

COURT OF APPEAL MEETING

DETAILS

Date: 17 March 2022

Time: 15:00 – 18:00hrs

Place: Flemings Conference Hotel Wien
Neubaugürtel 26-28
1070 Vienna, Austria

PARTICIPANTS

EHF Court of Appeal:

Markus Plazer	President
Nicolae Vizitiu	Vice President
Robert Czaplicki	Member
Ilona Tordai	Member
Milan Petronijevic	Member
Izet Gjinovci	Member
Ketevan Koberidze	Member

EHF Office:

Monika Flixeder	Legal Management
Mihaly Kovacs	Legal Management
Sophia Touiker	Legal Management

MINUTES

1. Welcome

President Plazer welcomed the participants of the Court of Appeal (CoA).

2. Short review of the EHF Court of Appeal past season activities by the President

The president evaluated the last year which had brought one closed case to the CoA. However, it was a very significant one regarding a transfer issue. In addition, there are currently two ongoing cases in relation to the Ukraine-Russia situation at the Court of Handball for which the decisions will be released shortly. The Russian protests include requests for immediate measures and legal remedies to the EHF Court of Appeal are expected in both the decisions on the interim measures as well as the ones formally deciding on the issue.

3. Review of cases

- Transfer/International release (e.g. Siófok KC 20684)

The legal basis was extensively discussed. Plazer made reference to the fact that the decision was taken by the administrative body, as a first instance without explicitly reviewing the validity of the contract concluded between the player and her former club. The CoA also has released its decision without making any explicit reference to the validity of the contract, however one might assume the issuance of an international transfer certificate as an answer to the preliminary question concerning the validity of the underlying working agreement.

In the opinion of the EHF office such preliminary question should always be answered explicitly, however the current wording of the EHF Legal Regulations does not create an obligation to the competent administrative/legal body to explicitly refer to it in a decision. The participants discussed the necessity of such amendment of the EHF Legal Regulations and supported the initiative of the EHF office. In the light of this, the EHF office received a mandate to prepare a motion to the EHF Executive Committee in this respect.

The CoA members took note of the correct handling of the case and they agreed especially with the fact that basic rights such as the one of an individual to exercise his/her profession should always prevail in such decisions. A person must not be hindered to do his/her profession. In the case at hand the international transfer certificate is also crucial for continuing training at professional level and maintaining the performance level of a professional athlete. The violation of the EHF regulations with regard to the contracts has to be seen separately from the release of a player and the related dispositions.

4. Special competition situations

There are two ongoing cases before the CoA which relate to special competition situation regarding the Ukraine - Russia situations. The teams Drammen and H71 submitted an appeal against the decision of the first instance issued by the EHF Court of Handball, disputing the financial sanction imposed on them and the match result in the H71 case. In both cases, the teams were not willing to travel to Ukraine/Russia by making reference to the threatening situation and warnings received from their governments. The EHF Court of Appeal points out that in any case a team (club or national) participating in European competition is obliged to participate and to travel to the match venue as long as such a match is not formally cancelled, postponed or moved to another place by the EHF. In this respect the conduct of the teams concerned was a violation of the EHF regulations.

In the disciplinary proceedings carried out by the EHF legal bodies, both the pressure of the situation as well as the influence taken by the government under the given circumstances, which needed immediate decisions by the delegation concerned, were regarded as mitigating circumstances in connection with the applied consequences.

By the publication of these meeting notes the decision regarding the appeal of the Faroese club H71 has been released, the decision of the first instance has been upheld thus pecuniary fine has been imposed on the club on a suspended basis for not playing the match as due.

Competition result wise, the opposite, Ukrainian club, has been qualified to the next round. The CoA is currently dealing with the other appeal case by the Norwegian club, Drammen, the decision will be released shortly.

In the light of these cases, the CoA members underlined the importance of the integrity of the sport and the comprehensive application of regulations. In the opinion of the CoA, the given circumstances did not constitute a force majeure situation and the decisions of the first instance are to be regarded as in compliance with the applicable regulations of the EHF.

5. Anti-Doping

The participants took note of the fact that there was no Anti-Doping related case before the CoA this year. There is currently a pending case dealt with in the body of first instance.

6. Implementation of decisions

The question of enforceability has arisen in the framework of the “Spende” case. The ECC and the CoH had also discussed this issue. Once the award has been published by the court, the decision could not be enforced since the related club refused to pay the compensation towards one of its former player and the ECA did not have any legal tool to enforce the decision directly. In the case at hand the EHF Executive Committee (EXEC) after a payment delay of more than one year, suspended the club concerned from the participation in national and international competitions until further notice. As the club concerned went into bankruptcy in the meantime the required target has not been reached yet.

One of the CoA member suggested to introduce a solution, which foresees the personal accountability and liability of the management of the club in case of financial debt towards an individual or the EHF verified by a legal decision. It was mentioned that such provisions are regulated by public law of the respective country and therefore would need an enforcement via the competent public courts concerned.

7. Initiation/Investigation of proceedings

- **Initiation**

Due to the lack of reporting on the example of the Men’s EHF EURO 2022, the participants discussed the possibility of alternative initiation of proceedings in cases in which such reports are missing. The question of substituting the reporting is discussed. The EHF Legal Regulations allow the initiation of proceedings by the EHF in general as well as by third parties. However, it is to be regarded as more favourable situation, if the persons (referee/delegate) responsible provide reports, instead of a random person or someone related to legal proceedings. Mentioning examples of the practice of the International Handball Federation, the participants agreed that a stricter regime regarding the handling of the reporting obligation is necessary, in order to make the reporting system more effective. Furthermore, the issue of reporting shall be presented to the Technical Refereeing Committee and the Competitions Commission.

In relation to the above, the participants took note of the circumstances concerning the clothing issue which may be controversial for the delegates in terms of reporting. As per a suggestion of a CoA member further clarification should be requested in order to implement a consistent system.

8. EHF Legal Regulations, EHF List of Penalties, EHF Catalogue of Administrative Sanctions

- Input/Comments

As discussed above under point 3. the participants agreed to propose amendments to the EHF Legal regulations by presenting motion to the EHF Executive Committee accordingly:

- Separation of formal admissibility from pre-judgements in the issue
- Obligation to answer preliminary questions, if emerging
- Alternative responsibilities in the initiation and investigation of proceedings
- Decisions on request for preliminary measures
- Enforcement of ECA cases
- Admissibility of ECA proceedings

9. Feedback Men' EHF EURO 2022 – HUN/SVK

- Legal handling on site + remote

The ad-hoc commission system for the EHF Euros is working in an excellent way. Out of the cases being decided by the Disciplinary Commission, no cases were appealed to the level of the Jury.

- Discussion on possible improvements

As discussed above, under point 7, the question of reporting obligations shall be handled and adopted by the responsible bodies.

10. Legal Journal n°8

- Input/Comments

The eighth edition will be published in June/July 2022. The extent of interest in the legal journal and the use of possible alternatives was discussed by the CoA. Further contributions as expert's analysis, interviews, etc. may contribute in a good way to the legal journal in the future.

11. Legal Database (LEDA)

- Input/Comments

The office shared with the participants that an initiative will be submitted internally in order to improve the LEDA so statistics could be downloaded and shared with the commissions in

a straightforward way. In addition, access to all cases for the presidents of the legal commissions will be requested.

Apart from that, one of the CoA members had difficulties to access the legal database. The EHF office will follow this up with the IT department in order to solve the issue.

12. Miscellaneous

The next CoA meeting is scheduled right before the commencement of the ordinary EHF Congress (June 2023).

For the minutes: Mischi Kovacs, 12 April 2022.