- Mr Saied Mollaei: Mr Saied Mollaei is a professional judo athlete of Iranian citizenship. At the time of the relevant facts, the Athlete participated in several international competitions as a member of the IRI national Judo team.

In October 2018, the Athlete participated in the Abu Dhabi Grand Slam. At this competition, the Athlete did not fight in the semi-finals against the Belgian athlete, Matthias Casse, because he was instructed by the Iranian authorities not to fight. The Athlete therefore taped his leg and did not fight for this contest as well as for the following contest for the bronze medal against a Kazakhstan athlete. The Athlete went back to his hotel, took his tape off and returned to Iran.

In The Hague Grand Prix on November 2019, the Athlete lost his first round to his opponent from Bulgaria, Ivan Ivanov, so as to avoid being in the next round and fighting against the Israeli athlete.

At the Guangzhou Master 2018, the Athlete lost in the first round to a Japanese athlete so as to avoid fighting in next contest against an Israeli athlete.

At the Paris Grand Slam in February 2019, the Athlete fought in the hardest group. He won several contests. In the quarter finals against the Kazakhstan opponent, Ruslan Mussayev, Mr Mohamadi Mansuri instructed him not to fight following the instructions of Mr Derakhshan, President of the Judo Federation of the IRI at the time, and the Iranian authorities. The Athlete then discussed with the Kazakh coach and agreed that he would fall to ippon after the Kazakh opponent's first technique. Mr Derakhshan told the Athlete to continue the competition, but not to go to podium for medal ceremony. Then, the Athlete won against his Belgian opponent, Matthias Casse, as well as the contest for the bronze medal against the Russian Olympic Champion Khasan Khalmurzaev. Then the Athlete held his leg and acted as if he was badly injured and was brought to the medical room. The Athlete did not attend the medal ceremony, because he was instructed not to stand on the podium next to the Israeli athlete. On the next day, after the competition finished, the Athlete took off his tape from his leg and attended a 5-days-training camp.

Two days before the World Championship in Tokyo in August 2019, the Athlete was asked to attend a meeting with Mr Arash Miresmaeili, the President of the IRIJF. Mr Arash Miresmaeili told the Athlete several times about a cancellation of his participation. After a long discussion, they agreed that the Athlete would leave, but subject to the condition that if he had to fight against an Israeli, he had to lose the previous match not to face this opponent and that he would not win the bronze medal either in order not to be with the Israeli opponent on the podium. The Athlete agreed. He sent a text message to Mr Theodor Pop in which he explained what happened.

On 28 August 2019, after the Athlete won against his Portuguese competitor, the coach Mr Zareian came to the locker room and informed the Athlete that he had instructions from the President of the IRIJF, Mr Miresmaeili, that the Athlete needed to lose the following match. The Athlete went to discuss the issue with Ms Lisa Allan of the IJF and informed the coach Mr Zareian that he would fight in the following contest. The Athlete informed the President of the IJF, Mr Marius Vizer, about the instructions he had received from the IRIJF.

The Athlete decided to fight in the following contest against the Russian opponent and won. Thereafter, he received a phone call, through his coach's mobile phone, from Mr Davarzani, First Deputy Minister of Sports and Youth of the IRI, confirming that the Athlete had to lose in the following match and leave the competition. The Athlete protested but the Mr Davarzani insisted that he must submit to the orders. After this telephone conversation, the Athlete went back to the President of the IJF, Mr Marius Vizer, and informed him about the telephone conversation he just had with Mr Davarzani.

Before the next contest against his Canadian opponent, the coach of the Athlete, Mr Zareian informed the Athlete that Tehran had instructed him not to coach him. The Athlete asked Mr Vahid Sarlak to coach him. The Athlete won the

contest.

The IJF had arranged for two bodyguards to protect the Athlete so that no one could disturb him during the rest of the competition. The coach came to see the Athlete and informed him that he had received orders from the head of the IRI NOC, Mr Amiri, according to which the Athlete must lose the following contest and that if he did not submit to the orders he would not be able to get back to the IRI and his family would have problems. The Athlete voluntarily lost the following contest, against the Belgian opponent, Mr Matthias Casse.

Before his following contest, which was for the bronze medal, two persons from the IRI Embassy came to see the Athlete in the warm up area; they had come to take him but the bodyguards prevented them to approach him. The Athlete lost voluntarily against the Georgian opponent in that contest so as to avoid having to get on the podium next to Mr Sagi Muki from Israel.

After the competition, the IJF had arranged for another hotel for the Athlete. He received messages from friends and from his brother in the IRI, according to which his family had been warned that they would have problems in case the Athlete was to speak about the instructions to lose in order not to compete against an Israeli athlete.

- Ms Lisa Allan: Ms Lisa Allan is an employee of the IJF. She has been in contact with the Athlete already before the Judo World Championships in Tokyo in particular because the Athlete had enquired about the applicable procedure to change nationalities. On 28 August 2019, after the Athlete's contest against the Portuguese opponent, Mr Vahid Sarlak, a coach from Tajikistan, came to see her and informed her that the Athlete needed her assistance as he was instructed to lose in the next contest. Ms Allan went to see the Athlete accompanied by IJF General Secretary, Mr Jean-Luc Rouge, and IJF EC member, Mr Gérard Benone. The Athlete confirmed that his coach, Mr Zareian, had instructed him not to compete against the Russian athlete Khasan Khalmurzaev because the Iranian legislation does not recognize Israel and he needed to lose before he met Mr Sagi Muki in the draw. The Athlete was immediately taken to the President of the IJF, Mr Vizer, accompanied by Mr Sarlak. Mr Vizer told the Athlete that the IJF guaranteed to support and help him. The Athlete went back to the field of play accompanied by Mr Abdullo Muradov an IJF employee.

After winning the contest against the Russian opponent, the Athlete met again Mr Vizer and thanked him. When the Athlete was warming up again for the next contest, his coach, Mr Zareian, put him on the phone with Mr Davarzani. The call was on speaker and Mr Muradov, who speaks Farsi, could hear the conversation. Mr Davarzani again instructed him to lose in the next contest or he would have problems with his family. The Athlete requested more security and, as from that moment, two bodyguards of the IJF were protecting him.

Two persons from the IRI Embassy came to the warm up area where the Athlete was, but the security asked them to leave. The coach came back to the warm up area. He was connected over the video chat with the president of the IRI NOC,

Mr Amiri, who again instructed him not to fight in the next contest. The Athlete got scared and deliberately lost the next contest.

