



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2023/A/9931 Sheikh Ahmad Al-Fahad Al-Sabah v. International Olympic Committee

ARBITRAL AWARD

rendered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr José María Alonso Puig, Attorney-at-Law, Madrid, Spain
Arbitrators: Mr Bernard Hanotiau, Attorney-at-Law in Brussels, Belgium
Mr Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-Law in Hamburg, Germany.

in the arbitration between

Sheikh Ahmad Al-Fahad Al-Sabah, Kuwait City, Kuwait

Represented by Mr Albert Righini and Ms Mahault Frei de Clavière, Attorneys-at-Law, RVMH Avocats, Geneva, Switzerland

Appellant

and

International Olympic Committee, Lausanne, Switzerland

Represented by Mr Antonio Rigozzi, Attorney-at-Law, Lévy Kaufmann-Kohler, Geneva, Switzerland

Respondent

I. THE PARTIES

1. Sheikh Ahmad Al-Fahad Al-Sabah (the “Appellant”) is a Kuwaiti national. He is a suspended member of the International Olympic Committee, former President of the Association of National Olympic Committees (the “ANOC”) and former President of the Olympic Council of Asia (the “OCA”).
2. The International Olympic Committee (the “IOC” or the “Respondent”) is a non-profit organization with its registered office in Lausanne, Switzerland. The IOC serves as the supreme governing body responsible for leading the worldwide Olympic Movement and organising the Olympic Games.
3. The Appellant and the Respondent are referred to collectively as the “Parties”.

II. FACTUAL BACKGROUND

4. Below is a summary of the main relevant facts, based on the Parties’ written submissions and the evidence examined during the present appeal arbitration proceedings. 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. Additional facts may be set out, where relevant, in connection with the legal analysis.

A. The Appellant’s background and self-suspension

5. On 8 November 2018, the Public Prosecutor’s Office of Geneva accused the Appellant of forgery and of allegedly purporting to conduct a sham arbitration procedure.
6. On 18 November 2018, the Appellant informed the IOC Chief Ethics and Compliance Officer (the “IOC CECO”), Ms Pâquerette Girard Zappelli, of his decision to provisionally step aside from all his duties and functions as IOC Member and Chairman of the IOC Solidarity Commission.
7. On 22 November 2018, the IOC Ethics Commission submitted a report to the IOC Executive Board (“IOC EB”) recommending that the suspension should also extend to his functions as President of ANOC. Furthermore, the IOC Ethics Commission invited the Appellant to present his arguments during its meeting on 11 January 2019 in Lausanne.
8. On 26 November 2018, the Appellant decided to step aside from his role and responsibilities as President of the Association of National Olympic Committees (“ANOC”).

9. On 10 September 2021, the First Instance Criminal Court of Geneva (*Tribunal correctionnel de Genève*) found the Appellant guilty of the charges of forgery. On the same day, the Appellant announced that he would appeal against this decision and that he had decided to step aside from his position as President of the OCA.
10. On 13 September 2021, Mr Raja Randhir Singh was appointed as Acting President of the OCA.
11. On 29 September 2021, the IOC EB confirmed the Appellant's provisional withdrawal of all his rights, prerogatives, and functions as an IOC Member and acknowledged the Appellant's provisional withdrawal from his role as President of the OCA, specifying that this provisional suspension prohibited him from participating or interfering in the OCA's activities.
12. On 8 December 2021, the Appellant's counsel provided the IOC with the decision of the First Instance Criminal Court of Geneva. On the same day, the IOC responded to the Appellant's counsel, asking for comments regarding the IOC EB decision.
13. Subsequently, on 11 January 2022, the Appellant submitted observations to the IOC Ethics Commission, maintaining his innocence and noting that he awaited the decision of the Court of Appeal.

B. The events leading to the 2023 OCA elections

14. On 8 May 2023, in view of the upcoming OCA elections, the Chair of the OCA Ethics Commission sought clarification from the IOC CECO regarding the Appellant's status.
15. On 9 May 2023, the IOC CECO responded, stating that due to the self-suspension, the Appellant was not allowed to participate in any activities of the organisations of the Olympic Movement, including the OCA.
16. On 17 May 2023, the Chair of the OCA Ethics Commission reminded the Appellant that he could not interfere in the OCA's activities, including participating in official meetings or providing support to the OCA activities.
17. On 18 June 2023, the Appellant was appointed Deputy Prime Minister and Minister of Defence in the government of the State of Kuwait.
18. On 30 June 2023, the Embassy of the State of Kuwait in Sri Lanka sent a letter to the Ministry of Foreign Affairs of Sri Lanka transmitting a request from the Kuwait Olympic Committee (the "KOC") for support for the candidacy of Sheikh Talal Fahad Al-Hamad Al-Sabah, the Appellant's brother, in the OCA elections.

19. On 3 July 2023, the IOC CECO sent a letter to the Appellant reminding him that his self-suspension prohibited him from participating in any OCA activities or interfering in the election process and recommended to him “*an immediate stop any such interferences within the OCA's activities*”.
20. On 4 July 2023, the Embassy of the State of Kuwait in Thailand submitted a request for a flight plan to the Ministry of Foreign Affairs of Thailand, informing them that the Appellant would travel to Bangkok from 6 July 2023 to 8 July 2023.
21. On 5 July 2023, the IOC CECO sent another letter to the Appellant, advising him that this travel could be perceived as interference in OCA activities. On the same date, the Appellant replied stating that he was travelling to Bangkok in his capacity as Deputy Prime Minister on an official government mission.

C. The events in Bangkok and disciplinary proceedings

22. On 6 July 2023, the Appellant arrived in Bangkok.
23. On 8 July 2023, Sheikh Talal Fahad Al-Hamad Al-Sabah was elected President (Chairman) of the OCA.
24. On 11 July 2023, the Appellant attended a session of the Parliament of the State of Kuwait. In a statement captured on video during a parliamentary debate, as reflected in the English subtitles, the Appellant is heard stating: “*I am personally the President of Olympic Council of Asia. This is my second hat*”.
25. On 18 July 2023, a NOC President who participated in the OCA elections informed the IOC CECO that, upon arrival in Bangkok, he was contacted by Mr Haider Farman (former OCA Director for the Asian Games and campaign’s assistant of Sheikh Talal Al-Fahad Al-Sabah) and invited to meet with the Appellant the next morning to discuss the elections, an invitation he declined.
26. Between 10 and 25 July 2023, the IOC CECO and the Appellant exchanged further correspondence regarding the Appellant’s trip to Bangkok. The Appellant denied any interference in the OCA elections and provided observations on the allegations.
27. On 25 July 2023, the IOC CECO submitted a report to the IOC Ethics Commission summarising the Appellant’s behaviour and stating that it constituted a breach of the conditions of his self-suspension.
28. On 27 July 2023, the IOC Executive Board issued the decision challenged in these proceedings (the “*Appealed Decision*”), approving the Ethics Commission’s recommendations and (i) finding a serious breach of the Appellant’s provisional

suspension, (ii) suspending all rights, prerogatives and functions deriving from his IOC membership for three years as from that date, (iii) recommending that Olympic Parties refrain from interacting with him, (iv) noting that the IOC Ethics Commission reserved its right to review his situation following the decision of the Geneva Court of Appeal, (v) deciding not to recognise the OCA elections pending a full review of the elections process, and (vi) directing that Olympic contributions to Asian NOCs be distributed directly by the IOC (and not through the OCA) until the elections have been recognised.

29. On 18 December 2023, the Geneva Court of Appeal upheld the Appellant's conviction for forgery and sentenced him to 24 months' imprisonment, suspended for three years.
30. On 25 April 2024, the IOC Executive Board imposed a further sanction on the Appellant, consisting of a fifteen-year suspension, following that criminal judgment. This subsequent decision is not part of the present appeal and is addressed in separate proceedings.

III. PROCEEDINGS BEFORE CAS

31. On 17 August 2023, the Appellant filed his Statement of Appeal with the Court of Arbitration for Sport (the "CAS") with respect to the Appealed Decision, in accordance with Article R47 of the Code of Sports-related Arbitration (the "Code").
32. On 22 August 2023, the CAS Court Office noted that the Statement of Appeal was incomplete and granted the Appellant a deadline to remedy the defects pursuant to Article R48 of the Code.
33. On 28 August 2023, the Appellant completed his Statement of Appeal and nominated an arbitrator from the list of CAS.
34. On 31 August 2023, the Appellant filed a request to stay the arbitration proceedings, citing parallel proceedings initiated before the *Tribunal d'Arrondissement* of Lausanne.
35. On 19 September 2023, the Respondent objected to the request to stay the arbitration proceedings.
36. On 20 September 2023, the CAS Court Office informed the Parties that, pursuant to Article R32 of the Code, the President of the Appeals Arbitration Division, or her Deputy, would decide on the request.
37. On 2 October 2023, the Deputy President of the Appeals Arbitration Division decided to refer the decision on the stay to the Panel, once appointed.

38. On 12 October 2023, the Respondent nominated Prof. Ulrich Haas, Professor in Zurich, Switzerland, as arbitrator.
39. On 20 November 2023, the CAS Court Office notified, on behalf of the Deputy President of the CAS Appeals Arbitration Division and further to Article R54 of the Code, the Panel initially appointed to hear this case.
40. On 18 December 2023, following the constitution of the Panel, the Appellant filed a further submission regarding his request for a stay.
41. On 18 January 2024, the Respondent filed its reply, maintaining its objection to the stay of the proceedings.
42. On 25 January 2024, the Panel dismissed the Appellant's application to stay the proceedings and ordered the resumption of the arbitration.
43. On 1 February 2024, the Appellant filed a request to bifurcate the proceedings.
44. On 14 February 2024, the Respondent filed its position regarding the bifurcation requested by the Appellant, deferring to the Panel's discretion.
45. On 20 February 2024, the Panel dismissed the Appellant's request for bifurcation.
46. On 13 March 2024, the Appellant filed a request for the production of documents by the Respondent.
47. On 10 April 2024, the Respondent objected to the document production request, but produced voluntarily certain documents.
48. On 12 April 2024, the Appellant provided its position on the Respondent's objection regarding the document production request.
49. On 23 April 2024, the Panel dismissed the request for production of documents, without prejudice to the Appellant's right to request such documents in a later stage in compliance with Article R44.3 of the Code. The Panel also requested the Parties to refrain from sending unsolicited submissions.
50. On 31 May 2024, the Appellant filed his Appeal Brief in accordance with Article R51 of the Code, wherein he stated the facts and legal arguments on which the appeal is based, together with the documents and evidence upon which it intended to rely.

