

Tribunal-SafeSport-2021-01 - In the matter of South Korean triathlete Suk-hyeon Choi

DECISION

rendered by the

WORLD TRIATHLON TRIBUNAL

sitting in the following composition:

Chair of the Panel: Barry Lipp (Australia)

Members of the Panel: Monique Houten (Belgium)
Dame Sarah Springman DBE (Great Britain)

in the determination of charges against

Mr Justin Sukwon Park (Korea, South)

for alleged violations of the ITU (World Triathlon) Safeguarding Policy 2019 and the Code of Ethics.

I. PARTIES

1. Mr Justin Sukwon Park ("Mr Park"):
 - a. was, at the relevant time, President of the Korean Triathlon Federation ("KTF");
 - b. was at the relevant time and is President of Asia Triathlon and, by derivation thereof, an Executive Board Member of World Triathlon.

II. BACKGROUND FACTS

2. The elements set out below are a summary of the main relevant facts, as established by the Panel on the basis of the evidence obtained during the course of investigations, the written submissions, the exhibits filed and the witness statements produced by the Parties in the course of the proceedings. While the Panel has considered all the facts, allegations,

legal arguments and pieces of evidence submitted by the Parties in these proceedings, it refers in the present decision only to those it considers necessary to explain its reasoning.

3. On 26 June 2020, Ms Suk-hyeon Choi, a member and athlete of the KTF died by suicide at the age of twenty-two.
4. Ms Choi had won a bronze medal in the junior event at the 2015 Asian triathlon championships and had finished fourth in the elite event at the 2016 Korean national championships.
5. On or about 12 February 2020, KTF Secretary General Mr Jae-keun Lee (“J K Lee”) and KTF Business Operations Manager Mr Woo-Kyong Ki (“W K Ki”) were made aware that Ms Choi’s father had filed a report with both the Gyeongju City Hall and the Gyeongju police against Ms Choi’s former coach, Coach Kyu Bong Kim (“Coach Kim”), alleging that his daughter had been the subject of harassment and abuse when she was a member of the Gyeongju City Hall Triathlon Team.
6. The reports documented years of physical assaults, and verbal and psychological abuse suffered by Ms Choi at the hands of Coach Kim, two senior teammates and the team’s physical therapist.
7. In July 2020, following investigations by the Korean Sports and Olympic Committee (“KSOC”) Clean Sports Center, the KTF banned Coach Kim and team captain Jang Yun-jung for life, and suspended teammate Kim Do-hwan for ten years.
8. In late January 2021:
 - a. Coach Kim was sentenced to seven years in prison for physical abuse of Ms Choi;
 - b. team captain Jang Yun-jung was sentenced to four years in prison and teammate Kim Do-hwan was given a suspended prison sentence of eighteen months for physical and verbal abuse of Ms Choi; and
 - c. team physical therapist Ahn Joo-hyeon was sentenced to eight years in prison and fined 10 million won for sexually and physically assaulting Ms Choi.
9. On 12 February 2020, KTF Deputy Secretary General Mr Yonghu Jeon (“Y H Jeon”) expressed his opinion to J K Lee and W K Ki that the KTF should undertake an investigation into the matter.
10. In J K Lee’s statement dated 1 October 2021 (filed as a witness statement by Mr Park, in the defence of this Panel’s charges against him) he states that on 12 February 2020 he reported the matter to the Sports Human Rights Center of the Korean Sports & Olympic Committee (“KSOC”), and was told by advisor Ho-sung Moon that Gyeongju Sports Council, the organization that Ms Choi had been affiliated with, had authority to investigate the matter.
11. Also, on 12 February 2020, W K Ki called Coach Kim who denied the allegations against him. No attempt was made to contact Ms Choi at this time to confirm the allegations, inquire as to her wellbeing or provide support.
12. In the circumstances that Ms Choi’s allegations had been reported to Gyeongju Police and a criminal investigation of Coach Kim’s conduct would ensue, by informing Coach Kim of Ms Choi’s allegations, W K Ki may have violated Korea’s Protective Law of the Informer.

13. On 14 February 2020, J K Lee told KTF President Mr Park of the reports of harassment and abuse of Ms Choi by Coach Kim which were filed with Gyeongju police and the Gyeongju City Hall.
14. Mr Park submits that because he was informed that KSOC Advisor Mr Moon had advised that the matter was subject to the jurisdiction of the Gyeongju Sports Council and because police investigations were underway, he determined that no further action should be taken by the KTF other than to provide any cooperation requested by those investigations¹.
15. Mr Park also submits that he told the responsible KTF officials that all regulations should be complied with, but under the regulations governing KTF, it lacked the jurisdiction to conduct any direct or independent investigation of the matter².
16. On 23 March 2020, J K Lee and W K Ki met with former KTF Vice President Mr Moon Kyu Yoo. In its subsequent investigation findings in this matter³ (“Sports Ministry Findings”), the Korean Ministry of Culture, Sports & Tourism found that at this meeting Mr Yoo told J K Lee and W K Ki that he had learned of the alleged harassment and abuse directly from Ms Choi’s father, and that he recommended that the KTF should immediately commence its own investigations.
17. J K Lee and W K Ki confirmed that the meeting with Mr Yoo had taken place on 23 March 2020 but claimed that they could not recall discussing Ms Choi’s case. Considering the detailed evidence given by Mr Yoo, the Korean Ministry of Culture, Sports & Tourism found his account to be more credible.
18. Mr Park claims that he was not told of the meeting between Mr Yoo, J K Lee and W K Ki until after Ms Choi’s death⁴.
19. On 8 April 2020, Ms Choi filed a complaint containing detailed allegations of harassment and abuse with the KSOC’s Clean Sports Centre (“KSOC CSC”).
20. On 9 April 2020, the KSOC CSC provided a copy of the complaint to the KTF, and on the same day J K Lee, W K Ki and Y H Jeon met with officials of the KSOC CSC to discuss how the complaint should be handled.
21. According to the Sports Ministry Findings, the KSOC CSC and the KTF divided the roles among them in accordance with Article 13 of the KSOC Clean Sports Centre Operational Regulations, with a KSOC CSC investigator to direct the investigation and Y H Jeon of the KTF responsible for obtaining all evidence, including taking statements from Ms Choi and Coach Kim.
22. Mr Park submits that KSOC CSC invoked its jurisdiction to control and direct the investigation pursuant to Article 39(2) of the KTF Sports Fairness Committee Regulations⁵. He submits that because the KSOC is the higher-ranking organization to which the KTF reports, and because the KSOC CSC [allegedly] had more resources than the KTF to undertake the investigation, he considered the arrangement to be appropriate⁶.

