



World Triathlon Tribunal
Avenue de Rhodanie 54
1007 Lausanne, Switzerland

Tribunal/2021/13

INTERIM DECISION

rendered by the

WORLD TRIATHLON TRIBUNAL

sitting in the following composition:

Chair of the Panel:	Barry Lipp	(AUS)
Members of the Panel:	Judge Thomas E. O'Donnell	(IRL)
	Judge Michael Jones	(USA)

in the determination of the complaint made by Mr. Beni Toralta Laya, president of the Chad Triathlon Federation, against Africa Triathlon

I. PARTIES

1. Mr. Beni Toralta Laya, President of Chad Triathlon Federation (“CTF”)
2. Africa Triathlon (“AT”), the governing body for the Olympic sport of Triathlon and for all related multisport in Africa, recognized by World Triathlon as the Continental Confederation in Africa.

II. BACKGROUND FACTS AND SUMMARY OF CLAIM

3. 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 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.
4. In a letter dated 8 February 2021 addressed to Madam Marisol Casado, World Triathlon (“TRI”) President and IOC Member, the President of the African Triathlon Union President (“AT”), Major General Ahmed Nasser, acknowledged receiving a copy of email correspondence dated 1 February 2021 from Mr. Beni Toralta Laya, President of the Chad Triathlon Federation (“CTF”) to TRI alleging discrimination against CTF. Specifically, Mr. Beni Toralta Laya alleged the following:
 - a. Being marginalized by AT and specifically the President of AT.
 - b. Organization of AT meetings without extending invitations to him.
 - c. Exclusion of funds for the benefit of CTF athletes.
 - d. Request to be directly affiliated to World Triathlon.
 - e. The actions of AT related to the suspension of CTF’s membership in AF and treatment toward him individually as President of CTF constitute bad governance.
5. Major General Ahmed Nasser responded to TRI in that same 8 February 2021 letter that CTF under Mr. Beni Toralta Laya’s leadership was not in good standing as per AT Constitution 19.2 A for failing to fulfill its membership requirements under ART 10 of the AT Constitution; however, it continues to communicate with Mr. Beni Toralta Laya. Specifically, Major General Ahmed Nasser provided the following supporting documentation and statements in response to the allegations:
 - a. AT Technical Director Mr. Rick Fulton on 4 May 2020 communicated with Mr. Beni Toralta Laya to meet with Major General Ahmed Nasser to discuss development activities and potential requirements.
 - b. No evidence by CTF of any formal triathlon or related multi-sport events reported to AT for the period in question, i.e.the past three years (2018-2020).
 - c. Acknowledgment of Mr. Beni Toralta Laya requesting funds on 5 May 2020 for feeding 35 Muslim Athletes, whereas, CTF has not registered even 5 athletes in his national federation.