51. On 2 September 2024, the Respondent filed its Answer in accordance with Article R55 of the Code, highlighting the facts and its legal submissions on the matter. It also annexed the documents it intended to rely on in support of its defence.
52. On 3 September 2024, the CAS Court Office reminded the Parties that, pursuant to Article R56 of the Code, they were not authorized to supplement their requests or produce new exhibits.
53. On 27 September 2024, the Appellant requested a Case Management Conference (“CMC”) to discuss several evidentiary issues, including: (i) the anonymisation of Exhibit R-25, (ii) the lack of a witness statement for Ms Pâquerette Zappelli, and (iii) a request for the Panel to order the examination of Mr Raja Randhir Singh.
54. On 28 October 2024, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing in this case.
55. On 29 November 2024, the Respondent informed the CAS Court Office that it agreed that Mr Raja Randhir Singh’s testimony would be examined at the hearing.
56. On 12 December 2024, the CAS Court Office informed the Parties that the Panel did not consider a CMC necessary at that stage and reminded the Parties that unsolicited submissions were not permitted, as the Parties had been expressly reminded on 23 April 2024. Consequently, the Appellant’s unsolicited correspondence dated 2 December 2024 was declared inadmissible.
57. On 16 December 2024, the Appellant objected to the exclusion of his 2 December 2024 letter.
58. On 17 December 2024, the CAS Court Office informed the Parties that the arbitrator nominated by the Appellant had resigned from the list of CAS arbitrators effective 1 January 2025. Consequently, Dr Gharavi decided to step down from serving as arbitrator in this procedure. The Appellant nominated Mr Bernard Hanotiau as an arbitrator.
59. On 24 January 2025, Mr Bernard Hanotiau accepted to serve as arbitrator in the present case.
60. On the same date, the CAS Court Office informed the Parties, on behalf of the President of the CAS Appeals Arbitration Division and further to Article R54 of the Code, that the Panel appointed to hear this case was constituted as follows:

President: Mr José María Alonso Puig, Attorney-at-Law in Madrid, Spain

- Arbitrators: Mr Bernard Hanotiau, Attorney-at-Law in Brussels, Belgium
Prof. Ulrich Haas, Professor in Zurich, and Attorney-at-Law in Hamburg, Germany.
61. On 4 February 2025, the newly constituted Panel informed the Parties that it had decided to: (i) decline the Appellant's requests for disclosure concerning the authorship of a redacted document and the identity of the individuals referred to in connection with Ms Pâquerette Girard Zappelli; (ii) reject the Appellant's request for the production of Ms Zappelli's witness statement, since footnote 144 in the Respondent's Answer sufficiently established the scope of Ms Zappelli's expected testimony; (iii) confirm that the Appellant's unsolicited submission of 2 December 2024 was inadmissible under Article R56 of the Code; (iv) indicate that there were no grounds at that stage for holding a CMC, inviting the Parties to confirm by 10 February 2025 whether they maintained such request and, if so, to provide further reasons; and (v) invite the Appellant to comment by 10 February 2025 on the admissibility of a document filed by the Respondent with its letter of 16 December 2024.
 62. On 4 March 2025, the Panel issued procedural directions by which it: (i) confirmed that the testimony of Mr Raja Randhir Singh would be heard at the hearing, given the Respondent's agreement on 29 November 2024 pursuant to Article R56 of the Code; (ii) indicated that, given that none of the Parties requested a CMC, the Panel did not consider it necessary; and (iii) decided that the document filed by the Respondent on 16 December 2024 would not be admitted into the case file, given that, pursuant to Article R56 of the Code, the Parties are not authorized to produce new exhibits after the submission of the Answer, and that the Respondent did not allege exceptional circumstances to justify its late production, nor had the Appellant unconditionally accepted its admission.
 63. On 13 May 2025, after consultation with the Parties, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing on 6 November 2025.
 64. On 16 June 2025, the CAS Court Office sent the Order of Procedure to the Parties. The Respondent returned the signed Order of Procedure on 2 July 2025, and the Appellant did so on 3 July 2025.
 65. On 29 September 2025, the Appellant requested the admission of four new documents related to criminal proceedings for defamation against Ms Zappelli, a witness called to provide testimony at the hearing, citing exceptional circumstances.
 66. On 7 October 2025, the Respondent objected to the admission, arguing that the documents were irrelevant, untimely, and filed without prior authorisation. On the same

day, the Appellant filed an additional document (a trial date) and on 13 October, a reply to the Respondent's objection, both unsolicited and not authorised by the Panel.

67. On 17 October 2025, the Respondent filed a response objecting to the Appellant's latest unsolicited submissions.
68. On 22 October 2025, the Panel informed the Parties that it had decided to: (i) admit to the file the new elements produced by the Appellant in his letter dated 29 September 2025; (ii) note that such admission was based on exceptional circumstances under Article R56 of the Code in relation to Ms Zappelli's testimony; (iii) clarify that the admission was without prejudice to the Panel's final assessment of their relevance, materiality and probative value concerning the merits; and (iv) remind the Parties that, pursuant to Article R56 of the Code, they were not authorised to file unsolicited submissions without the other Party's agreement or the Panel's authorisation.
69. On 24 October 2025, the Appellant informed the CAS Court Office that, as he was unable to contact Mr Raja Randhir Singh in order to adduce his testimony at the hearing, he waived his right to examine Mr Singh. The Appellant also provided his comments regarding the tentative hearing schedule circulated by the Panel.
70. On the same date, the Respondent provided its comments concerning the tentative hearing schedule.
71. On 27 October 2025, the Appellant submitted additional unsolicited and unauthorized comments to the Respondent's position on the tentative hearing schedule.
72. On 31 October 2025, the CAS Court Office transmitted the hearing schedule to the Parties. In the same correspondence, the Panel: (i) took note of the Appellant's information regarding Mr Raja Randhir Singh's unavailability and consequently deemed his testimony waived; and (ii) decided not to admit the Appellant's unsolicited letter of 27 October 2025 into the case file.
73. On 6 November 2025, the hearing was held at the CAS Headquarters in Lausanne, Switzerland, as established in the Order of Procedure. Besides the Panel and Mr Antonio de Quesada (Head of Arbitration at the CAS), the following persons attended the hearing:

For the Appellant:

- Mr Sheikh Ahmad Al-Fahad Al-Sabah
- Mr Albert Righini, counsel

- Ms Mahault Frei de Clavière, counsel

For the Respondent:

- Mr Antonio Rigozzi, counsel
- Mr Patrick Pithon, counsel

74. During the hearing, the following witnesses were examined: For the Appellant: Sheikh Ahmad Al-Fahad Al-Sabah (Appellant), and Mr Haider Farman (former OCA Director for the Asian Games and campaign’s assistant of Sheikh Talal Al-Fahad Al-Sabah). For the Respondent: Ms Pâquerette Girard Zappelli (IOC Chief Ethics and Compliance Officer).

75. At the conclusion of the hearing, the President of the Panel asked the Parties whether they had any objection regarding the conduct of the proceedings, if they had the opportunity to present their case and if due process was respected in the present proceedings. The Parties expressly confirmed that they had no objections, and that their right to be heard and to present their case had been respected.

IV. THE PARTIES’ SUBMISSIONS

76. The following summary of the Parties’ positions is illustrative only and does not necessarily comprise every contention put forward by the Parties. The Panel, however, has carefully considered all the submissions made by the Parties, even if there is no specific reference to those submissions in the following summary.

A. The Appellant

77. The Appellant’s main submissions and arguments may be briefly summarised as follows.

78. The Appellant challenges the jurisdiction of the CAS to hear this appeal. He submits that there is no valid arbitration agreement between the Parties covering the present dispute and that, consequently, the CAS lacks jurisdiction. In particular, the Appellant argues that:

- a) the Statement of Appeal was filed solely as a procedural precaution, in order to preserve his rights in view of the alleged uncertainty surrounding the scope of Article 61 of the Olympic Charter (the “OC”);
- b) CAS jurisdiction would require a specific arbitration agreement, which he contends is absent as he did not consent to submit the present dispute to the CAS;

- c) Article 61.1 of the OC is limited to disputes relating to the “*application or interpretation*” of the OC, whereas the present dispute concerns the challenged decision itself;
- d) Article 61.2 of the OC is inapplicable because the dispute did not arise “*on the occasion of, or in connection with, the Olympic Games*”; and
- e) the Appealed Decision did not itself refer to any right of appeal to the CAS.

79. As regards the merits of the case, the Appellant challenges the Appealed Decision on the following grounds:

- a) Violation of the principles of legality and predictability: The Appellant argues that the Appealed Decision is void because it lacks a clear legal basis to sanction an alleged failure to respect a “self-suspension”. He contends that the IOC Code of Ethics does not contain any specific rule of conduct that sanctions such failure. He therefore submits that the sanction violates the principles of legality (*nulla poena sine lege*) and predictability, rendering the decision arbitrary.
- b) Breach of fundamental procedural rights: The Appellant asserts that the proceedings before the IOC Ethics Commission violated his right to be heard and his right to access the file. He submits that the IOC failed to specify the charges, imposed unreasonably short deadlines to respond to allegations, refused his requests for an in-person hearing, and generally failed to comply with its own procedural framework.
- c) Absence of interference / failure of proof (*i.e.*, factual arguments): The Appellant denies that he interfered in the OCA elections of 8 July 2023 and submits that the IOC failed to discharge its burden of proof. In substance, he argues that: (i) his travels (including to Bangkok) were private and/or undertaken in his official capacity as Deputy Prime Minister and Minister of Defence of Kuwait to discuss state matters, and were unrelated to the OCA elections; (ii) he did not instruct Kuwaiti embassies to lobby for his brother, since he has no authority over the Ministry of Foreign Affairs and any embassy actions were independent of him; (iii) his statement (“*I am personally the President of Olympic Council of Asia. This is my second hat*”) was taken out of context and referred to his historical role, not to any current authority or disregard for his provisional suspension; and (iv) statements made by third parties after the election, including public remarks by Sheikh Talal, cannot establish any interference on his part in the election process.

80. In his Appeal Brief, the Appellant requests the following relief:

- “1. *The CAS lacks jurisdiction to hear this Appeal.*
2. *In the alternative to Prayer 1, annul the decision passed by the Executive Board on 27 July 2023 approving the recommendations of the International Olympic Committee's Ethics Commission concerning his Excellence Sheikh Ahmad Al-Fahad Al-Sabah and consequently annul the said recommendations.*
3. *In the alternative to Prayers 1 and 2, annul the decision passed by the Executive Board on 27 July 2023 approving the recommendations of the International Olympic Committee's Ethics Commission concerning his Excellence Sheikh Ahmad Al-Fahad Al-Sabah and consequently annul the said recommendations and refer the matter back to the International Olympic Committee's Ethics Commission.*

In any case

4. *Order the removal of decision dated 27 July 2023 from the International Olympic Committee's website, or more precisely the Executive Board's decision of 27 July 2023 approving the recommendations of the International Olympic Committee's Ethics Commission concerning his Excellence Sheikh Ahmad Al-Fahad Al-Sabah, and the removal of these recommendations from the International Olympic Committee's website.*
5. *Order the International Olympic Committee to bear all the costs of the arbitration and to contribute to the legal fees incurred by Appellant”*

B. The Respondent

81. The Respondent's main submissions and arguments may be briefly summarised as follows.
82. The Respondent submits that the CAS has jurisdiction to hear the appeal on the basis of Rule 61 of the OC and, in any event, because the Appellant submitted to CAS jurisdiction by filing the appeal without reservation and by participating in the arbitration. In particular, the Respondent argues that:
 - a) Rule 61 of the OC constitutes, at a minimum, an offer by the IOC to arbitrate disputes falling within its scope. By filing a Statement of Appeal before the CAS without reservation and invoking Rule 61 as a jurisdictional basis, the Appellant accepted that offer, thereby perfecting an arbitration agreement (*compromis d'arbitrage*) in favour of the CAS. The Respondent adds that the Appellant cannot repudiate a validly concluded arbitration agreement by a subsequent change of position and that such conduct would, in any event, be contrary to good faith.

- b) The Respondent submits that the Appellant’s subsequent jurisdiction objection is inconsistent with his own conduct, violates the principle of good faith, and amounts to an inadmissible attempt to “reserve” jurisdiction only after having triggered the arbitration. The Respondent further relies on the doctrine of tacit submission (*Einlassung*) under Swiss arbitration law, including Article 186(2) of the Swiss Private International Law Act (“PILA”), arguing that a party initiating (and pursuing) an arbitration without reservation cannot subsequently deny the arbitral tribunal’s jurisdiction.
 - c) The Respondent submits that, in any event, by submitting the dispute to the CAS without reservation, the Appellant made an unconditional offer to arbitrate under Article 5(1) of the Swiss Code of Obligations (the “SCO”), which the IOC accepted by filing its Answer without a jurisdictional plea, in accordance with the procedural framework of the Code. The Respondent further submits that, under Swiss law principles (including Article 186 of the PILA and Swiss Federal Supreme Court jurisprudence), where arbitration is initiated and pursued without reservation, the parties must be deemed to have tacitly concluded an arbitration agreement; and the Appellant does not allege any defect of consent under Article 23 et seq. of the SCO.
83. As regards the merits of the case, the Respondent submits that the Appealed Decision is lawful, procedurally fair, and factually well-founded. The Respondent relies, *inter alia*, on the following grounds:
- a) Principles of legality and predictability: The Respondent submits that the sanction is validly based on Rule 59.1.1(b) of the OC, which empowers the IOC Executive Board to sanction an IOC member “*in case of any violation of [...] any decision or applicable regulation issued by the IOC*”, and that this provision provides a clear legal basis to sanction a breach of the provisional suspension. The Respondent further argues that the principles of legality and predictability do not require that each specific sanction scenario be spelled out in advance or that the individual be aware *ex ante* of the exact rule and precise measure he may face, provided that the disciplinary rules have been duly adopted, describe the infringement, and provide (directly or by reference) for the relevant sanction, as reflected in CAS jurisprudence (including the CAS 2014/A/3665 *et al.* award in *Luis Suárez*). Alternatively, and independently, the Respondent contends that the Appellant’s conduct breached fundamental ethical duties under the IOC Code of Ethics (including the duties of integrity, impartiality and objectivity).