¹ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

² Statement of Mr Justin Park, 7 October 2021

³ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

⁴ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

⁵ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

⁶ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

23. According to the Sports Ministry Findings, Y H Jeon did not attempt to contact Ms Choi until 26 April 2020, when he tried to contact her by phone, and sent an email requesting a copy of her statement filed with Gyeongju police.
24. On 26 April 2020, Ms Choi provided to the KSOC CSC evidentiary materials that she had submitted to the Gyeongju police, and the alleged offenders submitted statements via their lawyer.
25. On 18 May 2020, Ms Choi provided to the KSOC CSC a copy of the report she had filed with Gyeongju police.
26. On 19 May 2020, Y H Jeon received a supporting affidavit from Ms Jeong, a teammate of Ms Choi, but failed to pass it to the KSOC CSC until 2 June 2020.
27. On 29 May 2020, other supporting affidavits filed with Gyeongju police by Ms Choi's former teammates were received by the KSOC CSC⁷.
28. Mr Park submits that the KSOC CSC and KTF investigation was hindered by COVID-19 and lack of co-operation by the alleged offenders. However, he also noted that how the KSOC CSC undertook its investigation and how the KTF's Y H Jeon assisted the investigation is a matter that is currently being examined by the Korean courts⁸.
29. On 1 June 2020, Gyeongju police completed its investigation, and the case was sent to its prosecution office. Allegedly police told Ms Choi that the offenders would likely receive a fine only, because she had not provided sufficient evidence⁹.
30. With the lack of progress of the KSOC CSC / KTF investigation, on 22 June 2020, Ms Choi's lawyer filed a disciplinary petition on her behalf with the KTF, containing detailed allegations, and demanding that the KTF take disciplinary action against the alleged offenders pursuant to Article 17 of the KTF Protection of Athletes Committee Regulations.
31. Mr Park submits that after Ms Choi's petition was filed with the KTF on 22 June 2020 he became apprehensive about the Gyeongju police and KSOC CSC investigations' lack of progress and instructed J K Lee to convene a meeting of the KTF Sports Fairness Committee and deliberate whether it was possible for the KTF to undertake its own investigations¹⁰.
32. According to the Sports Ministry Findings, on 23 June 2020, the Chairman of the KTF Sports Fairness Committee, Mr Young Ju Ahn told J K Lee, W K Ki and Y H Jeon that the matter could be dealt with by the KTF under the KTF Sports Fairness Committee Regulations¹¹.
33. However, on 23 June 2020, J K Lee and W K Ki accepted Y H Jeon's recommendation that the KTF should not take independent action but rather refer Ms Choi's petition of 22 June 2020 to the KSOC CSC.

⁷ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

⁸ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

⁹ Korean Triathlon Federation, Report on death of Choi, Sook-hyeon amid allegations of violence and abuse from her former team members, 10 July 2020

¹⁰ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

¹¹ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

34. There is no evidence before this Panel of any intervention by Mr Park for the KTF to now undertake its own investigation, rather than refer Ms Choi's petition back to the KSOC CSC, notwithstanding the KTF Sports Fairness Committee's finding that the KTF was able to carry out its own investigation.
35. As stated above, on 26 June 2020 Ms Choi died by suicide.
36. Following Ms Choi's death, on 7 July 2020 Korean President Moon Jae-in issued a statement, including that "If it is true that the victim never received proper help from the police, the [Korean Triathlon] federation, the Korean Sport & Olympic Committee and the city government of Gyeongju despite having sought their help, this is a problem that must be addressed."
37. On 22 July 2020, Mr Park and others from the KTF were called to attend a hearing before the Korean National Assembly to investigate the death of Ms Choi.
38. On 24 July 2020, Mr Park resigned from his positions as President of the KTF, Ordinary Member of the KTF, and Executive Board Member of the KSOC, but did not resign from his positions as President of Asia Triathlon, Executive Board Member of World Triathlon, Member of the World Triathlon Equity, Diversity and Inclusion Commission, and Member of the World Triathlon Development Commission.
39. Mr Park submits that he felt morally obligated to resign from his KTF and KSOC positions, but did not resign from his World Triathlon and Asia Triathlon positions because he could use the lessons learned from Ms Choi's death in carrying out his international duties¹².
40. In the weeks following the death of Ms Choi, the Ministry of Sports, Culture and Tourism commenced an investigation into the matter, resulting in the Sports Ministry Findings in August 2020 and its request to the KTF to censure J K Lee, W K Ki and Y H Jeon.
41. According to the Sports Ministry Findings:
 - a. when asked to provide details of the progress of their investigations to the KSOC CSC following the death of Ms Choi, J K Lee, W K Ki and Y H Jeon reported that they had contacted Ms Choi and two teammates, who were also victims, by phone during the period between 8 April 2020 and 22 April 2020 to ask for evidence when in fact they had not; and
 - b. Prior to their interviews by the Sports Ministry investigation, on 10 July 2020 W K Ki, on the instruction of J K Lee, distributed notes to all KTF so that all answers given to the investigation by all staff, including on the conduct of the joint KSOC CSC / KTF investigation, would be uniform.
42. Following receipt by the KTF of the Sports Ministry Findings and its request to censure J K Lee, W K Ki and Y H Jeon, on 22 October 2020 the Governing Committee of the KTF decided to dismiss J K Lee and W K Ki from office, giving the following reasons:

J K Lee

In regard to the death of athlete, CHOI, the secretary general should have taken all the measures necessary to protect her from abuse by giving due attention to the complaints made by the victim, following the relevant Rules of Protecting Athletes of The Committee

¹² Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

for Athletes Protection and by taking actions of immediate investigation and supervising the procedures of settlement. In fact, he has neglected his duties in this regard.

W K Kee [also known as W K Ki]

In regard to the death of athlete, CHOI, the manager of Secretariat has made crucial mistakes by informing the assaulter of the news of reporting the police of the harassment by the victim without taking any steps of protecting the victim. With the knowledge of the abuse case, he should have taken due investigation and necessary disciplinary action against the offender according to the relevant regulations for safety of athletes. But he has failed in this regard.

43. On 19 November 2020, the Governing Committee of the KTF decided to suspend Y H Jeon from office for the period of three months, giving the following reasons:

In regard to the death of athlete, CHOI, the deputy secretary general has neglected his duties which he should have carried out in the matter of initiating the timely investigation of the abuse case with the help from Clean Sports Centre and his own positive support. He has failed in this regard.