- d. On 5 May 2020 a meeting was convened with Mr. Beni Toralta Laya to discuss ways of developing and supporting sport in CTF.
 - e. Correspondence dated 8 October 2020 extended an invitation to Mr. Beni Toralta Laya to attend in person all AT national federations meetings regarding Covid support.
 - f. CTF has not paid its affiliation fees since 2016; however, as an act in good faith the AT has paid these fees on CTF's behalf.
 - g. Copy of bank transfer of funds to Mr. Beni Toralta Laya in his capacity as president of CTF dated 24 January 2021.
 - h. Correspondence dated 30 April 2021 extending an invitation to attend the Congress as an observer that took place on 10 June 2021 in Egypt, and he elected not to attend.
 - i. Correspondence on 18 November 2021 by Major General Ahmed Nasser requested a meeting that was never responded to by Mr. Beni Toralta Laya.
 - j. Mr. Beni Toralta Laya is "*not acting in the best interest of the African Triathlon sport, only seeking funds, which is not the aim of the sport, having no activity report or submitting Financial statement*".
 - k. Mr. Beni Toralta Laya's allegations are unfounded and damage the reputation of AT.
6. By letter dated 30 April 2021 Mr. Beni Toralta Laya acknowledged receipt of the initial decision to suspend CTF and its President for lack of compliance with the requirements of the AT Constitution (Article 8.4 of the AT Constitution) and accusatory remarks addressed to the AT President until the next AT Congress; and on 28 May 2021 requested an explanation for the suspensions.
 7. The matter of CTF's status of "*not in good standing*" is not before the Panel insofar as CTF was re-instated by a resolution motion of the AT Congress on 10 June 2021 to "*discontinue the suspension of the CTF.*"
 8. However, on 10 June 2021 that same AT Congress held in Egypt approved the motion by the Executive Board ("EB") of AT to expel (indefinitely) the CTF President, Mr. Beni Toralta Laya. It is the appeal of this expulsion that is the subject of this proceeding.
 9. On 30 December 2021 Mr. Beni Toralta Laya requested to the Chair of the World Triathlon Tribunal (WTT) that the WTT address the alleged violations conducted by the AT.
 10. On 11 January 2022 by a Procedural Order the Chair of the WTT appointed single tribunal member Mr. Jean-Louis Piton to conduct a preliminary investigation on the case of Tribunal 2021/13 Chad Triathlon Federation v. African Triathlon. Mr. Piton's determined that the WTT has jurisdiction over the matter as further discussed in the Legal Analysis section below.
 11. Subsequent to Mr. Piton's findings, the WTT Chair issued a Procedural Order informing the parties that a WTT proceeding had been commenced under Tribunal/2021/13, and that a WTT Ethics panel had been convened to hear the

matter. Mr. Barry Lipp (chair), Judge Thomas E. O'Donnell, and Judge Michael Jones were appointed members of the WTT panel.

12. On 11 July 2023 the Panel issued Procedural Order No. 3 requesting any updates on CFT's complaint from both parties, remedies sought, and appropriate TRI rules, regulations or codes relied upon by CFT, and whether CFT wishes to continue to proceed.
13. In reference to Procedural Order No. 3, On 11 August 2023, Mr. Beni Toralta Laya re-iterated the basis of his complaint against AT and specifically noted that he appealed to the AT Arbitration Panel against the EB's decision (to suspend/expel him) pursuant to Article 38.15 of the AT Bylaws.
14. On 16 August 2023 the Chair of the Panel issued Procedural Order N. 4 granting CFT time to respond to AT's re-iteration of reasons sent on 5 August 2023 for why it expelled Mr. Beni Toralta Laya that included chronological details that were filed in response to Procedural Order N. 3.
15. On 23 August 2023 the Chair of the Panel issued Procedural Order N. 5 granting the AT until 6 Sept. 2023 to file any updated statements, submissions and evidence related to Mr. Beni Toralta Laya's complaint. CTF was then given fourteen (14) days after receipt of said submissions to reply. The Panel reserved the right to decide upon the complaint based upon the statements, submissions and evidence it received, without holding a hearing.
16. On 27 November 2023 the Chair of the Panel issued Procedural Order N. 6 acknowledging CTF's request for a hearing before the Arbitration Panel of AT pursuant to Article 38.15 of the AT Bylaws. The Panel received no evidence from either party that an AT Arbitration Panel was convened, as Mr. Beni Toralta Laya requested. The Panel then issued the following statements in Procedural Order N. 6:
 - "1. The AT Executive Board should consider a motion to provisionally re-admit Mr. Toralta Laya as an affiliated member of AT, and to recommend to the next AT Congress that Mr. Toralta's affiliated membership be restored.*
 - 2. In the event that The AT Executive Board passes such a motion, the CTF should consider the withdrawal of its complaint in Tribunal/2021/13.*
 - 3. If within twenty-one (21) days of the date of this Procedural Order the matters referred to in paragraphs 1 and 2 above have not taken place, the Panel will continue its deliberation in Tribunal/2021/13, subject to any report of the TRI Audit, Risk and Integrity Committee".*
17. On 12 December 2023, the Chair of the Panel issued a further explanation to Procedural Order N. 6 explaining that the parties are not compelled to reach a settlement on the proposed terms. In the event they do not resolve the dispute themselves, then the Panel will decide the substantive issue of whether Mr. Beni Toralta Laya is entitled to membership of AT. The Panel also reserved the right to ask the Audit, Risk and Integrity Committee to address any governance issues raised in CFT's complaints. The parties were given until 2 January 2024 to respond.