- b) Due process and *de novo* review: The Respondent maintains that the Appellant’s right to be heard and his procedural rights were respected throughout the proceedings before the IOC Ethics Commission and the IOC Executive Board. In particular, the Respondent submits that the Appellant was informed of the allegations and the risk of sanctions in multiple communications and was given repeated opportunities to provide observations, which he did. In any event, the Respondent argues that the Panel’s full power of review under Article R57 of the Code (*de novo*) cures any alleged procedural defects that may have occurred at first instance, as consistently recognised in CAS jurisprudence.
- c) Interference established (Factual arguments): The Respondent submits that the evidence demonstrates that the Appellant interfered in the OCA elections in support of his brother and, in doing so, seriously breached the terms of his provisional suspension. The Respondent further emphasises that, in his Appeal Brief, the Appellant does not deny interference as such but rather challenges the accuracy and probative value of the evidence relied upon. In substance, the Respondent argues that: (i) in the weeks preceding the elections, the Appellant travelled with his brother and Mr Haider Farman —described as Sheikh Talal’s “campaign’s assistant”— to various Asian countries using an official State aircraft, including to Dushanbe where they met with the President of Tajikistan (also President of the relevant NOC and a voting member of the OCA General Assembly), and that such travels cannot credibly be characterised as unrelated to the elections; (ii) communications and approaches originating from Kuwaiti embassies sought support from National Olympic Committees for Sheikh Talal’s candidacy and reflected, in the Respondent’s submission, the Appellant’s influence as a senior government official; (iii) despite express warnings intended to avoid any perception of interference, the Appellant travelled to Bangkok around the time of the elections and appeared at (or in the vicinity of) the election venue, accompanied by Mr Farman, and the Respondent further relies on evidence and witness accounts suggesting meetings and contacts with NOC delegates (including the Appellant’s admitted meeting with a candidate for Vice-President) and the Acting President of the OCA during that period; and (iv) the Appellant’s public statements —together with subsequent public remarks by Sheikh Talal thanking him for his “support”— corroborate, in the Respondent’s submission, the Appellant’s involvement in the campaign and his disregard for the provisional suspension.
- d) Proportionality: Finally, the Respondent submits that the sanction imposed is proportionate and necessary to protect the integrity, autonomy and reputation of the Olympic Movement.

84. In its Answer, the Respondent submitted the following prayers for relief:

“131. For the reasons set out above IOC respectfully requests the Panel to issue an arbitral award ruling as follows:

(i) The Appeal filed by Sheikh Ahmad Al-Fahad Al-Sabah and all of its prayers for relief are dismissed.

(ii) The IOC Executive Board Decision of 27 July 2023 is upheld.

(iii) Sheikh Ahmad Al-Fahad Al-Sabah shall pay a contribution towards the legal costs incurred by IOC in connection with these proceedings.

132. IOC reserves the right to amend and/or expand upon the above prayers for relief in its ensuing submissions”

V. CAS JURISDICTION

85. In accordance with Article 186(1) of the PILA, the CAS has the power to decide upon its own jurisdiction. This principle empowers the Panel to examine the validity, scope, and applicability of the arbitration agreement invoked by the Parties.

86. Furthermore, Article R47 of the Code states that “[a]n 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”.

87. In the present case, the Appellant challenges the jurisdiction of the CAS arguing that Rule 61 of the OC lacks the requisite precision to function as a valid arbitration clause and that no specific arbitration agreement was concluded between the Parties. Conversely, the Respondent submits that the CAS has jurisdiction pursuant to the OC and, in any event, by virtue of the Appellant’s own procedural conduct.

88. The Panel further notes that the Appellant relies on parallel proceedings initiated before the *Tribunal d’arrondissement de Lausanne*. The existence of such proceedings does not prevent the Panel from ruling on its own jurisdiction under Article 186(1) of the PILA. The Panel further notes that the proceedings in Lausanne were suspended on 29 September 2023 on the ground that the dispute had been submitted to the CAS on 17 August 2023. The Lausanne court’s decision dated 16 November 2023 to maintain that suspension was subsequently confirmed by the *Cour d’appel civile du Tribunal cantonal* on 18 March 2024. Accordingly, there is no procedural obstacle to the Panel’s determination of its own jurisdiction.

89. The Panel will analyse below whether a valid jurisdictional basis exists, deriving either from the Parties' procedural conduct or from the institutional regulations.

A. The conclusion of a specific arbitration agreement

90. Article 186(2) of PILA that is applicable to the case at hand according to Article 176 PILA, provides as follows:

“Any objection to its jurisdiction must be raised prior to any defence on the merits.”

91. Under Swiss law, a post-dispute arbitration agreement may be concluded after the dispute has arisen, including by virtue of the parties' procedural conduct. Where a party initiates arbitration without any express reservation as to jurisdiction, such conduct may be treated as an offer to arbitrate within the meaning of Article 5(1) of the SCO. If the other party then participates in the arbitration without raising a jurisdictional objection—in line with Article 186(2) PILA—the offer is deemed accepted and the jurisdiction of the arbitral tribunal is thereby perfected (CAS 2019/A/6112, para. 41; CAS 2019/A/6131, para. 84, and CAS 2021/A/7723, para. 97).

92. In this regard, the Panel in CAS 2019/A/6131, para. 84, referred to the following principle established by the Swiss Federal Tribunal:

“Pursuant to Art. 186 (2) PILA, the jurisdictional defense must be raised before any defense on the merits. This applies the principle of good faith embodied at Art. 2 (1) [Swiss Civil Code], which applies to all areas of law, including arbitration. Stated differently, the rule of Art. 186 (2) PILA implies that the arbitral tribunal in which the defendant proceeds on the merits without reservation, acquires jurisdiction from this fact only. Hence the party addressing the merits without reservation (Einlassung) in an arbitral procedure dealing with a matter capable of arbitration, acknowledges by this concluding act that the arbitral tribunal has jurisdiction and definitively loses the right to challenge the jurisdiction of the aforesaid tribunal (ATF 128 III 50 at 2cc/aa and the references)’ (SFT 4A_628/2012, §4.4.2.1).”

93. The Panel further notes the doctrinal commentary by Berger and Kellerhals in relation to the issue at hand (see, *inter alia*, Berger/Kellerhals, International and Domestic Arbitration in Switzerland, paras. 652-653):

“652. Unconditional submission to arbitration constitutes a waiver of the plea of lack of jurisdiction and confers jurisdiction on the arbitral tribunal. Where applicable, it also overrides a forum-selection clause or an arbitration agreement providing for a different arbitral tribunal.”

653. These legal consequences occur by operation of law (ex lege) with the procedural act that constitutes the unconditional submission of the respondent. It is therefore irrelevant whether the respondent's unconditional submission was intended or unintended (para. 637). The respondent has forfeited the plea of lack of jurisdiction as soon as the arbitral tribunal's jurisdiction has been established by unconditional submission. In particular, the respondent is precluded from subsequently pleading that it mistakenly or erroneously assumed the arbitral tribunal's jurisdiction. Similarly, the respondent cannot rely on the fact that, due to lack of knowledge of the applicable law, it missed the opportunity to raise a plea of lack of jurisdiction in due time."

94. Applying this principle to the case at hand, the record reflects that the Appellant filed his Statement of Appeal with the CAS on 17 August 2023 and completed it, upon request by the CAS Court Office, on 28 August 2023 pursuant to Article R48 of the Code. The Panel observes that this initial filing was executed without any reservation or objection regarding the competence of the CAS. On the contrary, the Appellant explicitly invoked Rule 61 of the OC as the jurisdictional basis for the appeal and affirmatively requested the CAS to exercise its authority to annul the decision. In his Statement of Appeal, the Appellant stated: *"I attach a copy of Article 61 of the Olympic Charter which provides for appeal to the CAS"* (translation from the original French: *"J'annexe une copie de l'article 61 de la Charte olympique qui prévoit l'appel au TAS"*).
95. The Panel notes that the Appellant expressly referred to Rule 61 OC as providing for a right of appeal to the CAS.
96. In the present case, the decisive factor is the unconditional nature of the Appellant's initial act. Although the Appellant later argued that the filing was made solely as a "procedural precaution", such internal motivation or mental reservation is irrelevant under Swiss law if it was not expressed clearly and unequivocally at the moment of filing. Thus, by filing the Statement of Appeal without reservation, the Appellant unequivocally submitted the dispute to the CAS. This submission triggered the Respondent's need to participate and incur costs to defend itself.
97. In the present case, the Respondent proceeded to participate in the arbitration, filing its Answer in accordance with Article R55 of the Code, without raising any plea of lack of jurisdiction. Although the filing of the Answer occurred at a later stage, this procedural conduct—following the Appellant's initiation of the appeal without any express jurisdictional reservation—confirms the parties' submission of the dispute to the CAS and, under Swiss law, is capable of perfecting a post-dispute arbitration agreement.

98. The Appellant does not allege any defect of consent under Articles 23 et seq. of the SCO in relation to the arbitration agreement thus concluded. In these circumstances, the Panel finds that CAS has jurisdiction.
99. In these circumstances, the Appellant is precluded from challenging the jurisdiction of a forum which he voluntarily seized. The arbitration agreement was effectively initiated by the filing of the Statement of Appeal without reservation and was subsequently confirmed by the Respondent's participation in the proceedings. To hold otherwise would allow a party to unilaterally revoke its submission to arbitration without any objective change in the jurisdictional basis, undermining the stability of the arbitral process.

B. Prohibition of contradictory behaviour (*venire contra factum proprium*)

100. Nonetheless, even assuming that the Appellant's initial filing was not, on its own, sufficient to perfect a post-dispute arbitration agreement, the Panel finds his subsequent objection to jurisdiction to be legally unsustainable as it is irreconcilable with the principle of good faith and the prohibition of contradictory behaviour (*venire contra factum proprium*).
101. This principle is well established in Swiss arbitration law. As noted by Berger/Kellerhals, *International and Domestic Arbitration in Switzerland*, para. 661:
- “The concept of unconditional submission to arbitration (paras 636–660) indicates that a party whose conduct in a pending arbitration is incompatible with the duty to act in good faith has irrevocably waived its right to challenge the jurisdiction of the arbitral tribunal. However, in exceptional cases, conduct contrary to the principle of good faith may also lead to the forfeiture of the right to challenge the jurisdiction of the arbitral tribunal even before the arbitration is pending or, pendente lite, before the party concerned unconditionally submits to arbitration.”*
102. Procedural good faith imposes a duty upon parties to act with consistency. This principle is reflected in CAS jurisprudence (see e.g., CAS 2018/A/5994), which confirms that jurisdictional objections must be raised promptly and pursued consistently. While that case concerned a respondent who entered into the merits without reservation, the principle applies *a fortiori* to a claimant who actively initiates the arbitration. A party cannot invoke the jurisdiction of the CAS to launch a case and subsequently argue that the same tribunal lacks competence to hear it while continuing to pursue the appeal.
103. The Panel identifies a clear logical and procedural inconsistency in the Appellant's conduct. As the *dominus litis*, the Appellant retains control over the existence of the

appeal. If, as asserted in his submission of 31 August 2023, the Appellant genuinely believed that the CAS lacked the requisite jurisdiction to adjudicate the case, the appropriate and logical procedural remedy was the immediate withdrawal of the Appeal. A genuine belief in a tribunal's lack of competence should logically compel a claimant to exit the forum, rather than to remain within it solely to litigate the jurisdictional objection.