III. PROCEEDINGS BEFORE THE WORLD TRIATHLON TRIBUNAL

44. Following investigation into the death of Ms Choi by World Triathlon's Lead Welfare Officer, the matter was referred to the World Triathlon Tribunal ("Tribunal") in accordance with Article 8 of the World Triathlon Safeguarding Policy Against Harassment and Abuse In Triathlon ("Safeguarding Policy"), to be dealt with pursuant to the World Triathlon Ethics Panel Rules ("Ethics Panel Rules").
45. On or about 15 September 2020, in accordance with Article 13 of the Ethics Panel Rules, the Chair of the Tribunal convened an Ethics Panel to adjudicate on potential violations of the Safeguarding Policy and the World Triathlon Code of Ethics ("Code of Ethics").
46. On 10 March 2021, the Ethics Panel issued a procedural order to Mr Park seeking responses to particular questions.
47. On 23 March 2021, the Ethics Panel received responses to the questions contained procedural order, filed on behalf of Mr Park¹³.
48. On 8 July 2021, in accordance with Article 13 of the Ethics Panel Rules, the Ethics Panel issued a Notification of Charge to Mr Park alleging that he has committed the following violations ("the Charges"):
- a. Failure to ensure that the Korean Triathlon Federation ("KTF") immediately informed Lead Welfare Officers of World Triathlon of any reported cases of harassment and abuse to happen in its federation: Article 3 World Triathlon Safeguarding Policy 2019;
 - b. Failure to ensure that the personal rights of individuals are protected, respected, and safeguarded: Article C.1.g ITU (World Triathlon) Code of Ethics; and
 - c. Failure to act in accordance with the fiduciary duties of an office bearer, complying with the spirit and letter of the law, and recognizing both the legal and moral duties of the role: Article C.1.e ITU (World Triathlon) Code of Ethics.

¹³ Procedural Order – Answer, filed by Seungjun Lim on behalf of Mr Park, 23 March 2021

49. The Notification of Charge informed Mr Park that any written submissions he wished to make in response to the Charges must be received by the Ethics Panel within fourteen days of receipt of the Notification.
50. By an email to the Ethics Panel dated 19 July 2021, Mr Park confirmed receipt of the Notification of Charge and requested an extension of time to file submissions until 22 August 2021.
51. By an email to Mr Park dated 20 July 2021, the Ethics Panel agreed to Mr Park's request for an extension of time until 22 August 2021 to receive his submissions.
52. On 22 August 2021, the Ethics Panel received Mr Park's submissions, filed on his behalf by Kim & Chang Solicitors¹⁴.
53. By a letter to Mr Park's solicitors, Kim & Chang, dated 17 September 2021, the Ethics Panel informed Mr Park:
 - a. (in accordance with Article 17 of the Ethics Panel Rules) it proposes to commence deliberating on the charges on 1 October 2021 and reach a decision without a hearing, unless Mr Park requests it; and
 - b. Mr Park may file any final submissions or witness statements before 1 October 2021.
54. By an email dated 29 September 2021, Kim & Chang informed the Ethics Panel that Mr Park does not request a hearing and intends to file witness statements before 1 October 2021.
55. By an email dated 1 October 2021, Kim & Chang Solicitors requested an extension of time until 8 October 2021 to file witness statements on behalf of Mr Park, which the Ethics Panel agreed to by email dated 4 October 2021.
56. On 8 October 2021, Kim & Chang, on behalf of Mr Park, filed a statement of Mr Park¹⁵ and the following witness statements:
 - a. Statement of Mr Youngyoul Lee, former Director of Sports of the Ministry of Culture, Sports and Tourism, 1 October 2021;
 - b. Statement of Mr Chul-geun Park, Deputy Secretary General of the KSOC; and
 - c. Statement of Mr Jae-keun Lee, former Secretary General of the KTF.

IV. LEGAL ANALYSIS

A. JURISDICTION

57. The World Triathlon Tribunal has jurisdiction over this matter under:
 - Article 50.7 of the World Triathlon Constitution ("*Constitution*"), which provides that: "*A panel or a Single Judge is responsible to handle and decide on all cases brought before the Tribunal in accordance with the Constitution, Rules, Regulations and Codes. Ethical issues shall be handled and decided exclusively by an Ethical Panel, not by a Single Judge.*"

¹⁴ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

¹⁵ Statement of Mr Justin Park, 7 October 2021

- Article 8 of the Safeguarding Policy, which provides that *“In the event of Harassment and Abuse, as defined in section 2 of this Policy, the Ethical Panel of the World Triathlon Tribunal will be the only relevant body in order to take sanctions to punish any kind of infraction of the World Triathlon Safeguarding Policy”*;
- Article I of the Code of Ethics, which provides that *“Any interested party shall bring any breach of this Code and its directions to the attention of the ITU Arbitration Tribunal, which will undertake an inquiry and may impose a sanction foreseen under the Procedures and rules of the Arbitration Tribunal”*;
- The World Triathlon Ethics Panel Rules (“Ethics Panel Rules”), which state that *“The Ethics panel as a part of the Tribunal is an independent judicial body formed to adjudicate upon violations of the Code of Ethics, to impose sanctions for violations of the Code of Ethics”*.

58. Based on these provisions, the Ethics Panel has jurisdiction to adjudicate upon the Charges and determine any sanctions.

B. APPLICABLE LAW

59. Pursuant to Article 63 of the Constitution, “The governing law of World Triathlon shall be Swiss law”. Article 1 of the DR states that “These rules set out the applicable procedure before the ITU, within the limitations of Swiss law”.

60. As set out in paragraph 57 above, the World Triathlon Ethics Panel has power to adjudicate upon and impose sanctions for violations of the Safeguarding Policy and the Code of Ethics.

C. SCOPE OF PANEL’S REVIEW

61. Pursuant to Paragraph B of the Ethics Panel Rules, *The Chair of the Tribunal* [and therefore the appointed Panel] *shall have the following powers under the Code:*

- ii. to adjudicate whether violations of the Code have been committed, (other than violations of the Anti-Doping Rules);*
- iii. to determine for each proceeding:*
 - a) its procedure is in accordance with the Procedural Rules; and*
 - b) any other procedural matters that are not set out in the Procedural Rules, in accordance with the rules of natural justice;*
- vii. to impose sanctions for violation of the Code.*

62. Article 11 of the Ethics Panel Rules provides as follows:

Types of evidence

- 1. The Ethics Panel shall not be bound by rules governing the admissibility of evidence. Facts relating to a violation of the Code may be established by any means deemed by the “Panel” hearing the case to be reliable.*
- 2. Types of proof evidence shall include: the investigator’s report and other form of evidence such as admissions, documents, oral evidence, video or audio evidence,*

evidence based on electronic media in any form and any such other form of proof as the Panel may deem to be reliable.

Inadmissible evidence

3. *Evidence that obviously does not serve to establish relevant facts shall be rejected.*

Evaluation evidence

4. *The Panel shall have the sole discretion regarding evaluation of the evidence.*

5. *The Panel shall have the sole discretion to accept any facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction, which is not subject of a pending appeal, as irrefutable evidence against the parties to whom the decision pertained of those facts.*

6. *The Panel may draw an inference adverse to a party if the party, after a reasonable request to attend a hearing, answer specific questions or otherwise provide evidence, refuses to do so.*

Standard of Proof

7. *The standard of proof in all cases shall be determined on a sliding scale from, at minimum, a mere balance of probability (for the least serious violation) up to proof beyond a reasonable doubt (for the most serious violation). The Panel shall determine the applicable standard of proof in each case.*

63. Having regard to Article 11 of the Ethics Panel Rules, the Ethics Panel has full power to determine its procedure, determine the admissibility of evidence and evaluate the evidence.

