



Case 2018-04

DECISION WITH RECOMMENDATIONS

Situation of

Sheikh Ahmad Al-Fahad AL-SABAH Provisionally suspended IOC Member in Kuwait

Conflict of interests

Due to the risk of a perceived conflict of interests, and pursuant to article 8 of the Statutes of the IOC Ethics Commission, the Chair of the IOC Ethics Commission has recused himself from this file and did not participate in any discussion or decision.

Facts – General situation

On 8 November 2018, the media announced a decision by the Public Prosecutor of Geneva to refer to a criminal court a case against five people including the IOC Member, Sheikh Ahmad Al-Sabah, for various acts, including forgery and a fake arbitration procedure, for a judicial decision.

On the same day, Sheikh Ahmad Al-Sabah suspended himself from his IOC membership and from all his functions within the IOC.

On 22 November 2018, the IOC Ethics Commission took note of his provisional suspension as an IOC Member and recommended the extension of the provisional suspension to his function as President of the Association of National Olympic Committees (ANOC).

Following the recommendations by the IOC Ethics Commission, the IOC Executive Board, on 26 November 2018, took note of Sheikh Ahmad Al-Sabah's decision to suspend himself from his various activities as an IOC Member, Chair of the Olympic Solidarity Commission and President of ANOC.

In a decision dated 10 September 2021, the first instance criminal court (Tribunal Correctionnel de Genève) found Sheikh Ahmad Al-Sabah guilty of the charges and sentenced him to 30 months' imprisonment, 15 of them suspended.

On the same day, Sheikh Ahmad Al-Sabah suspended himself from his remaining function as President of the Olympic Council of Asia (OCA).

On 29 September 2021, the IOC Ethics Commission confirmed the provisional self-suspension of Sheikh Ahmad Al-Sabah from all his functions, including as President of the OCA. Subsequently, the IOC Executive Board took note of the self-suspension of Sheikh Ahmad Al-Sabah from his remaining function within the Olympic Movement.

Sheikh Ahmad Al-Sabah was notified of the IOC Executive Board's decision by a letter dated 29 September 2021, explicitly clarifying that he should not participate in any activities of any organisation part of the Olympic Movement, including the OCA.



Following the appeal by Sheikh Ahmad Al-Sabah, the Court of Appeal hearing took place from 16 to 18 November 2022; and as of the date of this report, the decision by this Court is still pending.

On 18 June 2023, the media announced that Sheikh Ahmad Al-Sabah had been appointed as Deputy Prime Minister and Minister of Defence of the Government of the State of Kuwait.

Facts – Olympic Council of Asia (OCA) situation

Following the Court's decision on 10 September 2021 and Sheikh Ahmad Al-Sabah's provisional suspension from his position as OCA President, Raja Randhir Singh, IOC Honorary Member (IND), has served as acting OCA President.

With the term of the OCA President coming to an end, the OCA Executive Board decided to organise the election of the new President. Usually, this OCA presidential election takes place at the time of the Asian Games, originally scheduled to be held in China in autumn 2022. As the 2022 Asian Games were postponed due to the COVID crisis, this election was also postponed to 8 July 2023, during the OCA's General Assembly in Bangkok (Thailand).

Sheikh Ahmad Al-Sabah was unable to be a candidate for the renewal of his term due to his provisional suspension.

During the OCA General Assembly in Cambodia on 4 October 2022, Mr Husain Al-Musallam was mentioned as the official candidate of the Kuwait Olympic Committee (KOC), in line with the KOC's General Assembly decision taken on 1 June 2022.

However, at the same time as Sheikh Ahmad Al-Sabah was appointed as Deputy Prime Minister and Minister of Defence of the Government of the State of Kuwait, the KOC's Board of Directors decided on 17 June 2023 to support the new candidature of Sheikh Talal Fahad Al-Ahmad Al-Sabah, who is Sheikh Ahmad Al-Sabah's brother.

Despite this decision, the following day on 18 June 2023, the KOC's General Assembly refused to change its support already pledged to Mr Husain Al-Musallam. Consequently, in a letter dated 18 June 2023 to the acting OCA President, the KOC stated that "as per the decision taken in the Kuwait NOC's Board of Directors' meeting held on 17 June 2023, the Kuwait Olympic Committee withdraws its support for our candidate Mr Husain Al-Musallam."

Eventually, the final two candidates for the OCA presidency were originally from the same NOC, Mr Husain Al-Musallam and Sheikh Talal Fahad Al-Ahmad Al-Sabah, brother of Sheikh Ahmad Al-Sabah.

On 17 May 2023, the Chair of the OCA Ethics Committee reminded Sheikh Ahmad Al-Sabah that he could not interfere in the OCA's activities.

In a joint letter dated 26 June 2023, the Chair of the OCA Ethics Committee and the Chair of the OCA Electoral Commission reminded the candidates and all the NOCs members of the OCA that the candidates' governments and/or authorities should not directly or indirectly interfere/communicate/meet or give any type of promise or gift in the election process.