104. Had the Appellant exercised his prerogative to withdraw the Appeal on 31 August 2023 (or at any juncture prior to the filing of the Answer), the proceedings would have been terminated forthwith. Moreover, given the early stage of the proceedings at that time, such a withdrawal would likely have resulted in minimal or no adverse cost consequences. This course of action was fully within the Appellant's volition and represented the only procedurally consistent course for a party genuinely contesting the jurisdiction of the CAS.
105. Instead, the Appellant elected to pursue a contradictory path: he maintained the Appeal—thereby requiring the Respondent, as a matter of procedural necessity, to continue participating in the arbitration— while simultaneously petitioning the Panel to declare itself incompetent. This compelled the Respondent to allocate resources and incur costs to defend a case the Appellant contends should not exist, acting to the direct detriment of the Respondent and the efficiency of these proceedings.
106. The Panel holds that it is legally impermissible for an Appellant to simultaneously approbate and reprobate the jurisdiction of the tribunal. Such conduct constitutes a violation of the duty of procedural good faith and constitutes an independent ground for the dismissal of the jurisdictional objection.

C. The applicability of Rule 61 of the OC

107. Finally, and subsidiarily, the Panel finds that jurisdiction is grounded in the applicable regulatory framework.
108. Rule 61(1) of the OC provides as follows:

“The decisions of the IOC are final. Any dispute relating to their application or interpretation may be resolved solely by the IOC Executive Board and, in certain cases, by arbitration before the Court of Arbitration for Sport (CAS).”

109. The Appellant is a long-standing member of the IOC. By virtue of his membership, he has adhered to the statutes and regulations of the Respondent, which explicitly incorporate the OC. His acceptance of these rules is inherent to his continued membership.

110. The Panel considers that Rule 61 is capable of constituting a jurisdictional basis under Article R47 of the Code, and that its scope encompasses disputes arising from the implementation of the Respondent's rules vis-à-vis IOC members, including disciplinary measures adopted by the IOC Executive Board under the OC. In particular, the imposition of a disciplinary sanction necessarily entails the application of the OC and of the ethical framework governing IOC members.
111. The Panel further notes that the absence of an express reference to the CAS in the text of the Appealed Decision does not affect the existence or validity of the arbitration agreement, which derives from the statutory framework binding the Parties.
112. The Panel further notes that the Appellant's reliance on the wording "*application or interpretation*" in Rule 61(1) does not exclude jurisdiction over an appeal challenging a disciplinary sanction. A dispute as to whether the Respondent correctly applied its rules to the Appellant's conduct, including whether the conditions for imposing a disciplinary measure were met and whether the sanction adopted on that basis is justified, is inherently a dispute relating to the application of those rules. In any event, contrary to the Appellant's submissions, Rule 61(2) is not determinative in the present case, which is assessed under Rule 61(1).
113. This interpretation is supported by the jurisprudence of the Swiss Federal Tribunal. In its judgment 4A_460/2008 (Dodô), the Federal Tribunal confirmed that a global reference in national statutes or member regulations to international rules containing a CAS arbitration clause is sufficient to establish jurisdiction under Article R47 of the Code:

"Dieser globale Verweis auf die FIFA-Regeln und damit auf das in den FIFA-Statuten vorgesehene Berufungsrecht [...] an das TAS genügt, um die Zuständigkeit des TAS im Lichte von R47 des TAS-Code zu begründen, dies in Anlehnung an die Rechtsprechung, die einen globalen Verweis auf eine in Verbandsstatuten enthaltene Schiedsklausel als gültig erachtet"

(Non-official translation: "*This general reference to FIFA rules and thus to the right of appeal [...] to the CAS provided for in the FIFA Statutes is sufficient to establish the jurisdiction of the CAS in light of R47 of the CAS Code, in line with case law that considers a general reference to an arbitration clause contained in association statutes to be valid.*")

114. Furthermore, recent CAS practice shows that appeals against IOC Executive Board decisions have been brought before the CAS under the framework of Article R47 and Rule 61 (see e.g., CAS 2023/A/10093). To interpret Rule 61 as being too vague would

render it devoid of practical effect, effectively denying members any external recourse against disciplinary measures.

115. In light of the three autonomous grounds detailed above, the Panel dismisses the Appellant's jurisdictional objection and confirms its competence to adjudicate the present dispute.

VI. ADMISSIBILITY

116. Pursuant to Article R49 of the Code, “[i]n 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”.
117. The grounds of the Appealed Decision were notified to the Parties on 27 July 2023, and the Statement of Appeal was filed on 17 August 2023, thus within the required period of 21 days. The Statement of Appeal further complies with the other requirements of Article R48 of the Code.
118. Furthermore, the Respondent did not contest the admissibility of the appeal. The Panel is, therefore, satisfied that the present Appeal has been filed in a timely manner and is admissible.

VII. APPLICABLE LAW

119. Article R58 of the Code provides: “[t]he 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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.
120. The Parties fundamentally agree on the applicable law. The Appellant states that the dispute shall be governed by the IOC regulations and, additionally, by Swiss law, while the Respondent considers that the dispute shall be primarily governed by the IOC regulations and that “the Panel shall apply Swiss law only subsidiarily (and not ‘additionally’)”.
121. In consideration of the Parties' submissions and in view of Article R58 of the Code, the Panel holds that the present dispute shall be decided primarily according to the applicable regulations of the IOC (namely, the OC, the IOC Code of Ethics, and related

regulatory texts) and, subsidiarily, Swiss law, as the law of the country where the IOC is domiciled.

VIII. LEGAL DISCUSSION

A. Preliminary Procedural Issues

122. Before addressing the merits of the case, the Panel will address several relevant procedural issues raised by the Parties during the proceedings, and provide the reasons for the procedural decisions taken in this arbitration:

- i. The Appellant's request to stay the proceedings.
- ii. The Appellant's request to bifurcate the proceedings.
- iii. The Appellant's request to dismiss the exhibit R-25 and/or to order disclosure of its authorship.
- iv. The admission of new evidence concerning Ms Pâquerette Girard Zappelli under Article R56 of the Code.

123. The Panel considers that the remaining procedural issues raised by the Parties during the arbitral proceedings have been sufficiently addressed in Section III of this Award. This is particularly the case in light of their express confirmation at the conclusion of the hearing that their right to be heard had been fully respected and that they had no objections regarding compliance with due process.

124. The Panel shall address these preliminary procedural issues separately and in the order set out above.

i. The Appellant's request to stay the proceedings

125. At the outset of the CAS proceedings, the Appellant requested that the present arbitration be stayed on the basis of parallel proceedings initiated before the *Tribunal d'arrondissement* of Lausanne. In essence, the Appellant submitted that the Statement of Appeal had been filed before CAS merely as a protective measure in order to preserve the applicable time limits, while maintaining that the Swiss State courts had jurisdiction over the dispute. The Respondent opposed the request and argued that CAS had been seized first and that no substantial reasons justified a suspension of the arbitration.

126. The Panel recalls that parallel proceedings between an arbitral tribunal seated in Switzerland and a Swiss State court are governed by the PILA. Pursuant to Article 186(1) of the PILA, the arbitral tribunal has the power to decide upon its own

jurisdiction. In addition, Article 186(1bis) of the PILA sets out the applicable rule and its exception: the arbitral tribunal “*shall decide on its jurisdiction notwithstanding any pending action before a state court or another arbitral tribunal on the same subject-matter between the same parties, unless there are substantial reasons to stay the proceedings*”. A stay thus constitutes an exception, and the party requesting it bears the burden of establishing such substantial reasons.

127. In this respect, CAS practice confirms that this threshold is considerably high and that, where substantial reasons are not clearly established, the arbitration should proceed (see, e.g., CAS 2021/A/7915, with reference to SFT 4P.64/2004):

“95. The Sole Arbitrator is aware that also independently of lis pendens there may be reasons that warrant a stay of the proceedings. However, any suspension of the arbitration may result in a delay or denial of justice. In view of these negative effects of a stay the SFT has ruled that an arbitral tribunal should in case of doubt give priority to the principle that the proceedings must be conducted within reasonable time” (SFT 4P.64/2004, consid. 3.2).

96. It follows from the above that an arbitral tribunal seated in Switzerland may suspend the arbitration in exceptional circumstances only, i.e., either based on specific statutory provisions or for other compelling reasons (BERGER/KELLERHALS, International and Domestic Arbitration in Switzerland, 4th ed. 2021, no. 1182) [...]”

128. Moreover, for the purpose of determining temporal priority (*lis pendens*), Article 181 of the PILA provides that arbitral proceedings become pending from the time one of the parties initiates the procedure for constituting the arbitral tribunal.
129. In the present case, the Panel must first determine whether this arbitration was already pending when the Lausanne court proceedings were initiated. Pursuant to Article 181 of the PILA, the present arbitration became pending on 17 August 2023, the date on which the Statement of Appeal was filed with CAS. The fact that the Statement of Appeal required completion within the deadline granted under Article R48 of the Code, and was perfected on 28 August 2023, does not alter that date. By contrast, the proceedings before the *Tribunal d’arrondissement de Lausanne* were initiated on 28 August 2023. The Panel therefore finds that CAS was seized first. It follows, within the framework described above, that the subsequently-seized forum must, in principle, stay its proceedings until the first-seized tribunal has decided on its jurisdiction.
130. The Panel does not accept the Appellant’s submission that the filing before CAS was merely “protective” and therefore should not trigger pendency. As confirmed in CAS 2009/A/1881, under Swiss law, even a filing made to safeguard a party’s rights “inevitably determines” the procedural pendency of the arbitration, irrespective of a

party's subjective characterisation of that act (CAS 2009/A/1881, para. 11: “*a party may well file a ‘conditional’ claim to the CAS in order to safeguard its rights with regard to jurisdiction but this filing inevitably determines the procedural ‘pendency’ (which is indeed unconditional) of the arbitration*”). Moreover, the Appellant perfected his Statement of Appeal on 28 August 2023 without any reservation and only advanced the “protective” argument in his letter of 31 August 2023. The arbitration thus became pending as from 17 August 2023 within the meaning of Article 181 of the PILA.

131. The Panel further finds that the Appellant has not established substantial reasons capable of justifying a stay within the meaning of Article 186(1bis) of the PILA. The Appellant relied, in substance, on the risk of inconsistent decisions and on the contention that the jurisdiction question should be resolved by the Swiss State courts. However, the Panel is not persuaded by this reasoning: First, a jurisdictional objection must be determined on its own merits in the relevant part of this Award and cannot, in itself, constitute a substantial reason to stay the arbitral proceedings whose purpose includes deciding that very question. Second, the abstract possibility of divergent outcomes is inherent in parallel proceedings and does not, as such, amount to a substantial reason to suspend an arbitration.
132. This conclusion is confirmed by the factual record, which excludes any concrete risk of inconsistent decisions. The *Tribunal d'arrondissement de Lausanne* suspended its proceedings on 29 September 2023 on the grounds that the dispute had been submitted to CAS. That suspension was maintained by the Lausanne court on 16 November 2023 and subsequently confirmed by the *Cour d'appel civile du Tribunal cantonal* on 18 March 2024. Accordingly, there is no ongoing parallel adjudication that could justify suspending this arbitration.
133. For all these reasons, the conditions for a stay were not met and that the Appellant's request to stay the proceedings was dismissed.

ii. *The Request for the Bifurcation of the Proceeding*

134. Following the rejection of the Appellant's request to stay the proceedings, the Appellant filed an application requesting that the proceedings be bifurcated and that the Panel render a separate preliminary award on jurisdiction.
135. Pursuant to Article R55, paragraph 5, of the Code, “[t]he Panel may rule on its jurisdiction either in a preliminary decision or in an award on the merits”. This provision does not, however, confer on a party an entitlement to a bifurcated procedure. The decision whether to bifurcate therefore lies within the Panel's broad discretion (Article 182(2) PILA) and must be exercised in the interests of procedural economy.