64. Having regard to the seriousness of the alleged violations, in accordance with Article 11.7 of the Ethics Panel Rules, the Ethics Panel determines that the applicable standard of proof shall be 'a comfortable satisfaction', being greater than a mere balance of probability but less than proof beyond reasonable doubt.

D. ALLEGED ACTS AND OMISSIONS RELIED UPON IN SUPPORT OF THE CHARGES

65. The Notification of Charge gave details of the alleged acts and omissions relied upon in support of the Charges as follows:

a. In February 2020 you were informed by KTF Secretary General Jaekeun Lee that triathlete Suk-Hyeon Choi had filed a complaint (on 10 February 2020) with the Gyeongju Police against Dohwan Kim, her Gyeongju City Team coach and other team members alleging harassment, abuse and violence.

b. In violation of Article 3 of the World Triathlon Safeguarding Policy 2019, the Korean Triathlon Federation failed to immediately inform World Triathlon Lead Welfare Officers of the harassment and abuse of triathlete Suk-Hyeon Choi, and in fact, never did so prior to her death, on or about 26 June 2020.

c. On about 10 February 2020, KTF manager of business operations, Woo-Kyong Ki, made contact with the alleged abuser, coach Dohwan Kim, who denied the allegations. No attempt was made to contact the alleged victim, and by disclosing the allegations to the alleged abuser, including that the alleged victim had filed a complaint against Kim

with the Gyeongju Police, the alleged victim was placed at further risk of harm.

d. Notwithstanding the gravity of the allegations of harassment and abuse and the ongoing risk to the alleged victim, you and the KTF failed in February 2020 to comply with Article 39 of the regulations of the KTF Sports Fairness Committee, to undertake an immediate investigation, and to ‘quarantine’ or protect the alleged victim in the interim.

e. On 23 March 2020, Mr Yoo, former KTF vice president, met KTF Secretary General Jaegun Lee and KTF manager of business operations, Mr Woo-Kyong Ki, and confirmed the allegations of harassment and abuse that he had heard directly from the alleged victim’s father, and recommended that the KTF should undertake an immediate investigation.

f. In April 2020, you were informed by KTF Secretary General Jaegun Lee that triathlete Suk-Hyeon Choi had filed a formal complaint (on 8 April 2020) with the Clean Sports Centre, a body of the Korea Sports and Olympic Committee, detailing the harassment and abuse she suffered.

g. When asked by this Ethics Panel in March 2021 what steps were then taken by you and/or the KTF executive board to investigate the matter, you stated merely that the Clean Sports Center, an external body, was conducting an investigation.

h. When asked by this Ethics Panel in March 2021 what oversight and control you and/or the KTF executive board exerted over the Clean Sport Centre’s investigations, you stated merely that the KTF was in a position to cooperate.

i. On 22 June 2020, when Suk-hyeon Choi through her lawyer filed a petition directly with the KTF in accordance with Article 17 of the Regulations of the KTF Protection of Athletes Committee, you and the KTF again failed to investigate, as required by those regulations, and merely passed the petition to the Clean Sports Center (see paragraph d of the findings of the Korean Ministry of Culture, Sports & Tourism in its ‘Notification of Request to Censure’). j. On or about 26 June 2020, Suk-Hyeon Choi took her own life.

k. On 16 July 2020, you told the World Triathlon Executive Board that you (the KTF) had “failed to protect the victim” and that the events leading to death of Suk-hyeon Choi had resulted from “a total system failure”, a system over which you presided as president of the KTF.

l. On 22 July 2020, you and four others were called to attend a hearing into the matter at the National Assembly of Korea.

m. On 24 July 2020, you resigned your positions as president of the KTF and as an executive board member of the Korea Sports and Olympic Committee, thereby avoiding the possibility of dismissal, following subsequent investigations.

n. However, you have not resigned from your positions as president of Asia Triathlon, as an executive board member of World Triathlon and as a member of the World Triathlon Equity, Diversity and Inclusion Commission and the World Triathlon Development Commission.

o. The Korean Triathlon Federation did not, at the relevant time, and still does not have its own safeguarding policy.

p. Having regard to the above, your conduct in this matter constitutes:

i. an abject failure to ensure that the personal rights of KTF member Suk-Hyeon Choi

were protected, respected, and safeguarded; and

ii. failure to act in accordance with the fiduciary duties of your office as president of the KTF, failure to comply with the KTF's own regulations, and failure to act in accordance with both the legal and moral duties you owe to all members of the KTF.

E. CHARGE 1

Failure to ensure that the Korean Triathlon Federation (“KTF”) immediately informed Lead Welfare Officers of World Triathlon of any reported cases of harassment and abuse to happen in its federation: *Article 3 World Triathlon Safeguarding Policy 2019*

66. As stated above, the KTF failed to immediately inform World Triathlon Lead Welfare Officers of the harassment and abuse of triathlete Suk-Hyeon Choi, and in fact, never did so prior to her death, on or about 26 June 2020.
67. Mr Park was personally informed of the alleged harassment and abuse by J K Lee on 14 February 2020.
68. The submissions filed on behalf of Mr Park claim that this was the first time that the KTF had encountered a situation implicating the World Triathlon Safeguarding Policy 2019 and they were not certain at what stage and under what circumstances WT had to be informed.
69. However, the obligation to immediately inform World Triathlon Lead Welfare Officers is expressed in clear and unequivocal terms in Article 3 of the Safeguarding Policy, as follows:

Each National Federation must immediately inform Lead Welfare Officers of any reported cases of Harassment and Abuse to happen in their federation. If needed or requested, Lead Welfare Officers could assist the National Federation in the different phases of the procedure.

70. It was also submitted that as the KTF presidency is not a full-time position he must realistically rely on the KTF Secretary General to manage day-to-day operations and executions as well as must respect the boundaries of duty delegations, and that in the circumstances Mr Park did all that could be reasonably expected for a person in his position to ensure that all applicable procedures, protocols and regulations were complied with.
71. In the Ethics Panel's opinion, the allegations of harassment and abuse of Ms Choi were of significantly greater importance than day-to-day operations, and a matter in which the KTF president was bound to have direct involvement.
72. Further, having regard to Mr Park's positions as a member of the executive board of World Triathlon, President of Asia Triathlon and a member of two World Triathlon committees, it is likely that Mr Park had a better understanding of the KTF's obligations under World Triathlon rules, regulations and codes than anyone else within the KTF.
73. Also, having regard to Mr Park's close and frequent contacts with World Triathlon as an executive board member and committee member, the Ethics Panel considers that he would likely have had ample opportunity to report the matter since it first came to his attention on 14 February 2020.
74. In the circumstances, the Ethics Panel considers that Mr Park's failure to ensure that the

KTF immediately informed Lead Welfare Officers of World Triathlon of the allegations of harassment and abuse of Ms Choi when they were brought to his attention on 14 February 2020, or at any time prior to Ms Choi's death over four months later, cannot be considered as being "immediately informed" and thus the Panel is comfortably satisfied that this constitutes a violation of Article 3 of the Safeguarding Policy.