- Mr Abdullo Muradov: Mr Abdullo Muradov is an IJF employee, assisting Ms Allan. On 28 August 2019, after the Athlete's contest against the Portuguese opponent, Mr Vahid Sarlak, the coach of Tajikistan's team, came to see Ms Allan and informed her that the Athlete needed her assistance as he was instructed to lose in the next contest. Ms Allan went to see the Athlete accompanied by IJF General Secretary, Mr Jean-Luc Rouge, and IJF EC member, Mr Gérard Benone. The Athlete confirmed that his coach, Mr Zareian, had instructed him not to compete against the Russian athlete Khasan Khalmurzaev because the Iranian legislation does not recognize Israel and he needed to lose before he meets Mr Sagi Muki in the draw. The Athlete was immediately taken to the President of the IJF, Mr Vizer, accompanied by Mr Sarlak. At the end of that meeting, Mr Muradov was asked to accompany the Athlete from that point on.

After the contest against the Russian opponent, the Athlete came back to the warm up area to prepare for the next contest and his Iranian coach Mr Zareian put him in contact with the First Deputy Minister of Sport of Iran, Mr Dawarzani on the phone. The call was on speaker and Mr Muradov, who speaks Farsi could understand the conversation. The Athlete was told that he needed to lose to the Canadian opponent or he would have problems in Iran. The Athlete asked the IJF for enhanced security, which was put into place. The Athlete won the contest. The coach Mr Zareian was in possession of the Athlete's passport. The IJF asked him to give the passport to the IJF Competition Manager, which he complied.

Before the Athlete's contest against the Belgian opponent, the Deputy Head of Mission Minister Counsellor, Mr Mohammad Reza Loghnamini and First Secretary Economics Affairs, Mr Mohsen Shah Mohammadi from the Embassy of the IRI came to the warm up area and tried to talk to the Athlete, but they were asked to leave. The coach came back to the warm up area. The coach put the Athlete in connection on a video chat call with the president of the IRI NOC, Mr Amiri, who again instructed him not to fight in the next contest "*or the end will not be happy*". The Athlete got scared and deliberately lost the contest against the Belgian opponent.

After that contest, the President of the IRI NOC called the Athlete again to inform him that National Security was present in his parents' house and friends from the IRI also texted him to inform him that people had come to his family's house to request his father to instruct the Athlete to abide by the rules or he would have problems. The Athlete lost the next contest deliberately.

Mr Muradov accompanied the Athlete to his hotel to pick up his luggage and the IJF arranged for a new hotel and a flight to Germany.

- Mr Mohamad Mansouri: Mr Mohamad Mansouri was the former head coach of the judo national team of the IRI. In his capacity of head coach, he was requested to instruct his athletes not to compete or to lose deliberately contests in order to avoid competing against an Israeli athlete or to avoid being on the podium with an Israeli athlete. Mr Mansouri was dismissed as head coach for no reason upon the election of Mr Arash Miresmaeili as President of the IRIJF. When Mr Mansouri heard that the Athlete had fled to Germany, Mr Mansouri got threatened by the IRIJF that if he would assist or support the Athlete in any possible way, the IRIJF would have his passport blocked and make sure he would not be able to leave the country. His telephone conversations were taped. In addition, he was told that if he would betray the Athlete by telling them where he is, he would get a lot of money. Mr Mansouri decided to leave the country by car to Turkey and, once in Istanbul, flew to Germany.
  
- Mr Vahid Sarlak: Mr Vahid Sarlak is a former Iranian judo athlete and as such knows the Athlete for a long time. Mr Sarlak is currently living in Germany and working as head coach of the judo national team of Tajikistan. Mr Sarlak was present at the Judo World Championship in Tokyo on 28 August 2019 in his capacity of coach of the team of Tajikistan. After his victory against the Portuguese opponent, Mr Sarlak witnessed that Mr Zareian received a phone call from Mr Miresmaeili, President of the IRIJF, requesting him to inform the Athlete that he needed to lose in the next contest in order to avoid competing against an Israeli athlete. Mr Zareian asked Mr Miresmaeili to deliver the news himself directly to the Athlete but the President of the IRIJF refused. Mr Zareian, together with Mr Sarlak, went to see the Athlete in the locker room and informed him about the instructions received from the President of the IRIJF. The Athlete asked Mr Sarlak to inform Ms Lisa Allan about this, which Mr Sarlak did. Ms Allan brought the Athlete and Mr Sarlak to the President of the IJF. After receiving guarantees of support from the President of the IJF, Mr Marius Vizer, the Athlete went back to the field of play to continue the competition. He defeated the Russian and the Canadian opponents. They went back to the President of the IJF who congratulated the Athlete and assured him that the IJF would support the Athlete in this matter.  
The Athlete received other calls from Iranian officials. Mr Sarlak had to leave the arena with his athletes. Later, he found out that the Athlete was forced to deliberately lose his following matches against the Belgian and the Georgian opponents.
  
- Mr Teodor A. Pop: Mr Teodor A. Pop is an employee of the IJF. Mr Pop met the Athlete, his girlfriend and her brother, Mr Junk, in Dusseldorf after the competition in Paris in February 2019. Mr Junk explained that the Athlete wished to change his sporting nationality so as to avoid being prevented from competing against Israeli athletes. Mr Pop informed them about the procedure to change nationality and in particular about the duration of such procedure. Later on, Mr Pop repeatedly had telephone conversations with Mr Junk who confirmed that the situation of the Athlete had not improved.

- Mr Komronshoh Ustopitiyon: Mr Komronshoh Ustopitiyon is an athlete from the national judo team of Tajikistan. Mr Ustopitiyon witnessed that at the Abu Dhabi Slam in October 2018, the Athlete was told by his coach to lose against the Belgian opponent so as to avoid competing against an Israeli athlete. In February 2019, at the Paris Grand Slam, the Athlete deliberately lost against the opponent from Kazakhstan. The Athlete then won the following contests against the Belgian and the Russian opponents, and therefore won the bronze medal. The Athlete did not attend the medal ceremony: he acted as if he was badly injured at one of his legs and was taken to the medical room. As from the next day, he participated in a 4-days-training camp.
- Mr Oybek Imashev: Mr Oybek Imashev is coach of the athlete Ruslan Mussaev from Kazakhstan. At the Paris Grand Slam in 2019, Mr Imashev was informed by the Athlete's coach that the Athlete could not win the contest against Mr Imashev's athlete, Mr Mussaev. The latter therefore won the contest. After winning the bronze medal, the Athlete acted as if he was badly injured and did not attend the medal ceremony.
- Mr Richard Trautmann: Mr Richard Trautmann is the head coach of the judo national team of Germany. At the Paris Grand Slam in February 2019, the Athlete told Mr Trautmann that he is instructed by the Iranian authorities to lose contests in order to avoid competing against an Israeli athlete.