136. In the present case, the Panel considered that bifurcation would not serve procedural economy. The Panel noted the inherent procedural contradiction in the Appellant's request: as the *dominus litis*, the Appellant voluntarily initiated the arbitration and possessed the unilateral power to withdraw the appeal at any time if he genuinely concluded that CAS lacked jurisdiction. Furthermore, the proceedings had already experienced delays due to the Appellant's prior request for a stay. Under these specific circumstances, rendering a separate preliminary award on jurisdiction would not have simplified the dispute; rather, it would have introduced an additional procedural layer, further delaying the resolution of an appeal that the Appellant himself chose to maintain. The Panel was satisfied that it could address the jurisdictional objections efficiently within the present Award without prejudice to the Parties' right to be heard.

137. Accordingly, the Panel denied the Appellant's application for bifurcation.

iii. The Appellant's request to dismiss the exhibit R-25 and/or to order disclosure of its authorship

138. In the course of the proceedings, the Appellant requested that the Panel order the Respondent to disclose the identity of the author of the email produced as Exhibit R-25. The Appellant argued that the anonymity of the source infringed his right to be heard and requested that, in the alternative, Exhibit R-25 be excluded from the record. The Respondent opposed disclosure, referring to concerns of professional repercussions for the author, and maintained that it was appropriate to produce the document in redacted form in order to protect the informant's confidentiality.

139. The Panel recalls that, pursuant to Article R44.3 and R57 of the Code and Article 184 of the PILA, it has discretion regarding the taking and assessment of evidence. The principle of free assessment of evidence applies. A party may submit evidence in the form it deems appropriate, including in redacted or anonymised form, provided that the evidentiary value of such submissions remains subject to the Panel's scrutiny.

140. The Panel observes that, where a party submits an anonymised document, the redactions may affect the Panel's ability to verify the authorship and reliability of the source. This does not, in itself, render the document inadmissible. Rather, it is a factor which the opposing party may invoke to challenge the document's reliability and its probative value. Whether a redacted document is sufficient to establish a particular allegation is therefore a matter of evidentiary assessment.

141. In these circumstances, the Panel was satisfied that the admission of Exhibit R-25 in redacted form did not violate the Appellant's right to be heard. The Appellant had a full opportunity to comment on the content of Exhibit R-25 and to advance submissions on its reliability and relevance.

142. This conclusion is further supported by the fact that, at the conclusion of the hearing, the Appellant expressly confirmed that his right to be heard and the rules of due process had been fully respected and that he had no procedural objections. This confirmation reinforces the finding that the proceedings, including the handling of Exhibit R-25, were conducted in accordance with due process.
143. For all these reasons, the Panel confirms its decision of 4 February 2025 to admit Exhibit R-25 in its redacted form and denies the Appellant's request to exclude it from the record, without prejudice to the Panel's discretion to assess its evidentiary weight in the context of the entire record.

iv. The admission of new evidence concerning Ms Pâquerette Girard Zappelli under Article R56 of the Code

144. On 29 September 2025, the Appellant filed additional documents relating to criminal proceedings involving Ms Pâquerette Girard Zappelli, a witness whose testimony was to be examined at the hearing, and requested that they be admitted into the case file. The Respondent objected to their late production, arguing that they were irrelevant to the merits of the appeal and requested that they be disregarded.
145. The Panel recalls that, pursuant to Article R56 of the Code, the Parties shall, in principle, specify and produce all evidence upon which they intend to rely together with their written submissions. The filing of new exhibits after that stage is admissible only with the other party's agreement or, failing such agreement, upon authorisation by the President of the Panel in the presence of exceptional circumstances.
146. In applying Article R56, the Panel considers, in particular: (i) whether the evidence only became available or the underlying facts occurred after the exchange of the Parties' written submissions; (ii) whether its admission is apt to assist the Panel in addressing an issue arising in the proceedings; and (iii) whether any potential prejudice could be cured by affording the other Party a fair opportunity to comment.
147. In the present case, the Panel found that the requirements of Article R56 were met. The new documents concerned procedural developments in a criminal case that occurred strictly after the filing of the Parties' main submissions. Furthermore, the Panel considered the documents potentially relevant, as they appeared to be invoked by the Appellant to challenge the credibility of Ms Girard Zappelli, who authored an IOC Ethics Commission report underlying the challenged decision and who was scheduled to testify as a witness at the hearing.

148. Moreover, the Panel notes that the Respondent was afforded a full opportunity to freely express its position and arguments regarding these documents, thereby ensuring that its right to be heard and the equality of arms were fully respected.
149. Accordingly, the Panel decided to admit the new documents under Article R56 of the Code. The admission was without prejudice to its final assessment of the relevance, materiality, and probative value concerning the merits.

B. Merits

150. The Panel now proceeds to analyse the following issues in order to decide on the merits of the case:
- i. Whether the Appellant's right to be heard and the principles of procedural fairness were respected in the proceedings leading to the Appealed Decision.
 - ii. Whether the Appealed Decision rests on a valid legal basis and complies with the principles of legality (*nulla poena sine lege*) and predictability.
 - iii. Whether the Appellant interfered in the 2023 OCA elections, thereby breaching the terms of his provisional suspension.
 - iv. If a breach is established, whether the three-year suspension imposed by the IOC Executive Board is proportionate.

151. The Panel will consider each of those issues separately and in sequence.

i. Whether the Appellant's right to be heard and the principles of procedural fairness were respected in the proceedings leading to the Appealed Decision

152. The Appellant submits that the proceedings before the IOC Ethics Commission violated his right to be heard and the principles of procedural fairness. In particular, the Appellant alleges the following deficiencies: (a) that the IOC failed to specify the charges and the legal basis for the proceedings; (b) that the IOC denied access to the file throughout the first-instance proceedings, thereby preventing the Appellant from responding to the evidence against him; (c) that the IOC imposed unreasonably short deadlines to submit observations, refusing a request for a one-month extension and granting only a 24-hour extension; and (d) that the IOC refused the Appellant's request for an in-person hearing before the IOC Ethics Commission, thereby departing from its own procedural practice.

153. Conversely, the Respondent maintains, *inter alia*, that the Appellant’s right to be heard was respected at all times and that, in any event, any procedural deficiency is cured by the *de novo* review before this Panel.

154. Article R57 of the Code provides as follows:

“The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. [...]”

155. This provision confers upon the Panel a full power of review, empowering it to hear the case *de novo* and to consider all arguments and evidence produced by either party, without being confined to the submissions or the record before the decision-making body at first instance. The significance of this full power of review has been consistently recognised in CAS jurisprudence. As the Panel in CAS 2012/A/2913 observed (at paragraph 87):

“According to Article R57 of the Code, this Panel has full power to review the facts and the law, and its scope of review is basically unrestricted. The Panel consequently hears the case de novo and is not limited to the consideration of the submissions before the Election Committee: rather it can consider all new arguments produced by either party, including the Appellants, in this arbitration. Therefore even if a violation of the principle of due process, or of the right to be heard, occurred in the proceedings in respect of which the appeal is brought, it is cured, at least to the extent such violation did not irreparably impair the First Appellant’s rights, by a full appeal to the CAS (CAS 94/129; CAS 98/211; CAS 2000/A/274; CAS 2000/A/281; CAS 2000/A/317; CAS 2002/A/378). In fact, 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 hearing before the tribunal of first instance “fade to the periphery” (CAS 98/211, citing Swiss doctrine and case law)”

156. The same principle has been affirmed by the Swiss Federal Tribunal, which has held that infringements of the parties’ right to be heard are remedied when a procedurally deficient decision is followed by a new decision rendered by an appeal body with the same power to review both the facts and the law as the original tribunal, provided that the right to be heard is properly exercised in the appellate proceedings (*see* Swiss Federal Tribunal 2C_94/2022, 2C_98/2022, 2C_108/2022, consid. 3.2; *see also* ATF 124 II 132, consid. 2d). As stated by the Swiss Federal Tribunal (2C_94/2022, 2C_98/2022, 2C_108/2022, consid. 3.2):

“Une violation du droit d’être entendu peut être réparée lorsque la partie lésée a la possibilité de s’exprimer devant une autorité de recours jouissant d’un plein pouvoir d’examen [...]”

(Non-official translation: “*A violation of the right to be heard may be remedied when the aggrieved party has the opportunity to express its views before an appeal authority with full powers of review [...]*”)

157. This principle has been consistently applied in CAS jurisprudence across multiple cases (*see, inter alia*, CAS 2016/A/4387, para. 146; CAS 2019/A/6344, paras. 384–386; TAS 2004/A/549, para. 9).
158. Applying the foregoing to the present case, the Panel will address each of the Appellant’s procedural complaints in turn.
159. Firstly, as regards the allegation that the IOC failed to specify the charges, the Panel notes that the IOC CECO’s letters of 3, 5 and 10 July 2023 (Exhibit A-13, Exhibit A-14 and Exhibit A-15) referred, in substance, to the same underlying allegation: that the Appellant had interfered in the OCA’s activities in breach of the terms of his provisional suspension, and that such conduct could result in recommendations to the IOC Executive Board. The letter of 3 July 2023 stated that the IOC Ethics Commission had been “*made aware of [the Appellant’s] interferences within the process for the election of the Chair of the Olympic Committees of Asia*” and described this as “*a clear breach of the IOC Ethics Commission decision*”. The letter of 10 July 2023 specified the alleged conduct —namely the trip to Bangkok and the meetings organised with the support of the Kuwaiti Embassy— and expressly invited the Appellant to submit his observations. The Panel considers that, even if the IOC’s communications lacked the formality of a formal charge document, the Appellant was sufficiently apprised of the nature and substance of the allegations against him. In any event, even assuming *arguendo* that the specification of charges at first instance was deficient, the Panel is satisfied that this was not an irreparable defect: the full scope of the present arbitration, including the factual allegations and the legal basis relied upon by the Respondent, was set out in the Answer filed on 2 September 2024, and the Appellant had the opportunity to address the Answer and its accompanying exhibits in these CAS proceedings, including at the hearing held on 6 November 2025.
160. Secondly, concerning the allegation that the IOC denied access to the file, the Panel notes the Appellant’s complaint that, during the proceedings before the IOC Ethics Commission, he was not provided with copies of the documentary evidence on which the IOC CECO relied. The Panel observes, however, that in the present proceedings, the documents relied upon by the Respondent and forming part of the file before the IOC Executive Board when it adopted the Appealed Decision have been produced and made available to both Parties in the course of these proceedings. The Appellant received the Respondent’s exhibits through the Answer and further documents through the document production phase (IOC letter of 10 April 2024). In particular, the

Appellant received: the photos relating to the Tajikistan meeting (Exhibit R-17), the embassy correspondence (Exhibits R-18, R-19, R-20), the flight plan request (Exhibit R-23), the email from Mr Watanabe (Exhibit R-24), the anonymised email (Exhibit R-25), and the IOC CECO report (Exhibit R-26). The Appellant had the full opportunity to address each of these documents in his Appeal Brief and during the hearing, and did so extensively. In these circumstances, even assuming *arguendo* that access to the file at first instance was unduly restricted, the Panel is satisfied that this deficiency was not irreparable and was fully remedied by the disclosure achieved in the present arbitration proceedings.

161. Thirdly, with respect to the allegation that unreasonably short deadlines were imposed, the Panel notes that the IOC CECO's letter of 10 July 2023 (Exhibit A-15) invited the Appellant to file his observations by 20 July 2023, granting a period of ten days. The Appellant's counsel requested an extension until 18 August 2023 (Exhibit A-17), which was refused, though a 24-hour extension was granted (Exhibit A-18). Subsequently, the IOC CECO provided a further opportunity to submit comments by 25 July 2023 (Exhibit A-21). The Appellant exercised his right to be heard on both occasions: he submitted observations on 21 July 2023 (Exhibit A-19) and further observations on 25 July 2023 (Exhibit A-22), both of which were considered by the IOC Ethics Commission in its recommendations (Exhibit R-2). While the Panel recognises that the deadlines imposed by the IOC CECO were short, the fact remains that the Appellant did submit substantive observations on two separate occasions and these were considered. Moreover, in the present proceedings before CAS, the Appellant filed a comprehensive Appeal Brief of over 260 paragraphs with 35 exhibits, and subsequently participated in a full-day hearing. The Panel is therefore satisfied that any arguable prejudice arising from the brevity of the deadlines at first instance, if any, was remedied in the present *de novo* proceedings.
162. Fourth, as regards the refusal of an in-person hearing before the IOC Ethics Commission, the Panel notes the Appellant's contention that, when the IOC took note of his self-suspension in November 2018, he was invited to appear in person before the IOC Ethics Commission (on 11 January 2019), whereas in the present matter no such opportunity was afforded. The Panel observes that the Rules of Procedure of the IOC Ethics Commission provide for the right to be heard, including the possibility of an in-person hearing *ex* Article 14 of the Rules of Procedure. However, the Panel need not decide whether the refusal of an in-person hearing constituted a procedural deficiency in the first-instance proceedings, because, in any event, a full hearing was conducted in the present proceedings on 6 November 2025. At that hearing, the Appellant, represented by counsel, was examined, cross-examined, and given the opportunity to present his case orally. The Appellant's witnesses, including Mr Haider Farman, were also examined. The Panel is satisfied that the full hearing before CAS provided the

Appellant with procedural guarantees at least equivalent to, and indeed exceeding, those that an in-person hearing before the IOC Ethics Commission would have afforded.