F. CHARGE 2

Failure to ensure that the personal rights of individuals are protected, respected, and safeguarded: *Article C.1.g World Triathlon Code of Ethics*

75. As stated above, Mr Park is charged with failing to ensure that the KTF complied with Article 39 of the regulations of the KTF Sports Fairness Committee, to undertake an immediate investigation, and to 'quarantine' or protect the alleged victim in the interim, after he was informed on 14 February 2020 of the allegations of harassment and abuse of Ms Choi.
76. The submissions filed on behalf of Mr Park claim that it was not reasonably necessary for the KTF to quarantine or protect Ms Choi in the circumstances that the matter had already been reported to Gyeongju Police, and Ms Choi had by then joined a different triathlon team and relocated to another city.
77. The Ethics Panel considers that the obligation to protect a member of the KTF goes beyond being satisfied that the member is no longer within physical reach of the persons who are alleged to have harassed and abused them.
78. First, physical separation does not prevent continued harassment and abuse in communications, and in social media. When W K Ki contacted Coach Kim on 12 February 2020 and informed him of Ms Choi's allegations, the KTF had in effect put Ms Choi at risk of further harm. Mr Park's submissions acknowledge that W K Ki's conduct was reckless, and that he has subsequently been sanctioned for it.
79. Mr Park cannot be held responsible for W K Ki's contact with Coach Kim as it occurred before he was informed of Ms Choi's allegations. However, on 14 February 2020, when he was informed of Ms Choi's allegations and W K Ki's contact with Coach Kim, the KTF's obligation to contact Ms Choi (and Mr Park's duty to ensure it) to determine whether she was suffering continued harassment and abuse was heightened.
80. The Ethics Panel also considers that the KTF's duty to protect its members obliges it to have regard for their mental wellbeing and provide support in circumstances of alleged harassment and abuse.
81. In the above circumstances, the Ethics Panel considers that the KTF's failure to make contact with Ms Choi at this time (and Mr Park's failure to ensure it) constitutes a violation of the obligation in Article C.1.g World Triathlon Code of Ethics to ensure that the personal rights of individuals are protected, respected, and safeguarded.
82. The submissions filed on behalf of Mr Park claim that it was consistent with the KTF's regulations that the allegations were referred to the KSOC and that the KTF did not undertake its own investigation.
83. On 12 February 2020, J K Lee referred the allegations of harassment and abuse of Ms Choi to the KSOC Sports Human Rights Center, relying upon the advice from KSOC Advisor Mr Moon that Gyeongju Sports Council, the organization that Ms Choi had been affiliated with, had authority to investigate the matter. It is noted that Y H Jeon was of the

opinion that the KTF should undertake an investigation, but ultimately it was agreed to refer the matter to the KSOC Sports Human Rights Center¹⁶.

84. Mr Park submits that under the regulations governing the KTF, it lacked the jurisdiction to conduct any direct or independent investigation of the matter at this time¹⁷. The Ethics Panel does not accept this submission. Article 15 of the KTF Protection of the Athletes Committee Regulations provides as follows:

① In case an athlete suffers violence, including physical assault/abuse and verbal abuse, or sexual violence at the hands of a coach or another athlete, the victim athlete or a person or organization that is aware of the situation may report the matter to the Rights Center established and operated by the KTF under their real name.

② With respect to any reports received pursuant to Paragraph ①, the competent committee shall immediately begin an investigation. However, an investigation may not be carried out if the report was filed anonymously or under a false name or the details of the report are acknowledged to be clearly false or groundless.

③ Even though no report has been filed, the competent committee has the authority to carry out an investigation on ex officio basis and take the necessary measures if it is deemed that there is substantial evidence to believe that the rights and interests of an athlete have been infringed (by violence or sexual violence) and that it is a serious case.

⑦ The Committee shall investigate the facts and take action within two (2) weeks from the date of receiving the report on infringement of rights and interests of an athlete through written investigation, summons for direct investigation, or local field investigation by the Committee.

85. In the circumstances that Ms Choi was a member of the KTF, the Ethics Panel considers that article 15 of the KTF Protection of the Athletes Committee Regulations provides power for the KTF to undertake an investigation. Having regard to the seriousness of the allegations, in the Ethics Panel's view, article 15 constitutes an obligation for the KTF to immediately undertake its own investigation instead of referring the matter to another body. The Ethics Panel considers that the KTF's failure to immediately undertake an investigation in accordance with its own regulations, and Mr Park's failure to ensure compliance with those regulations, constitutes a violation of Article C.1.g World Triathlon Code of Ethics.

86. The Ethics Panel considers that the KTF's power and obligation to immediately undertake an investigation is supported by Article 39(2) of the KTF Sports Fairness Committee Regulations, which provides:

Notwithstanding Paragraph (1) [investigation after referral from the KSOC], where it is determined that the infringement of the rights and interests is serious or urgently needs to be investigated and remedied, the KSOC may directly investigate and take remedial measures.

87. In the circumstances, contrary to the submissions filed on behalf of Mr Park that the KTF complied with its own regulations to refer the matter to the KSOC, the Ethics Panel finds that the KTF failed to comply with its own regulations to immediately undertake an investigation.

¹⁶ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

¹⁷ Statement of Mr Justin Park, 7 October 2021

88. As noted in paragraph 18 above, on 8 April 2020 Ms Choi filed a complaint with the KSOC CSC. On 9 April 2020 the KSOC CSC provided a copy of the complaint to the KTF, and on the same day J K Lee, W K Ki and Y H Jeon agreed with the KSOC CSC that the complaint should be investigated.
89. Mr Park further submits that after Ms Choi's complaint was filed with the KSOC CSC, it was consistent with Article 39(2) of the KTF Sports Fairness Committee Regulations and Article 17 of the KTF Protection of Athletes Committee Regulations that the KSOC CSC undertake and direct the investigation.
90. First, in the Ethics Panel's view, the question of whether it was proper for the KSOC CSC and not the KTF to now undertake the investigation is otiose, having regard to the Ethics Panel's finding that the KTF should have immediately undertaken an investigation on or about 14 February 2020.
91. However, it appears that on 9 April 2020 the KSOC CSC asserted its authority to direct the investigation (ostensibly in accordance with Article 39(2) of the KSOC Sports Fairness Committee Regulations and consistent with Article 39(2) of the KTF Sports Fairness Committee Regulations).
92. In accordance with Article 13 of the KSOC Clean Sports Center Operational Regulations the roles for the investigation should be (and in fact were) divided between the KSOC CSC and the KTF. This cooperative investigation also appears to be broadly consistent with article 16 of the KTF Protection of Athletes Committee Regulations.
93. As noted in paragraph 21 above, the KSOC CSC investigator was to direct the investigation and Y H Jeon of the KTF was to be responsible for obtaining all evidence, including taking statements from Ms Choi and Coach Kim. However, Y H Jeon failed to make any attempt to contact Ms Choi until 26 April 2020, which may have constituted a violation of article 13 of the KSOC Clean Sports Center Operational Regulations¹⁸.
94. Considering that the KTF had become aware of the serious allegations of harassment and abuse of Ms Choi on 12 February 2020, now that the KTF was finally investigating the matter in cooperation with the KSOC CSC, Y H Jeon's failure to attempt to contact Ms Choi until 26 April 2020 constituted an unacceptable delay.
95. The submissions filed on behalf of Mr Park claim that by giving instructions that the KTF should comply with all regulations and cooperate with the KSOC CSC he has done all that could reasonably be expected for a person in his position.
96. Swiss law recognizes that a board of directors has an inalienable duty to do more than merely give instructions to executives. The board has a duty to provide overall supervision of the persons entrusted with managing the entity, in particular with regard to compliance with the law, articles of association, operational regulations and directives¹⁹.
97. The Ethics Panel considers that having regard to the seriousness of the allegations and the delays to this point in investigating them, the President of the KTF had a duty to ensure (and not merely to instruct) that all applicable procedures, protocols and regulations were complied with.
98. As noted in paragraphs 24 to 27 above, between 26 April 2020 and 29 May 2020, the KTF