## VI. JURISDICTION OF THE CAS

72. The question whether or not the CAS has jurisdiction to hear the present dispute must be assessed on the basis of the *lex arbitri*. As Switzerland is the seat of the arbitration and not all Parties are domiciled in Switzerland, the provisions of the Swiss Private International Law Act ("PILA") apply, pursuant to its Article 176.1. In accordance with Article 186 of PILA, the CAS has the power to decide upon its own jurisdiction ("*Kompetenz-Kompetenz*").
73. Article R47 of the CAS Code provides as follows:
- "An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.[...]"*
74. The jurisdiction of CAS in the present matter derives from Article 29.1 of the IJF Statutes, which reads as follows:
- "The Court of Arbitration for Sport in Lausanne is the only organism empowered by the IJF to ensure the arbitration between the parties."*
75. In addition, Article 1 of the IJF Disciplinary Code enclosed as Annex I to the IJF Statutes provides as follows:

*“The decision of the IJF Disciplinary Commission is subject to appeal by the person concerned or the IJF Executive Committee with the Court of Arbitration for Sport (CAS).”*

76. The Panel notes that the Appealed Decisions were both rendered by the IJF Disciplinary Commission and as such can be appealed against before the CAS. The Panel also notes that the jurisdiction of the CAS to hear the appeal filed by the Appellant against the Appealed Decision is confirmed by both Parties’ signature of the Order of Procedure. The Panel therefore decides that it has jurisdiction to decide on the present appeals proceedings.

## **VII. ADMISSIBILITY**

77. Pursuant to Article R48 of the CAS Code:

*“The Appellant shall submit to CAS a statement of appeal containing:*

- the name and full address of the Respondent(s);*
- a copy of the decision appealed against;*
- the Appellant’s request for relief;*
- the nomination of the arbitrator chosen by the Appellant from the CAS list, unless the Appellant requests the appointment of a sole arbitrator;*
- if applicable, an application to stay the execution of the decision appealed against, together with reasons;*
- a copy of the provisions of the statutes or regulations or the specific agreement providing for appeal to CAS.*

*Upon filing the statement, the Appellant shall pay the CAS Court Office fee provided for in Article R64.1 or Article R65.2.*

*If the above-mentioned requirements are not fulfilled when the statement of appeal is filed, the CAS Court Office may grant a one-time-only short deadline to the Appellant to complete its statement of appeal, failing receipt of which within the deadline, the CAS Court Office shall not proceed.”*

78. Article R49 of the CAS Code provides as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties.”*

79. The Provisional Suspension Decision was notified to the Appellant on 18 September 2019 and the Appellant filed its Statement of Appeal against that decision on 7 October

2019, that is within the time limit provided for under Article R49 of the CAS Code. Similarly, the Suspension Decision was notified to the Appellant on 22 October 2019 and the Appellant filed its Statement of Appeal against that decision on 9 November 2019, that is within the time limit provided for under Article R49 of the CAS Code. The Panel also notes that the other requirements provided under Article R48 of the CAS Code are fulfilled in both appeals. The Panel therefore holds that both appeals are admissible.

### **VIII. APPLICABLE LAW**

80. Pursuant to Article R58 of the CAS Code:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

81. To decide on the present matter, the Panel shall apply primarily the IJF Statutes and other IJF rules and regulations. Since the Respondent, who has issued the Appealed Decisions, is domiciled in Switzerland, Swiss Law applies on a subsidiarily basis.

### **IX. MERITS**

82. As a preliminary remark, the Panel notes that the Appellant’s request for the Provisional Suspension Decision being “cancelled” in the procedure 2019/A/6500 is moot because the provisional suspension imposed on the Appellant is no longer in force as it was superseded by the Suspension Decision issued by the IJF Disciplinary Commission on 22 October 2019.

83. In light of the Parties’ submissions, the Panel will address the following issues:

- whether the Appellant instructed the Athlete not to compete or to voluntarily lose contests in order to avoid competing against Israeli opponents, at the Tokyo World Championships Senior;
- whether these facts constitute a violation of the Appellant’s obligations under the IJF Statutes and other related rules, namely the principle of political neutrality and the principle of non-discrimination;
- whether the Respondent breached the principle of fairness or other rules;
- whether the sanction imposed upon the Appellant in the Suspension Decision has the necessary legal basis and proportionality;
- whether the Suspension Decision constitutes an illicit violation of the Appellant’s personality rights;

- whether the IJF shall compensate the IRIJF for the damage caused by the Appealed Decisions.

**A. Did the Appellant instruct the Athlete not to compete or to deliberately lose contests at the Tokyo World Championships Senior?**

*a.) Position of the Parties*

84. According to the Appellant, the allegations of facts on which the Appealed Decisions are based clearly lack evidence. The Athlete's statements were rather only motivated by the latter's asylum application in Germany. In addition, there is no evidence as to who from the "Iranian authorities" or the "IRIJF" did allegedly instruct the Athlete to lose deliberately the competitions: Also, drawing the line between intentional and unintentional losses is practically impossible and several indications show that the Athlete was under no pressure or threat to avoid competing against the Israeli opponent, in particular the fact that, although he had obtained sufficient guarantees by the President of the IJF to continue the competition, the Athlete did not compete against the Israeli athlete. Finally, certain allegations made by the Athlete are contradicted by (i) Mr Mohammad Mohammadi Brimanloo, (ii) the Athlete's physician and (iii) the President of Iran Olympic Committee, Mr Amiri, the First Deputy Minister of Sport of Iran, Mr Davarzani as well as the President of the IRIJF, Mr Miresmaeili. Finally, the Appellant insists on the fact that competitions prior to the 2019 Tokyo World Championships Senior are not relevant in this matter.
85. The Respondent considers to the contrary that the facts are sufficiently established and that the objections made by the Respondent are wholly unfounded. The Athlete's account of the facts is corroborated by the fact that he requested to change his Iranian sporting nationality and the fact that he left his family to live in Germany. In addition, other witnesses' statements corroborate his version of facts, including by persons who have no reason at all not to tell the truth. Additionally, Mr Mansouri's witness statement demonstrates that the Athlete's fear for his security is realistic. The statistics also support the Athlete's statement of facts: in 2019, the IRIJF participated in eleven IJF events and the Israeli team did not participate in four of these eleven events; in all four of these events, the Appellant participated with a team of 5 to 12 athletes. For the remaining seven events, the Appellant participated with a maximum of 2 athletes, and even decided not to participate at all in 3 of these seven events.

