



Case 2018-04

## DECISION WITH RECOMMENDATIONS

### Situation of

### Sheikh Ahmad Al-Fahad AL-SABAH 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 Commission Chair has recused himself from this file and not taken part in any discussion or decision.

#### Facts

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 IOC Member Sheikh Ahmad Al-Sabah, for various acts, including forgery and a fake arbitration procedure.

At the end of November 2018, Sheikh Ahmad Al-Sabah suspended himself from his IOC membership and from all his functions within the IOC, including as Chair of the Olympic Solidarity Commission, and as President of the Association of National Olympic Committees (ANOC).

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

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

In a decision dated 18 December 2023, reported by the media on 19 January 2024, the Court of Appeal of Geneva found Sheikh Ahmad Al-Sabah guilty of forgery and sentenced him to 28 months of imprisonment reduced to 24 months, and suspended this sanction (with three years of probation).

In two letters dated 19 and 24 January 2024, the Chief Ethics and Compliance Officer (CECO) asked Sheikh Ahmad Al-Sabah for a full copy of the reasoned decision by the Court of Appeal.

In a letter dated 29 January 2024, Sheikh Ahmad Al-Sabah's lawyer provided a partially redacted copy of the operative part of the Court of Appeal decision, but not the grounds of this decision. In this letter, the lawyer also announced that this decision had been submitted to the Swiss Federal Tribunal.



In a letter dated 23 February 2024, the CECO again requested a copy of the reasoned decision, underlined the need for IOC Members to respect the reputation of the IOC and the Olympic Movement, and finally requested Sheikh Ahmad Al-Sabah's written observations, in particular with regard to respect of the Olympic Charter, as part of his right to be heard in writing, giving a deadline of three weeks.

Considering that Sheikh Ahmad Al-Sabah did not share the full reasoned decision and that this decision with recommendations will be made public, the present text refers solely to information available in the public domain.

According to the media, Sheikh Ahmad Al-Sabah, his English lawyer, a Kuwaiti aide and a Swiss lawyer based in Geneva had their convictions from the first instance court dated 2021 upheld on charges linked to orchestrating a sham arbitration case for the purpose of Sheikh Ahmad Al-Sabah obtaining an illicit advantage to restore his reputation in Kuwait. The court of appeal specified that Sheikh Ahmad Al-Sabah was the only one who had an interest in this fake arbitration procedure, which he personally funded.

### Analysis

Since its creation in 1999, the IOC Ethics Commission has constantly reaffirmed that it is neither a court nor a disciplinary body. As provided by Rule 22 of the Olympic Charter, the Commission evaluates the behaviour of the persons concerned and, in the event that it considers such conduct to be a breach of the ethical principles, proposes a measure or sanction to the IOC Executive Board.

In past decisions, the IOC Ethics Commission has already stated that the question of whether or not the conduct of an Olympic party is ethical is independent of the criminal aspect of such conduct. Indeed, the same acts may or may not be criminally punishable, depending on the law in different countries, but remain ethically reprehensible. The acquittal and discharge of a person for acts which may not be qualified as criminal does not necessarily mean that such acts no longer constitute a failure to comply with ethical obligations.

When the conduct is at the same time the basis of a criminal court decision, the IOC Ethics Commission considers the acts as stated by the court of first instance and the court of appeal. The Commission thus decided to evaluate the behaviour of Sheikh Ahmad Al-Sabah.

The IOC Ethics Commission highlights the fact that being an IOC Member is an honour, considering the uniqueness of the international organisation that owns the Olympic Games. It also notes that the role of IOC Members to ensure the credibility and reputation of the IOC and the Olympic Movement is so important that it is the cornerstone of the oath taken by each newly elected IOC Member. The new Members agree to respect the Olympic Charter and the IOC's decisions, and to comply with the IOC Code of Ethics, as part of each IOC Member's obligations.

As a Swiss association, the IOC has the freedom to decide who may or may not be an IOC Member, and how a Member may be sanctioned or excluded based on just grounds.

Pursuant to the Olympic Charter, an IOC Member may be expelled by the IOC Session if he or she betrayed their oath, neglected or knowingly jeopardised the interests of the IOC, or acted in a manner unworthy of the IOC. Additionally, the Olympic Charter provides that a sanction may be imposed on IOC Members who, by their conduct, jeopardise the interests of the IOC, also regardless of any specific violation of the Olympic Charter or any other regulation.



The IOC Code of Ethics states that IOC Members must not act in a manner likely to tarnish the reputation of the Olympic Movement.

The IOC Ethics Commission notes that cheating in private life for personal interests is a very serious breach of the ethical principles and utterly tarnishes the reputation of the person who does so; this in turn immediately affects the reputation of the IOC and the whole Olympic Movement.

The IOC Ethics Commission acknowledges that when athletes are caught cheating, they are excluded from the competition and that IOC Members must be role models for the athletes. For this reason, an IOC Member who does not behave ethically must be sanctioned accordingly.

As a consequence, the IOC Ethics Commission considers that the specific behaviour of Sheikh Ahmad Al-Sabah in orchestrating a fake arbitration procedure exclusively for his own benefit constitutes extremely unethical behaviour by an IOC Member, and that such behaviour seriously tarnished the reputation of the Olympic Movement and the IOC in the eyes of the general public.

The IOC Ethics Commission also observes that, when faced with such damage to the reputation of the Olympic Movement, Sheikh Ahmad Al-Sabah could have resigned his IOC membership, as other IOC Members have done previously in similar circumstances.

Finally and additionally, the IOC Ethics Commission notes the specific betrayal of the IOC Members' oath by Sheikh Ahmad Al-Sabah when he contested the IOC Executive Board decision taken on 27 July 2023. The Commission notes that since 1999 (when the first IOC Members were sanctioned following the Salt Lake City scandal), Sheikh Ahmad Al-Sabah is the first IOC Member to have contested an IOC Executive Board decision, in contravention of his oath.

The IOC Ethics Commission notes that, regarding the serious breaches of ethical principles, including a betrayal of the IOC Members' oath, which obviously jeopardises the IOC's interests, the most serious sanction of exclusion could be considered.

However, since Sheikh Ahmad Al-Sabah agreed to suspend himself from the beginning of the criminal procedure in 2018 until 2023, the IOC Ethics Commission proposes to continue the sanction of full suspension for a further second suspension period.

The Commission considers that, respecting the principle of proportionality, full suspension of all the rights, prerogatives and functions of Sheikh Ahmad Al-Sabah for fifteen (15) years is proportionate and appropriate to protect the IOC's reputation and credibility. As this is the continuation of the previous decision taken by the IOC Executive Board, this sanction period will start from 27 July 2023.

The IOC Ethics Commission notes that during this period of suspension, Sheikh Ahmad Al-Sabah will not fulfil the necessary ethical criteria to be proposed for re-election at the end of his current term.



### DECISION with recommendations

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

- 1) Confirm the seriousness of the breaches of ethical principles by Sheikh Ahmad Al-Sabah, including a betrayal of his IOC Member's oath, as well as the seriousness of the damage to the IOC's reputation, which has jeopardised its interests;
- 2) And consequently, sanction Sheikh Ahmad Al-Sabah by suspending all the rights, prerogatives and functions deriving from his IOC membership for a period of fifteen (15) years, starting from the date of the previous sanction decision by the IOC Executive Board on 27 July 2023.

Lausanne, 12 April 2024