163. Finally, the Panel attaches particular significance to the fact that, at the conclusion of the hearing on 6 November 2025, the Appellant expressly confirmed, through his counsel, that his right to be heard had been fully respected and that he had no objection regarding the conduct of the proceedings or compliance with due process. This express confirmation, made after the conclusion of the adversarial proceedings before the Panel, reinforces the finding that the present *de novo* review has fully safeguarded the Appellant's procedural rights.
164. In light of the foregoing, the Panel concludes that, even assuming *arguendo* that certain procedural deficiencies occurred in the proceedings before the IOC Ethics Commission and the IOC Executive Board, such deficiencies were not irreparable and were remedied in the present *de novo* proceedings before CAS, in which the Appellant has had the fullest opportunity to present his case. Consequently, the Panel dismisses this ground of appeal.

ii. *Whether the Appealed Decision rests on a valid legal basis and complies with the principles of legality (nulla poena sine lege) and predictability*

165. The Appellant submits that the Appealed Decision is void because it lacks a clear legal basis. In particular, the Appellant contends that (a) the IOC Code of Ethics does not contain any specific rule of conduct sanctioning the failure to respect a “self-suspension”; (b) neither the IOC Executive Board decision of 29 September 2021 nor the IOC CECO's letters specified that non-compliance would lead to a further suspension or identified the applicable legal provision; and (c) that, consequently, the sanction violates the principles of legality (*nulla poena sine lege*) and predictability.
166. The Respondent submits that Rule 59.1.1(b) of the OC provides a clear legal basis and that the principles of legality and predictability are satisfied.
167. The Panel does not accept the Appellant's argument. The analysis below proceeds in four steps.
168. Firstly, as regards the legal basis, Rule 59.1.1(b) of the OC, which was expressly invoked in the Appealed Decision, provides that, “[i]n the case of any violation of the Olympic Charter [...] or any other decision or applicable regulation issued by the IOC”, the IOC Executive Board may impose measures or sanctions on an IOC Member, including “suspension, for a specific period” of “all or part of the rights, prerogatives and functions deriving from the membership of the person concerned”.

169. The Panel considers that this provision constitutes a clear and sufficient legal basis empowering the IOC Executive Board to sanction a member for the violation of any decision issued by the IOC, without requiring that a separate or specific rule address each conceivable type of non-compliance. The Appellant's contention that the IOC Code of Ethics does not contain a specific provision sanctioning the failure to respect a decision (Appeal Brief, para. 137) does not alter this conclusion: the Code of Ethics forms an integral part of the OC (Rule 22, para. 1, OC), and Rule 59.1.1(b) OC operates as the general sanctioning provision applicable to violations of IOC decisions, regardless of whether the underlying conduct is separately described elsewhere.
170. Secondly, the Panel must next determine whether the Appellant's conduct constituted a violation of a "decision" within the meaning of Rule 59.1.1(b) of the OC. The Appellant characterises his initial stepping aside from all his duties and functions as IOC Member (on 18 November 2018) and subsequently from the OCA presidency (on 10 September 2021) as purely voluntary acts.
171. However, the Panel observes that the legal significance of the Appellant's status was not defined solely by those voluntary declarations. On 13 September 2021, following the criminal conviction by the *Tribunal correctionnel de Genève*, the IOC Ethics Commission issued recommendations to the IOC Executive Board by circulation of documents (Exhibit R-4), in which it recommended the IOC Executive Board, *inter alia*: (i) "to maintain the suspension of the Sheikh Al-Sabah from all his rights, prerogatives and functions linked to his quality as IOC Member, Chair of the Olympic Solidarity Commission and president of ANOC"; and, additionally, (ii) "to take note of the Sheikh Al Sabah's decision to self-suspend from all his rights, prerogatives and functions linked to his function as president of OCA". The IOC Ethics Commission further specified: "the suspension or self-suspension from a function within a sports organisation includes not only the non-participation in the organisation's meetings and activities but also of any form of support by the organisation" (Exhibit R-4; see also Exhibit R-26, reproducing these recommendations).
172. On 29 September 2021, the IOC Executive Board acted upon these recommendations (Exhibit R-6; Exhibit R-8). The IOC CECO notified the Appellant of the IOC Executive Board's decision on the same date (Exhibit R-9), confirming that the IOC Executive Board "took note of [the Appellant's] decision to self-suspend from [his] functions as President of the Olympic Council of Asia (OCA)" and expressly warning him that "such self-suspension from a function within a sport organisation, includes not only the non-participation in the organisation's activities but also any form of support by the organisation".

173. The Panel finds that the measures adopted by the IOC Executive Board on 29 September 2021, acting upon the IOC Ethics Commission’s recommendations of 13 September 2021, defined the Appellant’s status and delineated the practical prohibitions attached to it. As the Respondent has submitted, the IOC Executive Board confirmed the Appellant’s provisional withdrawal of all his rights, prerogatives and functions as an IOC Member and took note of his decision to self-suspend from his functions as President of the OCA, “*specifying that this provisional suspension meant he was prohibited from participating or interfering in the OCA’s activities*” (Answer, para. 84).
174. The binding nature of the IOC Executive Board measures transmitted by the IOC CECO in the letter of 29 September 2021 was expressly acknowledged by the Appellant in his letter of 25 July 2023, when he stated “[...] *in any event, I did not violate any obligations of the Olympic Charter and/or the IOC rules, neither did I violate the IOC Executive Board’s position included in the letter of 29 September 2021 (mentioned in your letter of yesterday). I indeed reject again any kind of interferences within the process for the election of the Chair of the OCA*”.
175. Therefore, the Appellant was aware of the fact that the IOC Executive Board’s position contained in the letter of 29 September 2021 constituted a decision to impose on him a certain behaviour (*i.e.*, a suspension that entailed “*not only the non-participation in the organisation’s activities but also any form of support by the organisation*”). The Appellant’s own understanding contained in his aforesaid letter indicates that he knew he was subject to a suspension that, in case of being ignored, would constitute a “*violation*” of the IOC Executive Board’s order.
176. In addition, the Panel further observes that, having expressly acknowledged in his letter of 25 July 2023 that non-compliance with “*the IOC Executive Board’s position included in the letter of 29 September 2021*” would constitute a “*violation*”, the Appellant is now precluded from contending that the measure lacked binding force or legal basis. This is an application of the principle *venire contra factum proprium*, recognized under Swiss law (Swiss Federal Tribunal ATF 125 III 257 and Article 2 of the Swiss Civil Code), which prevents a party from taking a position contradictory to its own prior conduct when such conduct has created legitimate expectations. The Appellant’s express characterization of the measure as capable of being “*violated*” created the legitimate expectation that he understood it as a binding legal obligation subject to sanction.
177. The Panel considers that this framework —comprising the maintenance of the IOC membership suspension, the formal acknowledgement of the OCA self-suspension, and the express delineation of the scope of the resulting prohibitions— constitutes a “*decision*” of the IOC within the meaning of Rule 59.1.1(b), adopted in the exercise of

the IOC Executive Board’s power of provisional withdrawal under paragraph 2 of the Bye-law to Rule 59 of the OC.

178. Even assuming that the act of “taking note” of the self-suspension by the OCA were to be characterised as something less than a formal decision, this would not assist the Appellant: the IOC membership suspension itself—which the IOC Ethics Commission expressly recommended to “*maintain*” (Exhibit R-4) and which the IOC Executive Board confirmed—is undisputedly a binding measure, and the express notification that the suspension encompassed a prohibition on “*any form of support by the organisation*” bound the Appellant to refrain from interference in Olympic Movement activities, including those of the OCA.
179. The Panel further notes that the Respondent has submitted that the Appellant’s conduct also constitutes, independently, a breach of Article 2 of the IOC Code of Ethics (Exhibit A-30; Answer, para. 102), which provides an additional ground within Rule 59.1.1(b). The IOC Executive Board’s decision of 29 September 2021 was not challenged by the Appellant and is not disputed in this appeal. Accordingly, the Appellant did not merely fail to honour a personal undertaking; the conduct attributed to him —alleged interference in the OCA elections— constitutes a violation of the measures adopted by the IOC’s governing body that defined the scope and conditions of his suspension.
180. Thirdly, as regards predictability, the Panel recalls that disciplinary proceedings in the field of sports law do not require the degree of precision equivalent to the standard mandated in criminal law. The Panel in CAS 2023/A/9364, para 129, confirmed the principle established by the CAS 2017/A/5086:

“It has been established several times in CAS case law that the nulla poena sine lege principle applies in disciplinary cases such as the present. One award sums up how the legal principle is applied as follows:

‘For a sanction to be imposed, sports regulations must proscribe 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). A provision prescribing that all officials show commitment to an ethical attitude and behave and act with complete credibility and integrity, is sufficiently clear and precise and unambiguous, and provides a sufficient legal basis for sanction. The fact that it is broadly drawn does not necessarily lack sufficient legal basis because of that characteristic, as generality and ambiguity are different concepts. According to the principle of predictability, the offenses and sanctions of a sports organizations must be predictable, to the extent that those subject to them must be able to understand their meaning and the circumstances in which they apply. The inherent vagueness of concepts

such as ethics and integrity does not preclude them to be used by sports legislators as a basis to impose disciplinary sanctions on officials that do not conform their behaviour to those standards. Disciplinary sanctions imposed by sport associations must conform to civil law standards and not to criminal law ones, and civil law standards are often inherently vague and reveal their full meaning on the basis of judicial application’.”

181. More specifically, the applicable standard, as articulated in CAS jurisprudence, requires that the disciplinary rules have been properly adopted, describe the infringement and provide, directly or by reference, for the relevant sanction. As the CAS Panel in CAS 2014/A/3665, 3666 & 3667 (*Luis Suárez, FC Barcelona & AUF v. FIFA*) observed at paragraph 73:

“[I]t is not necessary for the principles of predictability and legality to be respected that the football player should know, in advance of his infringement, the exact rule he may infringe, as well as the measure and kind of sanction he is liable to incur because of the infringement. Such fundamental principles are satisfied whenever the disciplinary rules have been properly adopted, describe the infringement and provide, directly or by reference, for the relevant sanction.”

182. Applying this standard, the Panel is satisfied that the Appellant could reasonably foresee that non-compliance with the terms of his provisional suspension would potentially expose him to disciplinary consequences. This foreseeability is established on multiple levels. First, the regulatory framework itself—Rule 59.1.1(b) of the OC—sets out in general terms that the violation of any IOC decision may result in a suspension. Second, the IOC Executive Board decision of 29 September 2021 explicitly delineated the scope and conditions of the provisional suspension, which the Appellant is not alleged to have misunderstood—conversely, the Appellant expressly stated in his letter of 25 July 2023 that he knew that any breach of the conditions of the provisional suspension would constitute a violation of an IOC Executive Board decision. Third, the IOC CECO addressed three successive letters to the Appellant in July 2023 (on 3, 5 and 10 July; Exhibit A-13, Exhibit A-14 and Exhibit A-15), each of which expressly warned him that his conduct constituted, or could constitute, interference in the OCA’s activities in breach of the terms of his provisional suspension, and that such conduct could lead to recommendations to the IOC Executive Board. The Panel wishes to be clear: these warnings are not the *legal basis* for the sanction, which is Rule 59.1.1(b) of the OC; they constitute, however, strong indications that the Appellant was on notice that non-compliance with the terms of his suspension would expose him to disciplinary consequences. The Appellant’s contention that he was never informed of “*the possible legal basis violated*” (Appeal Brief, para. 134) is not persuasive in these circumstances. Indeed, the Appellant himself acknowledged at the hearing that he understood the notification letter of 29 September 2021 (Exhibit R-9)

to mean that he could not interfere in the elections, and accepted that the recommendation contained in the IOC CECO's letter of 5 July 2023 (Exhibit A-14) not to travel to Bangkok was clear. The Appellant also referred to the letter of 29 September 2021 as a decision of the IOC CECO, reinforcing the conclusion that consequences of a violation were reasonably foreseeable for him.