*b.) The Position of the Panel*

86. The version of facts as was presented by each of the Parties as well as the testimonies of the witnesses has been carefully considered and assessed. It appears that several elements have been abundantly confirmed, all of which confirm the version of facts as was presented by the Athlete. Especially, based on the evidence on file and the witnesses' testimonies, as explained hereafter, the Panel is convinced that on 28 August 2019: (i) after the Athlete won his contest against the Portuguese opponent, Mr Zareian instructed the Athlete on behalf of Mr Miresmaeili, the President of the Appellant, to lose in the next contest against the Russian opponent in order to avoid competing against

the Israeli opponent at a later stage (the “First Instructions”); (ii) after the Athlete won his contest against the Russian opponent, the Athlete was put into connection over the phone with Mr Davarzani, First Deputy Minister of Sports and Youth of the IRI, who again instructed him to deliberately lose in the next contest against a Canadian opponent in order to avoid competing against the Israeli opponent at a later stage (the “Second Instructions”); (iii) after the Athlete won his contest against the Canadian opponent, Mr Zareian put him in connection, on video chat, with the President of the IRI NOC, Mr Amiri, who instructed him not to fight in the next contest against the Belgian opponent for the same reason (the “Third Instructions”); (iv) before his last contest against the Georgian opponent, the Athlete received another phone call from Mr Amiri, President of the IRI NOC, informing him that the national security agents were at his parents’ house (the “Final Instructions”).

87. The Panel notes from the outset that the overall credibility of the Athlete is strongly supported by the facts that the Athlete requested to change his Iranian sporting nationality, that he left his family in Iran to live in Germany under permanent security protection and in a place that remains hidden, that he never returned to Iran since he left for Japan in August 2019 and that his account of facts was accepted by the German immigration authorities.
88. The First Instructions are confirmed not only by the Athlete’s statement of facts and testimony at the hearing, which the Panel found consistent and complete, but also by the witness statement and testimony of Mr Vahid Sarlak. Indeed, Mr Sarlak was present next to Mr Zareian when the latter received the instruction by phone from Mr Miresmaeili. Mr Sarlak, being a former Iranian judo athlete like Mr Miresmaeili, knows Mr Zareian and was also very well in a position to recognise the voice and/or face of Mr Miresmaeili. In addition, Mr Sarlak was present when Mr Zareian informed the Athlete about the instructions received from the IRIJF. In addition, the testimonies by Ms Allan and Mr Muradov from the IJF confirmed that the Athlete had received instruction not to compete after he won the contest against the Portuguese opponent. The Panel also considers that the statement of Mr Zareian, in which the latter refers to the fact that “[the Athlete] began to speak out in a way that was incomprehensible to me and caused controversy”, appears to the contrary incomplete and unconvincing. Mr Zareian also confirmed that he contacted Mr Miresmaeili by telephone.
89. The Second Instructions are confirmed by the Athlete and several other witnesses. When the Athlete received the phone call from Mr Davarzani, he was in presence of Mr Zareian and Mr Muradov. The Athlete indeed affirmed that Mr Zareian put him in connection with Mr Davarzani, Vice Deputy Minister of Sport and Youth who instructed him to deliberately lose in his contest against the Canadian opponent. Mr Muradov, who could understand the telephone conversation since it was on speaker and who has no interest at all in lying to the Panel, confirmed that Mr Davarzani instructed the Athlete to deliberately lose against the Canadian opponent or he would have problems in Iran. The Panel notes that it was the Athlete who informed him, at the moment of the telephone conversation, that Mr Davarzani was the First Deputy Minister of Sport and Youth of the IRI, but this does not call into question, according to the Panel, the credibility of Mr Muradov’s witness statement. Finally, Ms Allan also confirmed that Mr Davarzani had instructed the Athlete against the Canadian opponent so as to avoid

competing against the Israeli opponent. The explanation provided by Mr Davarzani at the hearing according to which, on the relevant day, he was on a site visit in an area where he could not reach the Athlete appears weak and is not substantiated by any evidence.

90. The Third Instructions and the Final Instructions are confirmed by the Athlete's statements and testimony at the hearing as well as Mr Muradov's statement and testimony. Mr Muradov indeed confirmed that Mr Amiri, President of the IRI NOC, on a video chat, instructed the Athlete to lose deliberately against the Belgian opponent in order to avoid competing against the Israeli opponent in the next stage "*or the end will not be happy*". After the Athlete's defeat against the Belgian opponent, Mr Muradov confirmed that the Athlete received another phone call from Mr Amiri saying that national security agents were at his parents' house and several friends of the Athlete sent him messages to confirm that fact. Ms Allan also confirmed this in her witness statement.
91. Furthermore, other elements on file corroborate the veracity of the facts in the present matter as stated in the Athlete's account of the facts. Firstly, multiple elements of proof support the existence of prior instructions to Iranian athletes not to compete against Israeli athletes: (i) Mr Ustopitiyon attested that in Abu Dhabi in 2018 the Athlete was instructed by his coach to lose against his Belgian opponent; (ii) Mr Imashev and Mr Ustopitiyon attested that at the Paris Grand Slam in February 2019, the Athlete deliberately lost several contests and avoided the medal ceremony by faking an injury, while on the following day the Athlete participated in a 4-days' training camp; and (iii) Mr Trautmann also confirmed that the Athlete had informed him at the Paris Grand Slam that he had received instructions to deliberately lose his contests to avoid competing against Israeli athletes. Finally, the Appellant did not provide any evidence in support of the assertion that the physician present at the Paris Grand Slam certified that the Athlete was not able to attend the medal ceremony because of his injury.
92. Secondly, statistics also support the statement of facts as provided by the Athlete: in 2019, the IRIJF participated in eleven IJF events and the Israeli team did not participate in four of these eleven events; in all four of these events, the Appellant participated with a team of 5 to 12 athletes. For the remaining seven events, the Appellant participated with a maximum of 2 athletes, and even decided not to participate at all in 3 of these seven events. Finally, at the hearing, Mr Zareian confirmed that in 25 years of experience in coaching, he never coached an Iranian athlete to compete against an Israeli athlete.
93. Finally, the evidence shows that such instructions were initially given to the Appellant by his coach, Mr Zareian, on behalf of Mr Miresmaeili, President of the IRIJF. In the Panel's view, the acts of the President of the IRIJF must in principle be attributed to the IRIJF itself considering that the President of an organisation embodies such organisation. However, because the Athlete did not submit to these initial instructions, further instructions and threats were given to the Athlete directly by the Vice Deputy Minister of Sport and Youth, Mr Davarzani, and directly by the President of the IRI NOC, Mr Amiri. This, at the same time, confirms (i) that the first refusal to submit to the initial instructions, was followed by instructions from higher rank Iranian authorities, aiming not only at convincing but also at forcing the Athlete to obey, since,