18. As of 28 May 2024, the Panel had not received any response to Procedural Order N. 6 and its subsequent further explanatory order; therefore, it has elected to resolve the matter based on the evidence as provided by the parties.

III. LEGAL ANALYSIS

A. JURISDICTION

1. In general, the World Triathlon Tribunal has jurisdiction over this matter under:
 - a. 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.”*
 - b. Article 51 of the Constitution, which provides that: *Disputes or differences between the Bodies which are not otherwise provided for in the Constitution, the Rules, Regulations or Codes, shall be referred to the Tribunal.*
 - c. 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”*;
 - d. 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”*.
2. In particular, in response to CTF’s 30 December 2021 request for the WTT to:
 - a. overrule of the decision of suspension of its President by the AT;
 - b. seek clarification on articles of the AT Constitution and Egyptian Association Law regarding electoral procedure;
 - c. postpone the forthcoming AT elections until then.
3. The Chair of the WTT appointed a single WTT member to conduct an initial investigative report to determine whether TRI (referred to as WT below), and WTT, has jurisdiction over this dispute between AT and CTF. On 17 February 2022 the following findings were issued:
 - a. WT jurisdiction on the case:
 1. *It shall be pointed out that Article 38.15. of the AT Constitution « Disputes between Members », foresees that any dispute between members shall,*

after attempts for conciliation and remedies exhausted, be submitted to the African Triathlon Union Executive Board which will:

- A. *Take reasonable steps to assist in the resolution of such dispute or difference (which may include appointing a mediator), and*
- B. *If such steps do not resolve the dispute or difference, to refer the matter to the African Triathlon Union arbitration panel which shall decide the dispute or difference. The procedure for such decision shall comply with the principles of natural justice, and if the dispute persists, then it shall be referred to ITU Executive Board as Second level of Jurisdiction and to CAS as final jurisdiction body.*

2. According to Article 51.2 of the WT Constitution, WT shall have jurisdiction on cases regarding the following members :

- a. *Members ;*
- b. *Associated members ;*
- c. *Member(s) and Associated members ;*
- d. *World Triathlon and Member(s) ;*
- e. *World Triathlon and Associated member (s) ;*
- f. *World Triathlon and Affiliated member(s).*

Thus,

- *Chad is a WT member. Cf. WT Constitution Annex A page 76 ;*
- *AT is an associated member of the WT. Cf. WT Constitution Annex A pages 79.*

Therefore, it appears that WT shall have jurisdiction to assess this case between AT and Chad NF.

4. *Insofar as the AT has not developed a Code of Conduct for its Constitution, the TRI Code of Conduct and Disciplinary Rules shall apply.*
5. *Based on these provisions and findings, the Panel has jurisdiction to adjudicate in these proceedings, in resolution of disputes and/or in adjudication upon violations of the Code of Ethics.*

B. APPLICABLE LAW

1. *Pursuant to Article 62 of the TRI Constitution, "The governing law of World Triathlon shall be Swiss law".*
2. *Pursuant to Art. 6 of the TRI Constitution, Admission as a Member*

6.1. Be the national governing body for the sport of Triathlon, recognised by the National Olympic Committee (recognized by the IOC) of the relevant sovereign state.