¹⁸ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

¹⁹ Swiss Civil Code, Part 5: Code of Obligations, art. 716 § 5.

received a copy of the Ms Choi's report filed with Gyeongju police and all supporting evidentiary materials and affidavits. In the circumstances, by 29 May 2020 the KSOC CSC and the KTF had the materials they needed to promptly advance the investigation.

99. As noted in paragraph 30 above, with the KSOC CSC / KTF investigation's failure to reach a conclusion, on 22 June 2020, Ms Choi's lawyer filed a disciplinary petition on her behalf directly with the KTF, demanding that the KTF take disciplinary action against the alleged offenders pursuant to Article 17 of the KTF Protection of Athletes Committee Regulations.
100. On 23 June 2020, notwithstanding the advice of the Chairman of the KTF Sports Fairness Committee that the KTF could now directly investigate pursuant to the KTF Sports Fairness Committee Regulations, (and in the Ethics Panel's view, also pursuant to articles 15 and 16 of the KTF Protection of Athletes Committee Regulations), the KTF did not initiate independent investigation by the KTF but instead referred Ms Choi's petition of 22 June 2020 back to the KSOC CSC²⁰.
101. The submissions filed on behalf of Mr Park claim that at this time the KSOC CSC once again asserted its jurisdiction to lead the investigation. As noted above, the Sports Ministry Findings contradict this, in that it was the KTF's decision to refer the matter back to the KSOC CSC instead of undertaking its own investigation, notwithstanding the Chairman of the KTF Sports Fairness Committee's advice that it was empowered to do so.
102. The submissions for Mr Park further claim that even after Ms Choi's petition had been filed directly with the KTF, the KSOC could override the KTF's jurisdiction pursuant to Article 16 of the KTF Protection of Athletes Committee Regulations. The Ethics Panel does not accept this submission. In the Ethics Panel's view:
 - a. Article 16(1) of the KTF Protection of Athletes Committee Regulations states explicitly that for infringement of the rights and interests of athletes, the KTF shall be the first instance investigation body and the KSOC shall be the second instance investigation body; and
 - b. Article 16(3) of the KTF Protection of Athletes Committee Regulations provides that Committee with power to directly investigate, notwithstanding prior referral of the matter to the KSOC.
103. Whilst Ms Choi's death came only four days later, the Ethics Panel does not accept Mr Park's submission that it occurred before the KTF could take any meaningful action²¹, in the circumstances that it failed to immediately undertake its own investigation when the chairman of its own KTF Sports Fairness Committee advised (and its own rules provided) that it could do so.
104. In the circumstances that Ms Choi's petition had been filed directly with the KTF in frustration at the failure of the KSOC / KTF investigation to reach any conclusions, the Ethics Panel considers that by failing to make contact with her at this time, the KTF and Mr Park have demonstrated substantial disregard for the wellbeing of its member.
105. In contradiction to Kim & Chang's submissions that Mr Park and the KTF had not failed to protect Ms Choi, the Ethics Panel notes Mr Park's statement to the World Triathlon executive board referred to in paragraph 65 above made more contemporaneously with the events on 16 July 2020, that the KTF had "failed to protect the victim" and that the

²⁰ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

²¹ Statement of Mr Justin Park, 7 October 2021

events leading to death of Suk-hyeon Choi had resulted from “a total system failure”, a system over which Mr Park presided as president of the KTF²².

106. Having regard to:

- a. the substantial evidence of Ms Choi’s harassment and abuse now in the possession of Mr Park and the KTF;
- b. the unwarranted delays of the KSOC CSC / KTF investigation;
- c. Mr Park’s failure to ensure that the KTF undertook its own independent investigation when its powers under the KTF Sports Fairness Committee Regulations and Protection of Athletes Committee Regulations enabled it to do so;
- d. Mr Park’s failure to have regard for Ms Choi’s wellbeing and ensure that the KTF made contact with her; and
- e. Mr Park’s admission to the World Triathlon executive board that the KTF had failed to protect Ms Choi,

the Ethics Panel is comfortably satisfied that such conduct constitutes a violation of Article C.1.g World Triathlon Code of Ethics by failing to ensure that the personal rights of individuals are protected, respected, and safeguarded.

G. CHARGE 3

Failure to act in accordance with the fiduciary duties of an office bearer, complying with the spirit and letter of the law, and recognizing both the legal and moral duties of the role: Article C.1.e ITU (World Triathlon) Code of Ethics.

107. In considering whether Mr Park has violated this Article, the Ethics Panel has considered the scope and nature of the fiduciary duty of the President of the KTF in the circumstances of this matter.

108. The starting point is to identify the nature of a fiduciary duty generally. A fiduciary duty is a duty to act in good faith for the benefit of another. A fiduciary duty arises in the context of a fiduciary relationship, where the fiduciary has undertaken to act for or on behalf of, or in the best interests of another in the exercise of powers or discretions that will affect the other person.

109. It is well established under Swiss law that the members of a board of directors have a duty of care and loyalty, must perform their duties with all due diligence and safeguard the interests of the company in good faith for the benefit of its members²³.

110. The primary responsibility of a sporting organization’s board is one of trusteeship on behalf of its stakeholders (members). The board has a fiduciary duty to act in the interests of the members as a whole, including its legal duties to act in good faith and for a proper purpose, and to exercise due care and diligence²⁴.

111. According to the International Olympic Committee, those duties include to establish appropriate mechanisms to provide support and information to persons involved in an

²² Official Minutes of ITU Executive Board Meeting, 16 July, 2020, 14.00pm

²³ Swiss Civil Code, Part 5: Code of Obligations, art. 717 § 1.

²⁴ See for instance Australian Sports Commission, *Sports Governance Principles*, March 2012, 6, 9.

alleged incident of harassment and abuse (“concerned persons”) including the appointment of someone who is responsible for following up on all alleged incidents of harassment and abuse (e.g. a “Welfare/Support Officer”)²⁵.