in particular mentioning the national security agents' presence at the Athlete's parents' house is a typical attempt to directly and personally intimidate the Athlete; (ii) that after the First Instructions coming on behalf of the IRIJF, also political Iranian representatives directly confirmed and strengthened the instructions, and these facts are a blatant denegation of the proclaimed "political independence" of IRIJF, reaffirmed in the joined NOC and IRIJF letter to IJF on 9 May 2019 (see above par. 13); and (iii) that the direct instructions given also from the IRI Deputy Minister for Sport and Youth show the opposite of the principle of "political neutrality" solemnly reaffirmed before the Panel by the President of the IRIJF at the end of the hearing in the present proceedings.

94. In light of the above considerations, the Panel holds that it is established that the Appellant instructed the Athlete to deliberately lose his contests at the 2019 Tokyo Judo World Championships in order to avoid competing against an Israeli athlete at a later stage.

**B. Did the Appellant breach the principle of political neutrality and non-discrimination under the IJF Statutes and Other Related Rules?**

95. The Panel now turns to the issue of whether the facts, as established, constitute a violation of the principle of political neutrality and non-discrimination as provided under the IJF Statutes and other related rules.

*a.) Position of the Parties*

96. The Appellant essentially submits that it did not violate the principle of political neutrality, as provided in article 1.2.2 of the IJF Statutes, the alleged withdrawal of Iranian judokas from contests against Israeli rivals does not undermine the Israeli judokas' rights. The Appellant did not violate article 1.2.4 of the IJF Statute regarding the prohibition of discrimination, as construed in international human rights treaties. The Appellant highlights that a differentiation of treatment will not be discriminatory if the criteria for such differentiation is reasonable and objective and if it is aimed at achieving a legitimate purpose and proportional to such aim. The alleged practice of losing deliberately in order to avoid competing against an Israeli athlete does not impair or nullify the enjoyment and exercise of Israeli athletes' rights. In addition, dis-competing is purely in favour of the opponent so that the differential treatment is not adverse to the individual.
97. The Respondent contends that the principle of political neutrality does not require that the rights of the opponent are undermined but merely that no governmental or political influence is exercised on the activities of sporting organisations. The present case is a textbook example of violation of the political neutrality. In addition, article 1.2.4 of the IJF Statutes only requires an act of discrimination related to one of the grounds mentioned and nothing more. In this regard, the instruction given to an athlete to avoid competing against athletes of a specific nationality while allowing him to compete against the others, is a clear act of discrimination.

*b.) Position of the Panel*

98. The IJF is a member of the Olympic Movement and, as such, embraces a series of

fundamental principles of Olympism. Article 1.2 of the IJF Statutes provides that:

*“The IJF[...] considers adherence to fundamental, universal ethical principles to be the foundation of sport, of judo, and of Olympism.*

*These principles include:*

*1.2.1 Respect for the Olympic spirit, which requires mutual understanding and a spirit of friendship, solidarity, and fair play;*

*1.2.2 Respect for the principle of universality and political neutrality of the IJF and of the Olympic Movement; [...]*

*1.2.4 Respect for international agreements for the protection of human rights as they apply to the activities of the IJF and its members and which ensure, in particular:[...]*

*– rejection of all forms of discrimination, no matter the reason, in particular related to race, color, sex, sexual orientation, language, religion, political or other opinions, national or social origin, wealth, birth, or any other situation; [...]*”

99. Moreover, Article 2 of the IJF Statutes provides:

*“The IJF has the following aims, without this constituting an exhaustive list: [...] - to promote the ideals and objectives behind the Olympic movement.”*

100. Article 2 of the Olympic Charter provides in turn:

*“The IOC’s role is: [...]*

*5. to take action to strengthen the unity of the Olympic Movement, to protect its independence, to maintain and promote its political neutrality and to preserve the autonomy of sport;*

*6. to act against any form of discrimination affecting the Olympic Movement; [...]*

*11. to oppose any political or commercial abuse of sport and athletes; [...]*”

101. With respect to the obligations of its member national federations, Article 3.2 of the IJF Statutes also provides that:

*“The Statutes and Regulations of Member National Federations must be in compliance with the IJF Statutes and all other Regulations and Decisions of the IJF, as well as with the principles of the Olympic Charter.”*

102. In addition, Article 4.2 of the IJF Statutes states that:

*“The statutes of the National Federation must mandatorily be attached to the membership application and must absolutely provide that this National Federation agrees to comply with the Statutes and all regulations and decisions of the IJF.”*

103. In light of the above-mentioned provisions, the Panel confirms that, as evidenced under the Olympic Charter, the principle of political neutrality and the principle of non-discrimination represent Fundamental Principles of Olympism as well as one of the

objectives of the IOC. As a member of the Olympic Movement, the IJF commits to promote the ideals and objectives of the IOC and to consider the adherence to such fundamental principles – in particular the principle of political neutrality and the principle of non-discrimination – as essential. As a result, the IJF imposes upon its Member National Federations - as a precondition to be a Member - to confirm that they adhere to those principles by imposing that they comply with the IJF Statutes and that their statutes are themselves in compliance with the IJF Statutes and the Fundamental Principles of the Olympism, as detailed in the Olympic Charter. The Panel therefore holds that the Appellant is undoubtedly bound by the principle of political neutrality as well as the principle of non-discrimination as provided for under the Fundamental Principles of Olympism in the Olympic Charter and the IJF Statutes.