3. Pursuant to Art.14.1 of the AT Constitution, the AT EB has power to provisionally suspend a Member, as follows:

Art 14. Suspension of Membership

14.1. Provisional Suspension by the African Triathlon Union Executive Board:

A. *The African Triathlon Executive Board may provisionally suspend a Member for a period specified in article b if, in the opinion of the African Triathlon Union Executive Board, the Member:*

- (1) Is in breach of any one or more of its obligations under Art 10 (Obligations of Members) including its failure to pay the Membership Fee or any other fees or payments due and owing as provided by Art 11;*
- (2) Is otherwise in breach of any other article in this Constitution or any Rule, Regulation, Code or a decision of Congress;*
- (3) Acts in a manner which is contrary to any of the Purposes of African Triathlon Union, or the government of the territory that the Member represents;*
- (4) Ceases to meet one or more of the admission requirements set out in Art 7;*
- (5) In Case of violating the ATU Constitution or, rule:*
 - ii. The suspension extends to the non-payment of the annual fees (which may be lifted by the Executive Board within maximum two years, when the member National Federation is once again in good financial standing with ATU)*
 - ii. The suspension also entails the non-submission of the annual activity report*

B. *The period of a provisional suspension imposed by the African Triathlon Union Executive Board under article 13 a shall be:*

- (1) a fixed period decided by the African Triathlon Union Executive Board, provided that the period is no longer than the period to the next Congress; or*

(2) *an indefinite period depends on the extent of violation of terms and conditions imposed by the African Triathlon Union, provided that the period is no longer than the period to the next Congress.*

4. Art.25.3 of the AT Constitution sets out the requirements for Notice to Members of the agenda for Congress, which includes notice of any resolutions to be put to Congress by the AT EB, as follows:

25.3. Agenda Annual Congress

- A. *An Agenda containing the business to be discussed at an annual Congress shall be sent by Secretary General or HQ office to the Members no later than thirty (30) days before the date of the annual Congress meeting.*
- B. *The business on the Agenda shall include the following:*
1. *Roll-call of NFs*
 2. *Admission of new member NFs*
 3. *Appointment of three (3) scrutinizers*
 4. *Appointment of three (3) tellers*
 5. *Minutes of the last Congress 2019*
 6. *President's Report*
 7. *Financial Report*
 8. *Auditor appointment*
 9. *Technical Director Report*
 10. *Resolutions from the Executive Board*
 11. *Reports from Committees and Commissions*
 12. *Resolutions from member NFs*
 13. *Old Business*
 14. *New Business*
 15. *Next AGM Host*
 16. *Adjournment*

5. Pursuant to Art.14.2 of the AT Constitution, Congress has power to suspend a Member, as follows:

14.2 Suspension by Congress

Congress may suspend a Member's Membership for a period specified if:

- a. *Executive Board recommends such suspension*
- b. *Congress considers, that any one or more of the grounds set out in Art 13.1.a apply;*
- c. *any terms or conditions imposed by African Triathlon Executive Board under Art 13.1*
- d. *any sanctions imposed under Art 13.1.c are not fulfilled by the Member, to the satisfaction of Congress.*

6. Art.14.3 of the AT Constitution defines the period for which Congress may suspend a Member, as follows:

14.3. The period of a suspension imposed by Congress may be a fixed period, or an indefinite period subject to the satisfaction of any terms and conditions imposed by Congress.

7. Art.16 of the AT Constitution sets out the consequences of suspension of Membership, as follows:

Art 16. Consequences of Withdrawal, Suspension or Expulsion of Membership

16.1 Where any Member has ceased to be a Member (withdrawal or expulsion) or been suspended (provisionally or otherwise), the following shall apply: A. The Member concerned shall:

- (1) Cease to be a member or shall be suspended from its respective Continental Confederation parallel with its position in World Triathlon; ART15.1.(1) of ITU constitution should be applied on the ATU constitution*
- (2) Not in any way hold itself out as a Member of African Triathlon Union.*
- (3) Forfeit all claims on African Triathlon Union;*
- (4) Not use any African Triathlon Union property, including its Intellectual Property; and*
- (5) Not be entitled to any rights, entitlements, or privileges to which it would otherwise have been entitled including representation and/or participation in any competition, activity, event, function or meeting of African Triathlon Union including Congress;*

No athlete, athlete support personnel or other person who is affiliated, or under the jurisdiction, of the Member may represent, enter, compete, participate or otherwise be involved in any capacity on behalf of that Member, in any competition, activity, event, function or meeting of the African Triathlon Union, unless specified otherwise in the Rules.