112. These duties to members appear to be adopted by the KTF in its Protection of Athletes Committee Regulations. Article 2 (Purpose) provides that its purpose is to:

contribute to the propagation of the Olympic spirit by creating a healthy sporting environment based on protection and promotion of the rights and interests of athletes and establishing an image of respected athletes through the cultivation of sportsmanship.

113. In the submissions filed by Kim & Chang Solicitors on behalf of Mr Park, they submit that Mr Park, at all times, acted in accordance with the fiduciary duties of an office bearer, complying with the spirit and letter of the law, as well as recognized both the legal and moral duties of his role as President of the KTF²⁶.

114. The Ethics Panel understands this claim to be based on Kim & Chang’s submission that Mr Park did all that could be reasonably expected for a person in his position to ensure that all applicable procedures, protocols and regulations were complied with.

115. As noted above, the Ethics Panel does not accept this submission, finding that Mr Park failed in his duty to have a direct involvement in investigation of the serious allegations of Ms Choi’s harassment and abuse in April 2020 after the investigations had already been delayed, and in June 2020 when the KTF failed to undertake its own investigations when by its own regulations empowered the KTF to do so.

116. The Ethics Panel considers that these failures are also reflected in Mr Park’s response to the Ethics Panel’s Procedural Order of 10 March 2021, which is annexed to this Decision as Annexure A. In Mr Park’s response he fails to acknowledge any duty for personal involvement in the matter and limits the KTF’s responsibility to merely cooperating with the KSOC CSC.

117. In his submissions, Mr Park explains that his responses:

reflected my emotional state at the time, when I was feeling extremely sad and remorseful about the turn of events that ended up with a young athlete taking her own life. To be clear, these statements however were not, and should not be interpreted as, an admission of any legal culpability or liability.

118. The Ethics Panel notes that Mr Park’s responses were made more than twelve months after the events in question in response to the Ethics Panel’s procedural order, after he had been informed that the matter had been referred to this Ethics Panel to determine whether there had been any violations of World Triathlon’s Codes and Rules by any Member of World Triathlon.

119. Further, while Mr Park submits that these responses should not be taken as an admission of liability, he has not sought to vary or amend those responses.

120. Having regard to the above, the Ethics Panel finds that Mr Park’s failure to have involvement with and take responsibility for the KTF’s role in investigations of the alleged harassment and abuse of Ms Choi, and to ensure that the KTF undertook its own

²⁵ IOC Guidelines for International Federations (IFs) And National Olympic Committees (NOCs) Related To Creating And Implementing A Policy To Safeguard Athletes From Harassment And Abuse In Sport, 2016.

²⁶ Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2021

investigations when permitted by its own regulations, constitutes a violation of his fiduciary duties pursuant to Article C.1.e ITU (World Triathlon) Code of Ethics.

121. The Ethics Panel also finds that over the full course of these events, the KTF's concern was (almost exclusively) for the investigation of the alleged harassment and abuse of Ms Choi and disciplinary action against those responsible. Mr Park, and the KTF generally demonstrated a complete disregard for the wellbeing of its member, Ms Choi. At every stage, the KTF failed to provide any support for Ms Choi, even after she was put at further risk by the KTF when on 12 February 2020 W K Ki improperly informed Coach Kim of Ms Choi's allegations against him.

122. The Ethics Panel is comfortably satisfied that, having regard to the seriousness of the allegations of harassment and abuse of Ms Choi, the failure of Mr Park to have regard for Ms Choi's wellbeing and to ensure that support was provided to Ms Choi, constitutes a violation of his fiduciary duty for the purposes of Article C.1.e ITU (World Triathlon) Code of Ethics.

V. SANCTIONS

Charge 1 – Violation of Article 3 World Triathlon Safeguarding Policy 2019

123. Under chapter 8 of the World Triathlon Safeguarding Policy, the Panel may impose the following sanctions and measures for a violation of the policy:

- a. Financial sanction;
- b. Loss of the license;
- c. Competition ban;
- d. Banishment of any National Federation;
- e. Prohibition of training.

124. Chapter 8 also provides that sanctions and measures must be proportional to the infringement, and the following factors shall be taken into consideration:

- a. The nature of the violation;
- b. The severity of the violation;
- c. The number of the violations (it is one time or several repetitions);
- d. The abused or harassed person (Young or Adult Athlete);
- e. The relationship between the abused or harassed person and the abuser or harasser;
- f. Any other relevant circumstances.

125. Having regard to:

- a. The seriousness of the alleged harassment and abuse of Ms Choi;
- b. The KTF's failure to inform World Triathlon of the matter until after Ms Choi's death, and its failure to inform Lead Welfare Officers of World Triathlon of the allegations at all, and;

- c. Mr Park's close relationship and contacts with World Triathlon, and his failure to ensure that the KTF complied with its reporting obligation, either through its officers or personally,

the Ethics Panel is comfortably satisfied that Mr Park has violated Charge 1 and considers that a financial sanction in the amount of USD1,000.00 is appropriate and warranted.

126. Chapter 8 of the World Triathlon Safeguarding Policy also provides that violations of the policy are to be dealt with pursuant to the World Triathlon Ethics Panel Rules.

Charges 2 and 3 – Violations of Articles C.1.g and C.1.e of the World Triathlon Code of Ethics

127. As noted in paragraph 57 above, pursuant to Article 1 of the World Triathlon Code of Ethics, and the World Triathlon Ethics Panel Rules, the Panel is empowered to impose sanctions for violations of the World Triathlon Code of Ethics.

128. Under paragraph C of the World Triathlon Ethics Panel Rules, the Panel has power to impose sanctions as follows:

(i) to caution or censure;

(ii) to issue fines;

(iii) to suspend a person (with or without conditions) or expel the person from office;

(iv) to suspend or ban the person from taking part in any Triathlon-related activity, including Events and Competitions;

(v) to remove any award or other honour bestowed on the person by the World Triathlon;

(vi) to impose any sanctions as may be set out in specific Rules; and

(vii) to impose any other sanction that it may deem to be appropriate, including community service within Triathlon and/or restitution;

(viii) for any appeals under C16(v) above, to uphold, dismiss or refer back to the Member Federation or Continental Confederation for further consideration and to do so without procedural costs.

129. The Ethics Panel is comfortably satisfied that Mr Park has violated both of these Charges. Having regard to:

- a. the seriousness of the allegations of harassment and abuse of Ms Choi;
- b. the KTF's failure to report the allegations to World Triathlon at all, and Mr Park's failure to ensure that it did;
- c. Mr Park's failure to ensure that the KTF diligently and promptly investigated the allegations, in cooperation with the KSOC CSC's joint investigation and, when possible, under its own regulations;
- d. Mr Park's failure of his fiduciary duty throughout the events to have regard for Ms Choi's wellbeing and provide support; and
- e. Mr Park's role as President of the KTF,

the Ethics Panel finds that Mr Park has committed multiple serious violations, which warrant

the imposition of a severe sanction.