104. Furthermore, the Panel notes that, in accordance with Article 28.1.2 of the IJF Statutes, *“If a National Federation violates the Statutes of the IJF or acts against the legitimate interests, the principles or the objectives of the IJF”*, the Executive Committee of the IJF may initiate disciplinary proceedings in order to put an end to the prejudice being caused to the IJF.
105. The principle of political neutrality, in the view of the Panel, requires that no political interference whatsoever is exercised on the activities of a sporting organisation. Indeed, athletes must be free to exercise their sport without any political interference. In the view of the Panel, the non-recognition of Israel by the IRI is obviously a political issue. As such, the instructions given by the IRIJF to the Athlete not to compete against an Israeli athlete undoubtedly represent a political influence in the sporting activities, and therefore a clear violation of the principle of political neutrality. Whether in doing so, the Appellant did or did not undermine the rights of the Israeli athletes is not relevant. What is decisive, is the fact that the Appellant allowed a political issue to interfere with sporting activities. The “political nature” of the mentioned instructions is also confirmed by the fact that, given the reluctance of the Athlete to submit to the first instructions, both the NOC and, even worse, a member of the Iran Government, repeated the same instructions, and eventually accompanied them with a personal threat towards the Athlete’s family.
106. The Panel also considers that by instructing the Athlete to deliberately lose a contest in order to avoid competing against an Israeli athlete, the Appellant caused the Israeli athlete to be treated differently from other athletes solely because of his nationality or religion. Such a conduct would clearly constitute a discrimination based on nationality or religion, which is expressly prohibited under Article 1.2.4 of the IJF Statutes and the Fundamental Principles of Olympism as provided under the Olympic Charter.
107. The Panel therefore concludes that by instructing the Athlete to deliberately lose his contests at the 2019 Judo World Championship Senior, the Appellant breached the principles of political neutrality and non-discrimination as provided under the IJF Statutes and the Olympic Charter.
108. In light of this finding, as well as the serious character of the occurred violations – as will be developed below (see below section D) –, and the result of the present procedure, the Panel considers that it does not need to address the other allegations of breach that were included in the Appealed Decisions, in particular as to match manipulation, that

are disputed by the Appellant.

**C. Whether the IJF violated the principle of fairness as provided under the IJF Statutes and other rules of the IJF Code of Ethics.**

109. The Appellant submits that the IJF violated the principle of fairness as provided under the IJF Statutes. According to the Appellant, such principle is not limited to fair play on the field-of-play but also requires not to recognise situations which have been established by violations of fundamental human rights rules. It also requires fairness in the disciplinary procedure, which - according to the Appellant - was not the case before the IJF Disciplinary Commission. The Appellant also submits that the IJF did not respect several obligations provided for under Article 3 of the Olympic Movement Code on the Prevention of the Manipulation of Competitions, in particular the initiation of investigation procedures including a fair and impartial hearing prior to any disciplinary decision as well as the composition of the IJF Disciplinary Commission. Finally, the IJF officials violated the IJF Code of Ethics by exceeding their role of manager and standing in between the national federations and the athletes.
110. The Respondent disputes these submissions arguing in particular that the Appellant had sufficient occasion to present its defence before the IJF Disciplinary Commission and that in any event procedural flaws are cured before the CAS under Article R57 of the CAS Code.
111. With respect to the alleged procedural flaws of the disciplinary procedure before the IJF Disciplinary Commission, the Panel notes that CAS panels have constantly affirmed that appeal proceedings before the CAS have a correcting effect towards procedural irregularities that took place before the previous instance. As decided by numerous CAS Panels in such cases, “(...) *the virtue of an appeal system which allows for a full rehearing before an appellate body is that issues relating to the fairness of the proceedings before the authority of first instance fade to the periphery*”. (MAVROMATI/REEB, *The Code of the Court of Arbitration for Sport: Commentary, cases and materials*, 2015, p. 513, paras. 29-30; see inter alia: CAS 2006/A/1153, para. 54; CAS 2005/A/1001, para. 16.4.2; TAS 2004/A/549, para. 31.). As a result, the Panel finds that in the hypothesis that the first instance procedure before the IJF Disciplinary Commission would have presented flaws – a question that remains open –, such flaws would have been cured by the *de novo* character of the present appeals proceedings. The Appellant’s claim in this respect is therefore dismissed. For the rest, the Appellant’s claim with respect to the behaviour of the IJF officials in the present matter is not supported by any evidence; in the Panel’s view, the behaviour of the IJF officials reflects respect of the principle of political neutrality rather than unfairness.

**D. Does the sanction imposed in the Suspension Decision have the necessary legal basis and proportionality?**

112. In the present section, the Panel shall only examine whether the sanction imposed in the Suspension Decision is legally valid, and in the affirmative, proportionate. The Panel shall assess the legal validity of the Provisional Suspension Decision [see below section F] when assessing the Appellant’s claim to receive compensation for the damage

suffered as a result of the Provisional Suspension Decision.

**a.) Position of the Parties**

113. The Appellant submits that, in light of the context and circumstances of the present matter, the alleged violation does not qualify as a ‘serious breach’ as required under Article 28.1 of the IJF Statutes for a suspension to be imposed upon a national federation. In addition, the Appealed Decisions contradict the principle of *nulla poena sine lege* since the IJF Rules are not sufficiently explicit as to the applicable sanction. In addition, in accordance with the *contra proferentem* rule, the relevant provision that a person is charged of having breached have to be construed in a strict manner. Finally, the disciplinary sanctions imposed upon the Appellant violate the latter’s personality rights as they will have unpredictable and unbearable side-effects for the community of Iranian athletes as a whole.
114. The Respondent contends that the IJF Disciplinary Commission was entitled to suspend the Appellant from all activities in accordance with Articles 28.1 and 28.1.2 of the IJF Statutes, in particular considering the fact that the present case involves an institutionalised scheme the true motives of which are hidden to the IJF and the public. The sanction imposed upon the Appellant is appropriate and proportionate as it is strictly dependent on the actions of the Appellant. In addition, the risk that the Appellant would face a suspension was already expressed in the IJF letter of 1st March 2019 to the Appellant, to which the latter confirmed, on 9 May 2019, that it would respect the IJF Statutes and Olympic Charter. The events which occurred thereafter clearly demonstrate that the Appellant had no intention to abide by its commitments.