8. Art.17 of the AT Constitution also notes that Members must be in good standing, as follows:

Art 17. Good Standing

Members shall be in Good Standing with African Triathlon Union.

IV. MERITS

1. In the case of Mr. Beni Toralta Laya, the Panel needs to resolve these legal issues, and does so as follows:

- a. Meeting Invitations: Was AT responsible for any failure to consistently invite Mr. Beni Toralta Laya to meetings, including a notable one with Major General Ahmed Nasser, despite evidence of attempts by AT's Technical Director to engage him during his tenure as President, as claimed by Mr. Laya?**
2. The documentation, as described in Paragraph 8, shows that Mr. Beni Toralta Laya was invited to several AT meetings, including the Congress session on 10 June 2021, where the motion to expel him was presented. The Panel acknowledges that the Covid-19 pandemic may have influenced his inability to attend this and other significant meetings due to travel and safety concerns.
3. Mr. Beni Toralta Laya did not submit evidence of any AT meetings he was not invited to attend.
 - b. Funding Access: Mr. Beni Toralta Laya requested funds for Muslim athletes during Ramadan, but they were denied due to a lack of registered athletes. Meanwhile, funds were allocated for Covid-related purposes. Was the refusal to provide specific requested funds while approving other NF funds justified, and did this support his allegation of marginalization within AT?**
4. AT confirmed that they received a request from CTF to fund 35 Muslim athletes. As detailed in Paragraph 8, AT provided charts indicating that during the requested period, CTF athletes did not participate in any triathlon-related events, and fewer than five triathletes were registered with CTF. This low participation and registration rate was cited by AT as the reason for declining the funding request.
5. Mr. Beni Toralta Laya did not present any additional evidence of funding requests for CTF that were denied, which could have indicated a pattern of marginalization.
 - c. Independent Affiliation with TRI: Given that CTF's membership suspension was lifted during the AT Congress, is it still relevant or permissible under TRI's Constitution, which mandates affiliation through recognized national federation bodies, for CTF to seek direct affiliation with TRI?**
6. The issue of CTF's direct affiliation with TRI has become moot. Following Mr. Beni Toralta Laya's initial complaint about the matter, CTF's suspension was lifted, and it is now recognized as a member in good standing with AT.
7. Moreover, Mr. Beni Toralta Laya does not fulfill the criteria for individual membership in TRI according to Article 6 of the TRI Constitution, concerning Admission as a Member, as detailed in Paragraph 27.
 - d. Expulsion Authority and Due Process: Did the Congress possess the legal authority to expel Mr. Beni Toralta Laya from AT's membership after his provisional suspension by the EB? Furthermore, was Mr. Beni Toralta Laya afforded the fundamental procedural due process required in this case?**
8. The minutes from the AT Executive Board (EB) meeting on April 9, 2021, indicate that the EB provisionally suspended the CTF and its President, Mr. Beni Toralta

Laya, due to CTF's non-compliance with membership obligations. According to the AT Constitution, the EB has the authority to provisionally suspend a "Member" for such non-compliance. However, "Member" is defined in the AT Constitution as referring to national federations (NF), not individuals. Thus, it appears that the EB lacked the authority to provisionally suspend Mr. Toralta Laya on that date.

