

## EHF Court of Arbitration (ECA) Council Video Meeting

### I. DETAILS

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**Date:** 19 March 2020

**Time:** 12:00 – 13:30hrs

### II. PARTICIPANTS

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#### **ECA Council**

Wouter Lambrecht Vice President  
Jacques Bettenfeld Vice President

*Excused*

Francesco Purromuto President  
Bogdan Sojkin Vice President

#### **EHF office**

Monika Flixeder EHF Legal Management  
Sophia Touiker ECA Office  
Justine Daussy ECA Office  
Mihaly Kovacs ECA Office

### III. MINUTES

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#### 1. Welcome and short review of the EHF Court of Arbitration current season activities

Monika Flixeder welcomed the participants. She underlined that ECA had several cases in the area of players' contract and in other areas as well. Several lawyers adopted our system by way of implementing the arbitration agreement however it is really time consuming to reach all the clubs and federations to invite them to use our system.

Important to note that other sport federations were also interested in our legal system and they requested to have meetings and to receive related documents. In addition, worth to mention that further brainstorming should be done in order to optimize processes.

#### 2. Discussions

*Ideas on a possible development plan to raise ECA jurisdiction and competence and other related issues*

Vice-president Lambrecht noted that, based on his reading of the situation, the year 2019 did not appear to have been a busy year in terms of cases / issues brought to the ECA Council. However, from those few cases brought to the ECA Council, he explained that he had observed several procedural issues that he wanted to share with the colleagues as he considered them problematic.

The first topic was that in the framework of one of the cases handled by ECA in 2019, the two party nominated arbitrators proposed him as chairman. However it seemed a bit contradictory to him that as a member of the ECA Council, which can be charged to take or issue certain procedural decisions, and therefore overseeing the work of arbitrators, that the members of the ECA Council could also act as arbitrator and that the possibility to wear two different hats could, in his opinion, lead to apparent conflict of interest or be considered to affect the impartiality of Council members opposed to arbitrators and *vice-versa*. In light of the above, he had rejected his nomination but considered that this should be clarified in the rulebook. An option for example might be to remove the ECA Council member from the list of ECA arbitrators and if not an option a new article could be added which clarifies the conflict of interests in case someone from the ECA council would be nominated as chairman or arbitrator in an ongoing case.

The second topic related to another case dealt with by the ECA Council in relation to an advance payment which had not been paid on time and upon lodging the appeal, a situation which was not covered by ECA Procedural Rules. He considered it would be good to foresee this situation in the rule book and that in his experience, if the party is late with the advance payment a short deadline could be granted to the corresponding party to make such payment, a practice which would be similar to the practice of FIFA judicial bodies and the Court of Arbitration for Sport. The failure to comply with the new deadline should lead to the appeal to be considered terminated. His proposal was to foresee a statutory basis to be able grant such deadlines and that one could think of three to five (3-5) business days for the extension period, an extension that could be granted by the ECA Office.

He continued by stating that these observations might raise the question whether the entire rulebook should be looked at any possibly updated, as it remained unchanged since 2011, and that such a review of the rulebook, would in his opinion, in any case be necessary in light of the judgement of the European Court of Human Rights regarding the case of Ali Riza and Others v. Turkey dated 20 January 2020.

Said decision raised several interesting observations for sports resolution bodies and one would need to verify if the EHF Court of Arbitration is in compliance with the findings of said judgement. For example, one of the issues raised in the judgement was that of equal representation in that maybe one would want to look at the fact that the large majority of arbitrators are proposed by the federations and not the clubs. Another interesting observation in the judgement was that lacking a provision excluding the possibility for parties to procedures to bring a civil or criminal action against the members of the arbitration court, might affect the independence and impartiality of the arbitration committee members. Therefore his suggestion was to include an article in the ECA Rules of Arbitration by adding a clause similar to the one contained in article 36 of the UEFA disciplinary regulations excluding the liability of the panel members.

Lambrecht explained that these were just some first hand thoughts but that it might make sense to revisit the rulebook and that this could be a project led by the Council, a project which should aim at strengthening the EHF Court of Arbitration and serve the parties lodging disputes in front of it.

Regarding the observation that the arbitrators are mostly proposed by the Federations, Flixeder noted that this is extremely hard to reach the clubs, players' unions and other stakeholders to propose arbitrators and support would be helpful in this area. She added that the list is open, there could be as many arbitrators as possible.

*Assessment of the deadline for rendering the arbitral award, request of the Chairman to extend the time limit*

Article 19.1 of the ECA Procedural Rules could be amended given the opportunity to extend the deadline of the arbitral award. The proposal could be the deletion of the word “reasoned”. Lambrecht emphasized that the extension should be granted either by the chairman and/or the president at his discretion. He pointed at that a general review of the wording of the ECA Rules of Arbitration would also allow us to address this specific topic but that of course our President, Francesco Purromuto, should approve such a project. The ECA Rules of Arbitration has not been amended since 2011 therefore it would appear the right time to schedule further meetings to propose a motion to the EHF Congress in order to finalise the proposed amendments. Everyone agreed that the motion will be elaborated by Lambrecht, if approved by the President, and the ECA Office given that the Council shall come up first with a proposal on the wording of the related topics.

### **3. List of Arbitrators**

*Review of Candidates*

The two candidates, Lovro Badzim and Matea Horvat have been proposed by the Croatian Handball Federation and have a good profile. However Matea Horvat is currently member of the IHF Arbitration Tribunal (2017-2021) and article 4.1 of the ECA Statutes sets out that the candidate shall not have other EHF/IHF function. According to vice president Bettenfeld this might be a problem. The ECA Council, with the coordination of Sophia Touiker from the ECA Office, will decide at a later stage if there is an overlap between the two positions. Lambrecht however noted that it would be beneficial to have a female arbitrator who is a former handball player and considered that the main question to be answered would be if one could consider an independent arbitrator to hold an IHF function, assuming that a position as independent arbitrator on the EHF Court of Arbitration might or might not be considered as an EHF function. He proposed that pending a discussion on this point, no decision is taken on her application, neither positive nor negative

### **4. Miscellaneous**

*Finances*

This is a follow-up item. The related finance document has been sent out during the meeting providing the total financial result of the ECA for the year 2019. Promotional expenses might arise in the future in order to develop the web page and the activity of the ECA on social media platforms.

*Future ECA meetings*

The next meeting will take place in the framework of the EHF Congress meeting in Luxembourg on 23/24 April 2021.

Vienna, 22 March 2020/mk