**b.) Position of the Panel**

115. CAS case law has consistently held that “*for a sanction to be imposed, a sports regulation must prescribe the misconduct with which the subject is charged, i.e., nulla poena sine lege (principle of legality), and the rule must be clear and precise, i.e., nulla poena sine lege clara (principle of predictability).*” (CAS 2019/A/6226, par. 143 ; [ex multis: CAS 2017/A/5086 at para. 149, CAS 2014/A/3832 & 3833 at paras. 84-86, CAS 2008/A/1545 at paras. 93-97.]
116. Indeed, as stated in another CAS award:
- “The purpose of disciplinary sanctions is to influence the behaviour of its members, in particular to encourage them not to engage in certain unwanted activity by threatening to sanction them. In order to achieve this goal, there must be clarity for all stakeholders on what constitutes misconduct. Furthermore, equal treatment of all members is only possible if there is legal certainty with respect to the contents of the rule. In order to protect the aforementioned interests, criminal law follows the principles of nullum crimen, nulla poena sine lege scripta et certa, pursuant to which no sanction may be imposed unless there is an express provision describing in sufficient clarity and specificity, not only the misconduct but also the applicable sanction.”* (CAS 2017/A/5272, para. 62-64 of the abstract published on the CAS website; CAS 2020/A/7019 & 7035, par. 111-112)

117. The Panel also notes that according to the CAS case law, the principle of *nulla poena sine lege scripta et certa* is not applied at the same high criminal law standards. The fact that “*the competent body applying the disciplinary regulations has the discretion to adjust the sanction mentioned in the rules deemed applicable to the individual behavior of a player breaching such rules is not inconsistent with those principles*” (CAS 2014/A/3665, 3666 & 3667; CAS 2020/A/6278, par. 51); it suffices that “*the sanction applicable to a specific misconduct be determinable by interpretation*” (CAS 2017/A/5272, par. 64; CAS 2020/A/7019 & 7035, par 112).
118. The Panel now turns to the examination of the provisions on which the IJF Disciplinary Commission relied to issue the Appealed Decisions. The Panel first notes that according to Article 28.2.1 of the IJF Statutes:
- “If a National Federation violates the Statutes of the IJF or acts against the legitimate interests, the principles or the objectives of the IJF, the EC may submit the case to the Disciplinary Commission of the first instance and propose to the Commission all measures it deems fit to put an end to the prejudice being caused to the IJF, including by way of restricting or suspending participation in activities or expelling the relevant National Federation.  
Suspension applies to all sports, administrative and social activities.”*
119. Moreover, Article 28.1 of the IJF Statutes provides as follows:
- “A National Federation may be suspended or expelled from the IJF on one of the following grounds:  
- serious breach or gross negligence, pursuant to a final decision of one of the IJF Discipline Commissions [... ]”*
120. In light of the above provisions, the Panel notes that since the Appellant acted against the principles of the IJF Statutes, in particular Article 1.2.2 and 1.2.4 of the IJF Statutes, the IJF Executive Committee was entitled, in accordance with Article 28.2.1 of the IJF Statutes, to “*submit the case to the Disciplinary Commission of the first instance and propose to the Commission all measures it deems fit to put an end to the prejudice being caused to the IJF*”.
121. Furthermore, in the Panel’s view, the present case does not concern a unique event but rather involves a scheme whereby the Athlete was required to lose before even getting to the point where he had to face an Israeli athlete in an attempt to disguise the underlying true motive from the IJF and the public. In addition, this matter has shown the combined involvement of the IRI NOC, the Ministry of Sports of the IRI as well as the IRIJF, which clearly reveals an institutionalised scheme. Finally, this scheme violates principles that are of paramount importance as they form part of the Fundamental Principles of Olympism, as provided for in the Olympic Charter. As a result, the Panel finds that the violations committed by the Appellant undoubtedly qualify as a ‘serious breach’ within the meaning of Article 28.1 of the IJF Statutes. Accordingly, the Appellant could validly be imposed a suspension or an expulsion.
122. Having determined that the Appellant’s acts involve serious breaches of the IJF principles which entitled the IJF Disciplinary Commission to impose upon the Appellant

a suspension or expulsion, the Panel now turns to the specific powers of the IJF Disciplinary Commission in the present matter.

123. According to Article 30.1 of the IJF Statutes, “[t]he Disciplinary Commission of the first instance may lay down the sanctions listed in the IJF Disciplinary Code against IJF Members [...]”. As a result, when it comes to determining the appropriate sanction in a specific case, the IJF Disciplinary Commission must exclusively rely on the IJF Disciplinary Code.

124. Indeed, Article 12 of the IJF Disciplinary Code provides for a list of applicable sanctions, as follows:

“The disciplinary sanctions should be chosen from the measures below:

1) Sports penalties such as downgrade, disqualification, withdrawal of a medal or title.

2) Disciplinary sanctions chosen from the following measures:

a) Warning

b) Reprimand

c) Suspension from a competition or duties

d) Fines, though they cannot exceed the fines set for the contraventions under Swiss law.

e) Provisional or definitive withdrawal of the status of the IJF member and all its affiliated components.

f) Expulsion

3) Ineligibility to the governing bodies for a specified period.

*In the case of the first sanction, suspension from a competition can be replaced, with the agreement of the person concerned and, if any, of his/her legal representative, by the performance of activities of general interest for a set period, for the benefit of a federation or a sports association.”*

125. In the Panel’s view, in accordance with the principle *nulla poena sine lege*, the IJF Disciplinary Commission is bound by this exhaustive list of possible sanctions. While the IJF Disciplinary Commission enjoys a certain discretion in order to adjust the sanction to the specificities of a particular case, for instance by choosing the appropriate sanction among the list of possible sanctions or to qualify the alleged violation as a “serious breach” or a “gross negligence” or to adjust the sanction where the rules leaves sufficient room for such adjustment, the principle of *nulla poena sine lege* prevents the IJF Disciplinary Committee to impose a sanction that is *not provided for* in the list of possible sanctions or to impose to a specified sanction *different modalities* than those expressly provided for in the text.

126. Indeed, when it comes specifically to suspension, the IJF Disciplinary Code provides that such suspension shall be “*from a competition or duties*”. In the Panel’s view, Article 12 of the IJF Disciplinary Code therefore prohibits suspension of unlimited duration for instance or suspension with modalities different than “*from a competition or duties*”. The fact that Article 28.1 of the IJF Statutes mentions that in case of serious breach or gross negligence “[a] National Federation may be suspended or expelled” without any further clarification does not contradict this finding, since, as explained above, the IJF Statutes themselves command the IJF Disciplinary Commission to rely exclusively on

the IJF Disciplinary Code for the determination of the appropriate sanction in a specific case.