9. At the AT EB meeting on June 10, 2021, just before the AT Annual Congress, the EB decided to propose a motion to expel Mr. Toralta Laya. The minutes from the AT Congress on that same day indicate that the motion was based on information provided in the AT Congress Package distributed around May 12, 2021. However, this package did not include details of Mr. Beni Toralta Laya's appeal request from May 28, 2021. Moreover, Article 25.3 of the AT Constitution requires that members be given at least thirty days' notice of the agenda for the AT Annual Congress, including any resolutions from the EB. The resolution to expel Mr. Toralta Laya, made on the morning of June 10, 2021, was not included in the May 12 Congress Package. Consequently, neither the members nor Mr. Toralta Laya received proper notice of the expulsion motion.

e. Appeal Request: Following Mr. Beni Toralta Laya's amendment of his complaint to include a request for an Arbitration Panel, and subsequent procedural orders from the Panel failing to establish such a panel, did AT's management of Mr. Toralta Laya's request for a hearing before an Arbitration Panel adhere to the procedural due process mandated by its Constitution?

10. The Panel has not confirmed whether an Arbitration Panel was established as requested by Mr. Beni Toralta Laya under Article 38.15 of the AT Bylaws. Despite several procedural orders, detailed in Paragraphs 17, 18, and 19, aimed at determining AT's compliance with his request, no confirmation has been received. However, it seems that the EB was not required to refer Mr. Toralta Laya's appeal request to an AT Arbitration Panel. Article 38.15 outlines a process for resolving disputes between member bodies, specifically AT's national federations, and does not apply to disputes between an individual, such as Mr. Beni Toralta Laya, and the EB.
11. The Panel concludes that AT's decision not to establish an Arbitration Panel does not represent a denial of procedural due process, as there was no legal requirement for AT to convene one.
12. The Panel notes that although the EB was not obligated to establish an Arbitration Panel, it would have been just to afford Mr. Beni Toralta Laya some form of appeal rights for the decision to suspend him while he was serving as President of his NF. The provisions of the AT Constitution and the 2021 World Triathlon Constitution do not explicitly cover the specific circumstances presented by this case. However, these documents collectively suggest that the AT EB could have referred the dispute to the ITU (now TRI) Executive Board for assistance in resolving the matter, and if unresolved, then escalate it to the WTT.

f. Severity of Violations: Do Mr. Beni Toralta Laya's complaints about poor management and inadequate communication, which the President of AT alleges have damaged AT's reputation, amount to violations severe enough to justify his expulsion?

11. AT failed to provide evidence of reputational damage caused by Mr. Beni Toralta Laya's accusations, with the exception of claims from the AT President who was

personally offended by allegations against his leadership. Consequently, without significant proof of reputational harm or other serious infractions, Mr. Beni Toralta Laya's complaints about poor management and inadequate communication do not appear to be severe enough violations to justify his expulsion, even if the Congress had the authority to do so

V. CONCLUSION

1. Having regard to the above, the Panel concludes that:
 - a. Due to concerns about procedural due process and fairness, the Panel has resolved that Mr. Beni Toralta Laya be provisionally admitted as an affiliated member of AT until the next AT Congress. His membership status will be reviewed and recommended by the AT's EB before it is presented to the Congress. This review will consider that Mr. Beni Toralta Laya has already undergone a combined period of suspension and expulsion exceeding three years. Mr. Beni Toralta Laya will receive adequate notice of all meetings concerning his membership status and will have the opportunity to attend and address both the EB and the Congress. It should be emphasized that this decision does not imply Mr. Beni Toralta Laya's reinstatement as President of CTF.

ON THESE GROUNDS

The Panel rules that:

The AT Executive Board will provisionally admit Mr. Beni Toralta Laya as an affiliated member of AT until the next AT Congress.

VI. COSTS

The Panel decides not to impose procedural costs upon any party.

Lausanne, Switzerland, 3 July 2024.

WORLD TRIATHLON TRIBUNAL



Barry Lipp
Chair of the Panel



Judge Thomas E. O'Donnell
Member of the Panel



Judge Michael Jones
Member of the Panel

Appeal to the Court of Arbitration for Sport (CAS)

According to Article 52 of the Constitution, 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 the World Triathlon Tribunal 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.