In a letter dated 3 July 2023, the IOC CECO reminded Sheikh Ahmad Al-Sabah of the prohibition for him to participate in any activities of the OCA and in particular to interfere in the election process. Sheikh Ahmad Al-Sabah was recommended to immediately stop any type of interference. As usual, the letter was transmitted via his lawyer in Geneva, who acknowledged the transmission; Sheikh Ahmad Al-Sabah did not contest the prohibition to interfere in OCA's elections.



Following new information regarding a travel plan in the name of Sheikh Ahmad Al-Sabah to fly to Bangkok, the IOC CECO was obliged to send a second letter on 5 July 2023, warning Sheikh Ahmad Al-Sabah of the risk of such travel being interpreted as interference in the election process and recommending him to reconsider such travel to avoid any type of interference. As previously, the letter was transmitted via his lawyer in Geneva, who acknowledged the transmission; again Sheikh Ahmad Al-Sabah did not contest neither the travel plan, nor the recommendation not to travel to Bangkok.

Sheikh Ahmad Al-Sabah did not change his travel plan and was in Bangkok at the time when the OCA General Assembly was taking place; he remained there until the end of the elections on 8 July 2023.

In parallel, invitations for immediate meetings were sent to various NOCs by some of the Embassies of the State of Kuwait.

The OCA presidential election took place on 8 July 2023; Sheikh Talal Fahad Al-Ahmad Al-Sabah was elected by 24 votes against 20 votes.

Procedure

On the basis of this information, on 10 July 2023, Sheikh Ahmad Al-Sabah's comments were requested with a deadline of 10 days.

Various exchanges with Sheikh Ahmad Al-Sabah's lawyer took place regarding the request of postponement of the deadline to 18 August 2023 for his comments.

By two letters dated 21 and 25 July 2023, Sheikh Ahmad Al-Sabah sent his observations explaining that he never interfered within the OCA's activities.

Urgency of the IOC Ethics Commission's recommendations

As part of the recognition by the IOC, the IOC Executive Board recognises the results of the elections, held pursuant to the NOCs organisations' statutes approved by the IOC.

The Olympic Council of Asia is a continental association of NOCs recognised by the IOC; thus, the elections have to be recognised by the IOC.

Considering the potential impact of the interference from Sheikh Ahmad Al-Sabah in the OCA's elections, there is an urgency for the IOC Executive Board to take a decision regarding his personal behaviour. Consequently, the IOC Ethics Commission needs to issue its recommendations in the coming days.

This urgency is also exacerbated by the fact that Sheikh Talal Fahad Al Ahmad Al-Sabah is currently organising an Extraordinary General Assembly to be held on 15 August 2023. Thus, the IOC Executive Board needs to take a decision urgently.

The matter of the elections' validity will have to be discussed by the IOC Executive Board at a later stage, separately from the personal situation of Sheikh Ahmad Al-Sabah.

Observation by Sheikh Ahmad Al-Sabah

In his letter dated 21 July 2023, Sheikh Ahmad Al-Sabah rejected "any kind of interferences within the process for the election of the Chair of the Olympic Council of Asia". In particular, he considered that "travelling to Bangkok from 6 to 8 July 2023 doesn't mean in any way that, while I was in Bangkok I interfered with the OCA's activities".

He also mentioned that he didn't have any information regarding the "alleged interference within the OCA activities during such trip".



In his letter dated 25 July 2023, Sheikh Ahmad Al-Sabah emphasised again that, “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. I indeed reject again any kind of interferences within the process for the election of the Chair of the OCA.”

Analysis of the behaviour of Sheikh Ahmad Al-Sabah regarding the respect of the IOC’s decision

In its previous recommendations in September 2021, the IOC Ethics Commission already considered the importance of the role of Sheikh Ahmad Al-Sabah, not only as an IOC Member, but also within the Olympic Movement and in particular within the OCA, justifying the provisional suspension also from his functions as OCA President.

In addition to his suspension from IOC and OCA and considering this family link with the candidate Sheikh Talal Fahad Al-Ahmad Al-Sabah, Sheikh Ahmad Al-Sabah should have taken a neutral attitude to avoid any conflict of interests; but on the contrary, he actively supported his brother and thus put himself into a conflict of interest situation, contrary to the IOC Code of Ethics.

Being part of the Government of the State of Kuwait as Deputy Prime Minister and Defence Minister, Sheikh Ahmad Al-Sabah had the opportunity to benefit from the official means of the government of Kuwait, such as the services of the official Government of Kuwait’s aircraft and the Embassies of the State of Kuwait, or to intervene directly during meetings held in the framework of his official position as Deputy Prime Minister and Defence Minister.