127. As a result, according to Article 28.1 of the IJF Statutes read in combination with Article 30.1 of the IJF Statutes and Article 12 of the IJF Disciplinary Code, the Panel finds that the sanction, as imposed in the Suspension Decision, “*until the Iran Judo Federation gives strong guarantees and proves that they will respect the IJF Statutes and accept that their athletes fight against Israeli athletes*” represents an undue integration in the IJF Disciplinary Code, which requires the IJF Disciplinary Commission to limit any suspension to “*a competition or duties*”.
128. In light of the above considerations, the Panel holds that the Suspension Decision lacks the necessary legal basis. As a result, the Panel finds that the Suspension Decision must be annulled. Based on Article R57 of the CAS Code, the Panel holds that the case shall be referred back to the IJF Disciplinary Commission, for its appropriate sanction(s), taking into account all relevant circumstances - *inter alia* - the suspension already imposed on the Appellant.
129. Considering that the Suspension Decision lacks the necessary legal basis, the Appellant’s submission that the sanction imposed in the Suspension Decision lacks proportionality is moot.

**E. Does the sanction imposed in the Suspension Decision constitute an illegal violation of the Appellant’s personality rights?**

130. The Panel now turns to the Appellant’s submission regarding the alleged violation of its personality rights. The Appellant argues that the Suspension Decision violates its personality rights in light of the dramatic consequences of such decision on the judo community in the IRI. The Respondent contests such conclusion.
131. It is undisputed that the liberty of association enshrined in Article 63 Swiss Civil Code (“SCC”) is a fundamental legal principle under Swiss law. The autonomy of an association under Swiss law is, however, not unlimited as it is mainly dependent on the legal protection of personality rights (Article 28 SCC) and on the obligation to act in good faith (Article 2 SCC).
132. Moreover, any possible breach of the Appellant’s personality rights that may have been caused by the Suspension Decision cannot be deemed illicit, as it is justified by IJF’s overriding interest under Article 28(2) SCC.
133. In the present matter, as was confirmed in the present award, in the view of the Panel, the Appellant committed a serious breach of the IJF Principles, for which a sanction must be imposed. Also, the seriousness of the present matter is beyond doubt, as the rules that were infringed by the Appellant constitute Fundamental Principles of Olympism. Finally, the Panel notes that the Appellant is not prevented from any judo activity: it can still organise competitions and other events at the national and local level and develop judo within the IRI. As a result, the Panel finds that there is no violation of the Appellant’s personality rights.

**F. The Appellant's claim for compensation for the damage suffered as a result of the Appealed Decisions**

134. The Appellant requests, in its prayers for relief, to be compensated for the damage caused by both the Suspension Decision and the Provisional Suspension Decision. The Respondent disputes such submission.
135. With respect to the Suspension Decision, the Panel notes that it lacks sufficient legal basis and therefore constitutes a wrongful act. The Panel shall therefore examine whether such Suspension Decision caused a damage to the Appellant. The Panel notes that according to the principle *actor incumbit probatio*, which is provided under Article 8 SCC, the Appellant needs to demonstrate the facts in support its claim. In the present matter, the Appellant however did not provide any evidence that it suffered damage as a result of the Suspension Decision. In addition, as a matter of fact, most of the activities organised by the IJF since the Suspension Decision were severely impacted by the COVID-19 pandemic so that the impact of the Suspension Decision on the Appellant's activities is *de facto* limited. The Panel therefore finds that the Appellant's claim for compensation shall be dismissed.
136. In order to decide whether the Appellant should be compensated for the damage suffered as a result of the Provisional Suspension Decision, the Panel shall first examine whether the Provisional Suspension Decision was legally valid or not.
137. The Panel notes that according to Article 28.2.4 of the IJF Statutes, the IJF Disciplinary Commission is entitled to order "*suspension as a temporary protective measure*" in case "*the Commission has a strong reason to believe that the National Federation [...] will continue or repeatedly engage in misconduct or commit any other offence against the legitimate interests, principles or objectives of the IJF*". This provision defines the suspension not as a sanction to be immediately enforced but rather as a "*temporary protective measure*". In the present matter, the Panel finds that instead of an "immediate" and "anticipated" enforcement of the sanction of suspension, the IJF Disciplinary Commission merely decided to impose, for the duration of the disciplinary proceedings, a "*temporary protective measure*" i.e. a measure well different in nature than a sanction since it is merely aimed at preventing that a misconduct such as an institutionalized national policy-driven influence like the one at stake in the present matter is repeated.
138. In the present matter, the Panel has already concluded that the Appellant committed a serious breach of the IJF Principles and Fundamental Principles of Olympism. As a result, the IJF Executive Commission was entitled to initiate disciplinary proceedings before the IJF Disciplinary Commission. It follows from such conclusion that the IJF Disciplinary Commission was entitled to adopt provisional measures for the duration of the disciplinary procedure. The Panel therefore finds that the Provisional Suspension Decision is legally valid and therefore does not constitute a wrongful act. As a result, the Panel finds that the Appellant's claim for compensation as to the Provisional Suspension Decision shall be dismissed.

## X. COSTS

139. The Panel observes that Article R65 of the CAS Code provides the following:

*“R65.1 This Article R65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports body. [...]”*

*R65.2 Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS. Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000.- without which CAS shall not proceed and the appeal shall be deemed withdrawn. [...]”*

*R65.3 Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.*

*R65.4 If the circumstances so warrant, including whether the federation which has rendered the challenged decision is not a signatory to the Agreement constituting ICAS, the President of the Appeals Arbitration Division may apply Article R64 to an appeals arbitration, either ex officio or upon request of the President of the Panel.”*

140. Since the present appeal is lodged against a decision of an exclusively disciplinary nature rendered by an international federation, no costs are payable to CAS by the Parties beyond the Court Office fee of CHF 1,000 paid by the Appellant with the filing of his Statements of Appeal, which is in any event retained by CAS.

141. (...).

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed on 7 October 2019 by the Islamic Republic of Iran Judo Federation against the International Judo Federation with respect to the Decision of the Disciplinary Commission of the International Judo Federation dated 18 September 2019 on temporary protective measures is dismissed.
2. The appeal filed on 9 November 2019 by the Islamic Republic of Iran Judo Federation against the International Judo Federation with respect to the Decision of the Disciplinary Commission of the International Judo Federation dated 22 October 2019 is partially upheld.
3. The Decision of the Disciplinary Commission of the International Judo Federation dated 22 October 2019 is annulled.
4. The case shall be referred back to the Disciplinary Commission of the International Judo Federation for its eventual further decisions.
5. The Award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by the Islamic Republic of Iran Judo Federation in each procedure, which is retained by the Court of Arbitration for Sport.
6. (...).
7. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 1 March 2021

### **THE COURT OF ARBITRATION FOR SPORT**

Franco Frattini  
President of the Panel

Jahangir Baglari  
Arbitrator

Pierre Muller  
Arbitrator

Stéphanie De Dycker  
Clerk