130. The Panel considers that the appropriate sanction for Mr Park's violations of these two Charges shall be suspension from any office and from taking part in any Triathlon-related activity within World Triathlon and its members (including Asia Triathlon) for the period of two years.

ON THESE GROUNDS

The Panel of the World Triathlon Tribunal decides that:

1. Mr Park has committed violations of Article 3 of the World Triathlon Safeguarding Policy 2019 and Articles C.1.g and C.1.e of the World Triathlon Code of Ethics.
2. Mr Park is ordered to pay a financial sanction in the amount of USD1,000.00 to World Triathlon within ninety days of the date of this decision.
3. Mr Park is suspended from any office and from taking part in any Triathlon-related activity within World Triathlon and its members for the period of two years from the date of this decision.

COSTS

The Panel decides not to impose procedural costs upon the Party.

Lausanne, Switzerland, 7 February 2022

WORLD TRIATHLON TRIBUNAL

Barry Lipp

Barry Lipp (Feb 9, 2022 13:32 GMT+11)

Barry Lipp
Chair of the Panel

Monique Houten

Monique Houten (Feb 7, 2022 18:58 GMT+1)

Monique Houten
Member of the Panel

Sarah Springman

Sarah Springman (Feb 6, 2022 09:00 GMT)

Dame Sarah Springman DBE
Member of the Panel

Appeal to the Court of Arbitration for Sport

According to Article 52 of the Constitution as well as Article 45 of the ITU (World Triathlon) Disciplinary Rules, final decisions made by World Triathlon under the Constitution may be appealed exclusively to the CAS which will resolve the dispute definitively in accordance with the CAS Code of Sports-related Arbitration.

Any appeal must be filed with the CAS within twenty-one (21) days of the party's reception of the written, reasoned decision of World Triathlon in question.

Pending resolution of the appeal by the CAS, the decision being appealed shall remain in full force and effect unless the CAS orders otherwise.

Publication

According to section 8 of the World Triathlon Safeguarding Policy 2019, the sportive sanctions taken by the Ethics Panel of the World Triathlon Tribunal will be published on World Triathlon's website as long as the sanctions are applicable.

ANNEXURE A

A. When and how did you first become aware of the alleged harassment and abuse of triathlete Suk-hyeon Choi?

→ February 2020, I heard from Mr. Lee, secretary general that Ms. Choi lodged a complaint against Mr. Kim, a coach with the police.

B. When were you and/or the executive board of the KTF first made aware of the alleged harassment and abuse of triathlete Suk-hyeon Choi by Mr. Lee, secretary general, Mr. Jeon, deputy secretary general or Mr. Ki, manager of business operation?

→ April 2020, I was briefed by Mr. Lee that Ms. Choi present a petition to the Clean Sport Center of KSOC

C. After you first became aware of the alleged harassment and abuse of triathlete Suk-hyeon Choi, what steps were taken by you and/or the executive board to investigate the matter?

→ Clean Sports Center was conducting investigation.

D. When the KTF received:

- i. the formal complaint of triathlete Suk-hyeon Choi on 8 April 2020; and
- ii. the petition of triathlete Suk-hyeon Choi on 22 June 2020,
what action did you and/or the executive board take on each occasion?

→ 8 April 2020, the petition was sent to Clean Sport Centre of KSOC, not KTF.

→ Fair Sports Committee called a meeting, investigated and took disciplinary action.

E. When Mr. Lee, secretary general, Mr. Jeon, deputy secretary general or Mr. Ki, manager of business operation:

- i. commenced investigations into the alleged harassment and abuse of triathlete Suk-hyeon Choi in February 2020; and
- ii. continued investigations in conjunction with the Clean Sports Centre in April 2020,
what oversight and control did you and/or the executive board have over these investigations?

→ Clean Sports Centre was conducting investigation and KTF was in a position to cooperate.

F. Following the appointment of an administrator to the KTF, the Organization Chart on the KTF website has been removed. We previously requested from the KTF a list of members

of its executive boards, but it was not provided. Please provide a list of members of the KTF executive board during the period 1 February 2020 to 29 July, stating the position that each member held.

President	Justin Sukwon Park
Vice President	Kim Hyun Soo
	Oh Jang Hwan
	Park Jong Tae
	Bae Jae Sung
Executive Board	John Moon
	Sihyun Theresa RYOU
	Yu Seok Hoon
	You Jeong Ae
	Lee Dong Chai
	Kim Jae Pil
	Lee Chun hwan
	Woo Jung Ok
	Won Hyun Sook
	Han Mi Soon
	An Kyoung Hun
	Kim Jong Woon
	Kim Youn Soo
	Kim Sang Taek
	Kim Ji Eun
	Song Byeong Joon
	Lee Jae Joon
Ro Sean Kim	

G. We understand that you resigned as president of the KTF on 24 July 2020.

i. Have you continued to be an ordinary member of the KTF?

→ I am not a member of the KTF

ii. Have you resigned as president of Asia Triathlon?

→ I am the President of Asia Triathlon (elected until 2023)











Tribunal-SafeSport-2021-01 Justin Sukwon Park final decision

Final Audit Report

2022-02-09

Created:	2022-02-07
By:	Paola Turconi (paola.turconi@triathlon.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZF9IPzLIQYjWOydSsDyyDDyAR7NudkJD

"Tribunal-SafeSport-2021-01 Justin Sukwon Park final decision" History

-  Document created by Paola Turconi (paola.turconi@triathlon.org)
2022-02-07 - 3:37:54 PM GMT
-  Document emailed to Monique Houten (monique.houten@tribunal.triathlon.org) for signature
2022-02-07 - 3:39:23 PM GMT
-  Email viewed by Monique Houten (monique.houten@tribunal.triathlon.org)
2022-02-07 - 5:34:56 PM GMT
-  Document e-signed by Monique Houten (monique.houten@tribunal.triathlon.org)
Signature Date: 2022-02-07 - 5:58:23 PM GMT - Time Source: server
-  Document emailed to Sarah Springman (sarah.springman@igt.baug.ethz.ch) for signature
2022-02-07 - 5:58:25 PM GMT
-  Email viewed by Sarah Springman (sarah.springman@igt.baug.ethz.ch)
2022-02-08 - 8:59:49 AM GMT
-  Document e-signed by Sarah Springman (sarah.springman@igt.baug.ethz.ch)
Signature Date: 2022-02-08 - 9:00:36 AM GMT - Time Source: server
-  Document emailed to Barry Lipp (barry.lipp@tribunal.triathlon.org) for signature
2022-02-08 - 9:00:38 AM GMT
-  Email viewed by Barry Lipp (barry.lipp@tribunal.triathlon.org)
2022-02-09 - 2:31:38 AM GMT
-  Document e-signed by Barry Lipp (barry.lipp@tribunal.triathlon.org)
Signature Date: 2022-02-09 - 2:32:05 AM GMT - Time Source: server

✔ Agreement completed.

2022-02-09 - 2:32:05 AM GMT