In fact, the use of official resources of the Government of Kuwait for a reason other than the State of Kuwait’s sole interests was challenged during debates in the State of Kuwait’s Parliament, in particular on 11 and 26 July 2023. From publicly available videos of the State of Kuwait’s Parliament’s debates, it can be noted that the use of these public means to influence the OCA’s presidential election was indeed challenged.

Responding to these questions in Parliament during the above-mentioned debate on 11 July 2023, Sheikh Ahmad Al-Sabah seems not to deny the use of public means in the context of the OCA’s elections and appears to use his involvement in the OCA to justify such use. It is worth highlighting Sheikh Ahmad Al-Sabah’s statement: “I am personally the President of the Council of Asia. This is my second hat.” (translated from Arabic).

These videos, broadcasting Sheikh Ahmad Al-Sabah’s declarations in front of the State of Kuwait’s Parliament three days after the election of his brother, specifically mentioning his function as OCA President, demonstrate not only his interference in the OCA’s activities but also that he had no intention of respecting the IOC Executive Board’s decision provisionally suspending him since 2021 from all his functions within the Olympic Movement, in particular as President of the OCA.

Contrary to the recommendations by the IOC Ethics Commission to avoid any participation in the OCA’s activities, of which he was reminded multiple times and upon which he agreed through his own decision to self-suspend himself, Sheikh Ahmad Al-Sabah actively intervened in the OCA’s election campaign, as also corroborated by the various pieces of evidence.

It is impossible to consider that Sheikh Ahmad Al-Sabah was not informed and did not understand the importance of the IOC Executive Board’s decisions, based on the recommendations by the IOC Ethics Commission, regarding the suspension of his functions as OCA President and the prohibition to interfere in the OCA’s activities.



The IOC, an association under Swiss law, cannot accept that one of its Members fails to respect its decision of provisional suspension in his subsequent behaviour, in particular after the Member concerned has publicly announced that he has suspended himself.

A proportional sanction to be recommended for this specific breach of the IOC Executive Board's decision and of the IOC Code of Ethics should be a full suspension for a duration of three (3) years of all his rights, prerogatives and functions deriving from his IOC membership, as provided by Rule 59.1.1.b of the Olympic Charter.

Additionally, it is recommended, as a consequence of this sanction of suspension, that the Olympic Parties, including the IOC Members, shall refrain from interacting with Sheikh Ahmad Al-Sabah, in particular to avoid any risk of perception of influence on any decisions regarding the Olympic Movement.

OCA elections validity

In a letter dated 10 July 2023, an NOC requested from the OCA's Ethics Committee a full and thorough investigation of the OCA's elections held on 8 July 2023, in particular regarding the potential interference.

Considering the evidence gathered by the IOC and the impact on the OCA's elections of Sheikh Ahmad Al-Sabah's behaviour, it appears from the exchange of emails between the OCA's Ethics Committee and the IOC CECO that there is a need for a full assessment of the potential non-respect of the OCA's elections process.

Consequently, it would be appropriate to recommend to the IOC Executive Board not to recognise these elections at this stage until a full review of the respect of the OCA's Elections Process and Procedure and of the BUPGG is carried out.

Finally, in order to avoid any adverse consequences for the NOCs of Asia, it would also be appropriate to recommend to the IOC Executive Board that the Olympic contributions to the OCA, such as, but not limited to, the Olympic Solidarity funds, be distributed to the Asian NOCs directly by the IOC (and not through the OCA) until the OCA's elections will be recognised by the IOC.



DECISION with recommendations

After deliberating, in accordance with its Statutes, the IOC Ethics Commission recommends to the IOC Executive Board:

- 1) To confirm the seriousness of the breach of the provisional suspension imposed on Sheikh Ahmad Al-Sabah, in particular regarding his involvement in the Olympic Council of Asia's activities;
- 2) Consequently, to sanction Sheikh Ahmad Al-Sabah by suspending all the rights, prerogatives and functions deriving from his quality as an IOC Member for a period of three (3) years, starting from the date of the decision by the IOC Executive Board;
- 3) To recommend, as a consequence of this sanction, the Olympic Parties, including the IOC Members, to refrain from interacting with Sheikh Ahmad Al-Sabah, in particular to avoid any risk of any perception of influence on any decisions regarding the Olympic Movement;
- 4) To note that the IOC Ethics Commission reserves its right to review the individual situation of Sheikh Ahmad Al-Sabah as an IOC Member following the decision by the Court of Appeal of Geneva;
- 5) To consider the undeniable impact on the OCA's elections of Sheikh Ahmad Al-Sabah's behaviour, and consequently not to recognise these elections until a full review of the OCA's elections process is carried out at a later stage;
- 6) To ensure that the Olympic contributions to the OCA, such as, but not limited to, the Olympic Solidarity Funds, to be distributed to the Asian NOCs directly by the IOC (and not through the OCA) until the OCA's elections have been recognised by the IOC.

Lausanne, 27 July 2023