183. Fourth, the Panel further observes that the Appellant's complaint that neither the IOC Executive Board decision of 29 September 2021 nor the IOC CECO's letters specifically referred to Rule 59.1.1(b) of the OC or specified the precise sanction does not assist his case. Under the *Suárez* standard, the principle of predictability does not demand that the concerned individual be aware *ex ante* of the exact provision or the precise measure he may face. It is sufficient that the relevant regulations contain a legal basis. This condition is satisfied in the present case.
184. The Panel therefore dismisses the Appellant's objection based on the principle of *nulla poena sine lege* and the principle of predictability. The Panel confirms that the Appealed Decision rests on a sufficient regulatory competence (*i.e.*, Rule 59.1.1(b) of the OC), is grounded in the violation of a binding IOC decision (the IOC Executive Board decision of 29 September 2021) and was subject to full predictability in the circumstances of this case.

iii. Whether the Appellant interfered in the 2023 OCA elections, thereby breaching the terms of his provisional suspension

185. The Panel now turns to the central factual question in this appeal: whether the Appellant interfered in the OCA elections of 8 July 2023 in breach of the terms of his provisional suspension as confirmed by the IOC Executive Board decision of 29 September 2021.
186. The Panel recalls that the applicable standard of proof in CAS disciplinary proceedings is that of "comfortable satisfaction", bearing in mind the seriousness of the allegation (*see* CAS 2009/A/1920, para. 26):

"Taking into account the nature of the conduct in question and the paramount importance of fighting corruption of any kind in sport and also considering the nature and restricted powers of the investigation authorities of the governing bodies of sport as compared to national formal interrogation authorities, the Panel is of the opinion that cases of match fixing should be dealt in line with the CAS constant jurisprudence on disciplinary doping cases. Therefore, the UEFA must establish the relevant facts 'to the comfortable satisfaction of the Court having in mind the seriousness of allegation which is made' (CAS 2005/A/908 nr 6.2)"

187. This standard is higher than a mere balance of probabilities but lower than proof beyond reasonable doubt.
188. The Panel further notes that it has assessed the evidence cumulatively, evaluating the totality of the circumstances rather than examining each individual element in isolation. It is the cumulative weight of the evidence, assessed as a whole and the specific context of the case, that determines the Panel's findings.
189. In this regard, the Panel observes that the Respondent submitted in the course of these proceedings an anonymised email from an NOC President to the IOC CECO (Exhibit R-25). The Panel recalls its decision of 4 February 2025 to admit Exhibit R-25 in its redacted form, consistent with the Panel's general approach to evidentiary assessment (see paragraphs 138–143 above). However, although admitted, the Panel attaches no probative weight to Exhibit R-25 in reaching its factual findings, given that the anonymisation of the source prevents the Panel from independently verifying the authorship, reliability and accuracy of the document. The Panel's findings below are based exclusively on facts that are either established by the documentary record, admitted by the Appellant in his written submissions or testimony, or otherwise corroborated by evidence on file.
190. The Appellant denies any interference in the OCA elections. He submits that (i) his travels in June 2023 to Central Asia and other destinations were undertaken solely in his official capacity as Deputy Prime Minister and Minister of Defence of Kuwait to discuss security matters and were unrelated to the elections; (ii) he spent the entire time in Bangkok in his hotel room and did not meet with any NOC representatives or ask anyone to organise such meetings; (iii) he has no authority over the Kuwaiti embassies, which receive instructions from the Minister of Foreign Affairs, and he did not instruct any embassy to support his brother's candidacy; and (iv) his statement before the Kuwaiti Parliament was taken out of context, as stated by a joint declaration of 45 members of Parliament.
191. The Panel has carefully considered the Appellant's submissions and testimony. For the reasons set out below, the Panel is not persuaded by this defence.
192. As regards the Appellant's travels and the logistical facilitation of the electoral campaign, it is established that, at the end of June 2023—in the weeks immediately preceding the OCA elections—the Appellant travelled to several Asian countries using an official aircraft of the State of Kuwait (Exhibit R-23; Appeal Brief, paras. 199, 206). The Appellant does not dispute that he was accompanied on these flights by his brother, Sheikh Talal Al-Sabah—*i.e.*, the candidate for the presidency of the OCA and the Appellant's brother—and by Mr Haider Farman, a former OCA Director for the Asian

Games whom the Respondent describes as Sheikh Talal’s campaign assistant (Answer, para. 89(i)). The Appellant acknowledges that the party travelled to, *inter alia*, Tashkent, Dushanbe, Hong Kong and Seoul (Appeal Brief, paras. 199, 202, 206).

193. The Appellant submits that these were governmental missions devoted to security matters and that neither Sheikh Talal nor the OCA elections were discussed (Appeal Brief, paras. 199, 202). However, the Appellant himself admits that, while in Dushanbe, Sheikh Talal not only met with the President of Tajikistan—who is also the President of the NOC of Tajikistan and a voting member of the OCA General Assembly—but also held separate meetings with the Sports Minister of Tajikistan and NOC representatives (Appeal Brief, paras. 202-203). The Appellant’s explanation that Sheikh Talal attended merely “*as a member of the Royal Family*” and that no election-related matters were discussed is, in the Panel’s assessment, not plausible when considered in the context of the approaching elections and the composition of the travelling party.
194. The Panel considers that the provision of an official state aircraft to transport a candidate for the OCA presidency to multiple Asian countries in the weeks immediately preceding the election, to destinations where the candidate then met with NOC representatives and sports officials, constitutes logistical facilitation of the electoral campaign. Whether or not the Appellant personally participated in each sports-related meeting is secondary: the Appellant, by his own admission, was instrumental in enabling these meetings to take place through the provision of state transport. The Panel finds that this conduct constitutes interference in the OCA electoral process within the meaning of the IOC Executive Board decision of 29 September 2021.
195. As regards the Appellant’s presence in Bangkok, it is established that the IOC CECO addressed two express warnings to the Appellant on 3 and 5 July 2023 (Exhibit A-13 and Exhibit A-14). The letter of 5 July 2023 specifically stated that the IOC CECO had been informed of the Appellant’s plans to visit Bangkok from 6 to 8 July 2023, “*just at the time of the OCA Executive Board meeting and OCA’s Chair election*”, and expressly warned that “[s]uch travel to Thailand could be considered as an interference within the OCA activities”, recommending that the Appellant “*reconsider such travel*”. Despite these express warnings, the Appellant travelled to Bangkok and remained there from 6 to 8 July 2023 (Exhibit R-23; Appeal Brief, para. 210; Exhibit A-19). He was accompanied by Mr Haider Farman.
196. The Appellant submits that he spent the entire time in his hotel room and did not meet with any NOC representatives (Appeal Brief, para. 210). However, the Panel notes that, in his Witness Statement (para. 35), the Appellant acknowledged that the purpose of his trip to Bangkok was “*to support [his] brother on a personal level*”. This admission is significant: while the Appellant characterises the support as “*personal*”, it confirms that

the trip was related to his brother's candidacy in the OCA elections, not to any governmental engagement.

197. In addition, the Appellant's assertion that he remained in his hotel room at all times was not corroborated by the testimony of his own witness at the hearing. Mr Haider Farman conceded that he did not know the Appellant's room number at the Intercontinental Hotel, that he had seen the Appellant in the hotel lobby, and that he was unable to attest to whether the Appellant had received any visitors in his room.
198. Moreover, the Appellant's assertion that he did not meet with anyone is contradicted by his own written submissions. In his Appeal Brief, the Appellant acknowledges that he met with Mr Watanabe —an IOC Member— in his hotel room, upon a request conveyed by Mr Al Shatori (Appeal Brief, para. 215; Witness Statement, para. 37). The Appellant states that Mr Watanabe, Mr Ali Shatori (president of the Asian Gymnastics Union) and Mr Al Kuwari (the Qatari candidate for the OCA vice-presidency) were present for approximately 10 to 15 minutes. The meeting is further corroborated by an email from Mr Watanabe to the IOC CECO dated 10 July 2023 (Exhibit R-24), in which Mr Watanabe described having "*exchanged general greetings and wishes for good luck in the election*" and identified the location as the Intercontinental Hotel. The Panel observes that, regardless of its brevity, this meeting brought together the provisionally suspended Appellant, an IOC Member, and a candidate for the OCA vice-presidency at the election venue during the election period.
199. The Respondent further submits, relying on the IOC CECO report of 25 July 2023 (Exhibit R-26), that the Appellant met with the Acting President of the OCA in Bangkok to discuss a compromise aimed at avoiding competition in the OCA elections, and that he had several calls with the Acting President regarding the OCA's activities before and during the elections. The Appellant does not specifically deny these contacts in his Appeal Brief.
200. The Panel considers that the Appellant's physical presence in Bangkok during the election period, despite explicit and unambiguous warnings from the IOC CECO, combined with admitted meetings and contacts with individuals directly involved in the OCA electoral process, is incompatible with the position of a provisionally suspended member who has been expressly prohibited from participating or interfering in the OCA's activities. The Appellant's assertion that he was in Bangkok solely in his capacity as Deputy Prime Minister of Kuwait on an "*official government mission*" is not corroborated by any contemporaneous documentation (such as an official agenda, scheduled meetings or governmental engagements) relating to his stay.

201. Moreover, it is inconsistent with Appellant’s own witness statement where he declared that he travelled to Bangkok “*to support [his] brother on a personal level*” (Appellant’s Witness Statement, para. 35).
202. The documentary record further shows that, in the period preceding the OCA elections, communications through official channels in at least three instances sought support for the candidacy of Sheikh Talal Al-Sabah:
 - a) In relation to Sri Lanka, the Ministry of Foreign Affairs of Sri Lanka received, through the Embassy of Sri Lanka in Kuwait, a request for support for Sheikh Talal’s candidacy, which included a letter from the KOC (Exhibit R-18; Exhibit R-36).
 - b) In Thailand, the Embassy of the State of Kuwait addressed a meeting request to the National Olympic Committee of Thailand (Exhibit R-19). The Panel notes that this document is undated. Accordingly, the Panel relies on it as an additional circumstantial element of a broader pattern of activity, rather than as independent proof of conduct during the specific period preceding the elections.
 - c) In Singapore, the Embassy of the State of Kuwait sought a meeting with the NOC of Singapore regarding the upcoming OCA election. Mr Chris Chan, General Secretary of the NOC of Singapore, declined the meeting, expressly referencing the prohibition on governmental interference in the OCA elections (Exhibit R-20). The Panel notes the Appellant’s submission that the initial meeting request was not produced in evidence; however, the response email from Mr Chris Chan evidences that such an approach was made.
203. The Appellant submits that he had no authority over the Kuwaiti embassies, since ambassadors receive instructions from the Minister of Foreign Affairs and not from the Minister of Defence (Appeal Brief, para. 225). He denies any involvement in or knowledge of the diplomatic representations (Appeal Brief, paras. 227–244).
204. The Panel must distinguish between two questions: first, whether the embassy communications occurred (the factual question); and second, whether the Appellant had knowledge of and acquiesced in them (the question of attribution).
205. As to the first question, the existence of the diplomatic approaches is documented by the exhibits on file (Exhibits R-18, R-19, R-20, R-36) and is not disputed by the Appellant, whose defence relies on his alleged lack of knowledge and involvement in those events.

206. As to the second question, the Panel acknowledges the Appellant’s submission that he did not hold the portfolio of the Minister of Foreign Affairs and therefore lacked direct authority over the embassy network. However, given the Appellant’s senior governmental role as Deputy Prime Minister at the relevant time, the coordinated nature of the diplomatic activity across at least three countries—including communications originating from Kuwaiti embassies—all directed at the same objective of securing support for his brother’s candidacy, and the absence of any alternative explanation offered by the Appellant as to why such diplomatic activity simultaneously occurred in support of his brother’s candidacy in a sports non-governmental organisation, the Panel is not persuaded that these diplomatic *démarches* occurred without the Appellant’s knowledge and acquiescence. The Panel further notes that the use of official state resources in connection with the elections was the subject of a public challenge in the Kuwaiti Parliament, where a deputy called for an investigation into the involvement of the embassies (Exhibit R-21; Exhibit R-27). While the Appellant notes that this request was not approved by the parliamentary majority (Appeal Brief, para. 249), the Panel considers that the very fact that this issue generated independent political scrutiny at the legislative level in Kuwait constitutes an additional indicium supporting the Respondent’s position. It demonstrates the public relevance and high visibility of the diplomatic campaign, further undermining the plausibility of the Appellant’s claim that, as Deputy Prime Minister, he remained entirely unaware of these events.
207. The Panel further notes that on 11 July 2023, three days after the election of his brother as OCA President, the Appellant made a public statement before the Kuwaiti Parliament. In a video recording of the session (Exhibit R-27), the Appellant is heard stating, as reflected in the translated subtitles: “*I am personally the President of Olympic Council of Asia. This is my second hat*”. The Appellant submits that these words were taken out of context and refers to a joint declaration signed by 45 members of the Kuwaiti Parliament confirming that context (Exhibit A-35; Appeal Brief, paras. 247–252).
208. The Panel has considered the Appellant’s contextual explanation. However, the Panel observes that, regardless of the broader context of the parliamentary session, the Appellant’s use of the present tense (“*I am*”) and the characterisation of the OCA presidency as “*my second hat*” convey a claim of ongoing authority over the OCA. This statement was made publicly, before the national Parliament, by a person who was provisionally suspended from all functions within the Olympic Movement. Moreover, the recording lasts two and a half minutes, allowing the Panel to listen to the full statement made by the Appellant, from the moment he was given the floor until he concluded his intervention. The Panel considers that this statement is, at a minimum, inconsistent with the position of a person who acknowledges and respects the terms of a provisional suspension.

209. The fact that the Appellant publicly stated, just a few days after the OCA elections took place, that he still considered himself the President of the OCA and that this was his “*second hat*”, is a statement that cannot be ignored. In the Panel’s view, this declaration constitutes an acknowledgement by the Appellant that he continued to claim authority over the OCA during the relevant period, in direct contradiction with the terms of the provisional suspension whose binding nature has been established above. Read in conjunction with the other evidence on record, this statement corroborates the pattern of conduct established above and reinforces the conclusion that the Appellant disregarded the prohibition on participation in OCA activities.
210. The Respondent further relies on the IOC CECO Report on the OCA’s Election Process Review dated 10 October 2023 (Exhibit A-24), which was produced after the Appealed Decision. This report identified additional elements, including that the Appellant also travelled to Uzbekistan, Hong Kong and Seoul with his brother and Mr Farman (Exhibit A-24, p. 5) —facts which the Appellant does not deny— and that Sheikh Talal publicly thanked the Appellant for “*his support for this campaign*” in a press conference following the elections (Exhibit A-24, p. 6). While these elements were not before the IOC Ethics Commission when it issued its recommendations, the Panel may take them into account in the exercise of its *de novo* power of review under Article R57 of the Code. The Panel considers that these additional elements are consistent with and corroborative of the finding that the Appellant actively supported his brother’s candidacy.
211. In view of the foregoing, the Panel finds that the totality of the evidence —consisting of (i) the facilitation of the electoral campaign through the provision of a state aircraft to transport the candidate to multiple Asian countries where the candidate met with NOC representatives and sports officials; (ii) the Appellant’s physical presence in Bangkok during the election period despite express warnings, together with admitted meetings and contacts with persons involved in the electoral process; (iii) the coordinated involvement of diplomatic channels, including Kuwaiti embassies, in support of the candidacy; and (iv) the Appellant’s public declaration asserting ongoing authority over the OCA— demonstrates to the Panel’s comfortable satisfaction that the Appellant actively interfered in the OCA electoral process in support of his brother’s candidacy, thereby seriously breaching the terms of his provisional suspension as confirmed by the IOC Executive Board decision of 29 September 2021.
212. Finally, the Panel addresses the Appellant’s contention that the IOC applied a “*double standard*” by failing to investigate or sanction the conduct of another candidate in the OCA elections, Mr Husain Al-Musallam, who allegedly used OCA resources and structures to further his own candidacy (Appeal Brief, Section IV.G). The Appellant

submits that this selective approach reveals institutional bias and constitutes an additional ground to set aside the Appealed Decision.

213. The Panel is not persuaded by this argument. The scope of the present appeal is confined to the Appealed Decision, which concerns exclusively the Appellant's own conduct in breach of the terms of his provisional suspension. Whether the IOC ought to have investigated or sanctioned the conduct of other individuals in the context of the same electoral process is a question that falls outside the perimeter of this arbitration. More fundamentally, the principle of equal treatment does not confer a right to equal impunity: under Swiss law, there is no entitlement to equal treatment in illegality, and even assuming that justified measures were not taken against a third party, the Appellant cannot derive any benefit therefrom. In the words of the Swiss Federal Tribunal (ATF 132 II 485, consid. 8.6, with reference to ATF 127 I 1, consid. 3a):

“Im Übrigen gibt es, wie die Vorinstanz zu Recht erwägt, von hier nicht gegebenen Ausnahmesituationen abgesehen keinen Anspruch auf Gleichbehandlung im Unrecht (vgl. BGE 127 I 1 E. 3a S. 2 f. mit Hinweisen). Selbst wenn in einem anderen Einzelfall allenfalls gerechtfertigte Aufsichtsmaßnahmen zu Unrecht nicht ergriffen worden wären, könnte daher die Beschwerdeführerin daraus nichts zu ihren Gunsten ableiten.”

(Non-official translation: “Furthermore, as the lower court rightly considers, apart from exceptional situations that do not apply here, there is no right to equal treatment in cases of injustice (see BGE 127 I 1 E. 3a p. 2 f. with references). Even if, in another individual case, supervisory measures that may have been justified were wrongfully not taken, the appellant could not derive any benefit from this.”)

214. Even assuming *arguendo* that other individuals engaged in conduct warranting scrutiny, which was not pursued by the IOC, such circumstance would not render the Appellant's own breach any less established, nor would it render the sanction imposed upon him unlawful. As a matter of principle, a party cannot invoke the alleged non-prosecution of a third party as a defence to exonerate itself from the consequences of its own established misconduct. The Appellant's submission on this point is accordingly dismissed.

iv. *If a breach is established, whether the three-year suspension imposed by the IOC Executive Board is proportionate*

215. The Appellant submits that, even assuming a breach of the provisional suspension occurred, the three-year suspension imposed by the IOC Executive Board is excessive and disproportionate.

216. The Panel recalls that disciplinary bodies within the Olympic Movement enjoy a margin of discretion in determining the appropriate sanction for a given offence. This margin reflects the legitimate interest of sports governing bodies in maintaining the integrity and authority of their regulatory and governance frameworks, and is recognised in CAS jurisprudence as extending to the choice of both the type and the severity of the sanction.
217. The role of the Panel in this context is not to substitute its own assessment for that of the IOC Executive Board, but to verify whether the sanction pursues a legitimate aim and whether, in the specific circumstances of the case, the measure imposed is manifestly disproportionate —*i.e.*, evidently and grossly disproportionate in light of the nature and seriousness of the offence, the interests at stake, and the personal circumstances of the individual concerned (*see, inter alia*, CAS 2017/A/5086, para. 206, with further references):

“There is well-recognized CAS jurisprudence to the effect that whenever an association uses its discretion to impose a sanction, CAS shows reservation or restraint when “re-assessing” the measure of the sanction (CAS 2012/A/2824, at para. 127; CAS 2012/A/2702, at para. 160; CAS 2012/A/2762, at para. 122; CAS 2009/A/1817 & 1844, at para. 174; CAS 2007/A/1217, at para. 12.4). Based on the same CAS jurisprudence, CAS shall only interfere in the exercise of this discretion of the sanctioning sporting body where the sanction imposed is “evidently and grossly disproportionate to the offence” or where CAS comes to a different conclusion on the substantive merits of the case than did the first instance tribunal (CAS 2009/A/1817 & 1844, at para. 174, with references to further CAS case law; CAS 2012/A/2762, at para. 122; CAS 2013/A/3256 at paras. 572-572; CAS 2016/A/4643 at para. 100)”

218. Without repeating the factual analysis conducted above, the Panel refers to its findings at paragraphs 185 to 211 of this Award. As established therein, the breach consisted, *inter alia*, of: (i) the logistical facilitation of the electoral campaign through the provision of state resources; (ii) the Appellant’s physical presence in Bangkok during the election period and engagement with delegates despite express prior warnings from the IOC CECO; (iii) the coordinated involvement of Kuwaiti embassies in at least three countries; and (iv) public declarations asserting ongoing authority over the OCA in direct contradiction of the terms of the provisional suspension.
219. The Panel considers that interference with the electoral process of a continental Olympic body, carried out in breach of an acknowledged provisional suspension and in defiance of express prior warnings, constitutes a serious disciplinary offence. The gravity of the breach is further compounded by the circumstance that the interference was directed at supporting the candidacy of the Appellant’s brother —a circumstance

that engages considerations of conflict of interest, as noted by the IOC Ethics Commission in its recommendations (Exhibit R-2).

220. The Panel considers that the sanction pursues legitimate institutional aims: namely, the protection of the integrity and autonomy of the governance and electoral processes within the Olympic Movement and its constituent bodies, the preservation of the authority of the IOC's own decisions, and the protection of the reputation of the Olympic Movement. The Panel observes that the effective enforcement of provisional suspension decisions is fundamental to the credibility of the IOC's disciplinary framework: if a member were able to disregard with impunity the terms of a provisional suspension, the authority of such measures—and, by extension, of the IOC's governance structure—would be seriously undermined.
221. The Panel further observes that the sanction is limited to the rights, prerogatives and functions deriving from the Appellant's IOC membership. It is time-limited to a period of three years from the date of the decision (27 July 2023) and does not amount to a definitive exclusion or expulsion from the IOC. The measure is thus circumscribed in both scope and duration.
222. The Panel takes into account that the Appellant held senior institutional positions within the Olympic Movement for a considerable period of time, including as IOC Member (since 1992), President of ANOC (2012–2018) and President of the OCA (1991–2021). The standard of conduct expected of individuals who have occupied, or continue to hold, positions of such institutional significance is commensurately higher, and the impact on the Olympic Movement of a breach of a provisional suspension by a member of such standing is correspondingly greater. In light of the seriousness of the breach, the fact that it was carried out despite express prior warnings from the IOC CECO, and the institutional interests at stake, the Panel is not persuaded that a materially lesser sanction would have adequately protected the institutional interests identified above.
223. For all these reasons, the Panel concludes that the three-year suspension of all rights, prerogatives and functions deriving from the Appellant's IOC membership, as imposed by the IOC Executive Board on 27 July 2023, is not manifestly disproportionate. The sanction is therefore confirmed.
224. In light of the Panel's findings on procedural fairness, legality and predictability, factual interference, and proportionality, the Appeal is dismissed in its entirety.

IX. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr Sheikh Ahmad Al-Fahad Al-Sabah against the decision of the IOC Executive Board dated 27 July 2023 is dismissed.
2. The decision rendered by the IOC Executive Board on 27 July 2023 is confirmed.
3. (...).
4. (...).
5. All other and further claims or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 30 April 2026

THE COURT OF ARBITRATION FOR SPORT

José María Alonso Puig
President of the Panel

Bernard Hanotiau
Arbitrator

Ulrich Haas
Arbitrator