



DECISION

In the case of [REDACTED] *vs. Mr. Joseph Pina (CPV-1000)*
case DR19-017 Cape Verde/Pina

[Date 02/13/2020]

**I.
PROCEDURAL HISTORY**

3 June 2019	Notice of investigation and preliminary suspension
5 July 2019	Email by World Taekwondo to Mr. Pina notifying Mr. Pina of the possibility to express his opinion
1 September 2019	Nomination of Dr. Michael Lehner as sole arbitrator
1 September 2019	Letter by World Taekwondo to Mr. Pina notifying Mr. Pina of Dr. Michael Lehner's nomination as sole arbitrator and asking him to express his opinion
27 September 2019	Acceptance by Dr. Michael Lehner with the request to Mr. Pina to submit offers of evidence
15 October 2019	Email by Mr. Pina expressing his opinion on the accusations
3 November 2019	Email by the sole arbitrator to Mr. Pina with enquiry about the facts
18 November 2019	Telephone conversation of the sole arbitrator with German Coach Markus Kohlöffel

II. FACTS

1. Mr. Joseph Pina (CPV-1000) is a Taekwondo coach and a member of the Cape Verde Taekwondo Association. At the same time, Mr. Pina is the Vice President of the Cape Verde Taekwondo Association (Associação de Taekwondo de Cabo Verde).
2. [REDACTED] is a Taekwondo athlete (Olympic ranking: [REDACTED] and World ranking: [REDACTED]). Mr. Pina first was her coach from [REDACTED] until [REDACTED]. After a three-month training stay in Germany, [REDACTED] returned to the USA and lived in Mr. Pina's house there. On [REDACTED], she discovered a camera in the closet of her bedroom. When Ms [REDACTED] asked Mr. Pina about this, he told her that he did not know anything about it and did not know either how the camera had got there. According to Ms [REDACTED]'s statement, Mr. Pina is even said to have told Ms [REDACTED] that this was actually not a camera. Ms [REDACTED] found an SD card in the camera and checked the card on her computer. On the SD card, videos of her bedroom and her bed and even of Mr. Pina could be seen who had filmed himself while he was installing the camera.
3. After her immediately leaving her coach's house, Ms [REDACTED] asked a court to have a ban on contact imposed on Mr. Pina. The court refused Ms [REDACTED]'s request stating that by her moving out of her coach's house, there was no longer a concrete risk of further harassment any more.
4. Mr. Pina did not make any direct comments on the WT's enquiries. When the sole arbitrator gave him the possibility to express his opinion, Mr. Pina admitted that he had actually installed the camera. He added that he had done so to protect himself and his family against possible false accusations by the athlete because he had heard from other people about false accusations made by the athlete against other persons, among them a German coach, who had also been under the imputation of sexual harassment by Ms [REDACTED]. Mr. Pina also maintains that Ms [REDACTED] was mentally ill, and due to this had been

undergoing medical treatment several times with hospital stays. Upon the sole arbitrator's query Mr. Pina answered that the German coach was Mr. Markus Kohlöffel.

5. The sole arbitrator personally knows the German coach Markus Kohlöffel and asked him directly about the facts via the phone. Mr. Markus Kohlöffel described the athlete [REDACTED] as a sincere and likeable Taekwondo athlete, adding that he had never heard of any accusations made against him. He cannot confirm either that Ms [REDACTED] had made any such accusations against any other persons. According to Markus Kohlöffel, Ms [REDACTED] had behaved perfectly normally in every respect regarding himself and during her stay in Germany.

III.

Legal Basics

Facts of the case

6. Both Mr. Pina (CBV-1000) and [REDACTED] are Global Athlete Members and have fully recognized the Rules of World Taekwondo.
7. Article 10 of the World Taekwondo Code of Ethics stipulates the following:

"During the course of their Participants in the Taekwondo Movement shall ensure that the personal human rights of those persons whom they contact and with whom they deal are protected, respected and safeguarded."
8. Article 16 'Violations' of the World Taekwondo Code of Ethics stipulates the following:

"Violations of the rules of conduct of this Code shall be investigated and sanctioned in accordance with the Article 29 of the WT Statues."
9. Article 3.11 'Penalties' of the World Taekwondo Disciplinary Code stipulates the following:

"Measures which may be taken by the Tribunal include the following:

i. warnings;

ii. rebuke;

iii. fine;

iv. suspension or ban;

v. expulsion;

vi. disqualification;

vii. order the return of funds provided by WT;

viii. order to payment for reasonable costs incurred by WT in relation to the Investigation and Hearing process;

xi. any other sanction or penalty deemed appropriate"

10. Article 29 'Disciplinary Actions' of the World Taekwondo Statutes stipulates the following:

"Disciplinary Actions: World Taekwondo may investigate, fine, suspend, and otherwise issue penalties against members and participants in WT events for violation of WT rules and regulations in accordance with the World Taekwondo Disciplinary Actions and Appeals Code."

IV.

DISCUSSION

11. It is obvious and has also been admitted by Mr. Pina that he had installed a camera in [REDACTED]'s bedroom in his house, which was directed at [REDACTED]

██████'s bed and recorded or was to record what was happening there. Mr. Pina admitted that he had not informed ██████ about this fact. The videos found on the SD card of the camera prove that Mr. Pina had deliberately and precisely directed the camera at the bed in the bedroom. Consequently, with the camera installed by Mr. Pina, videos of Ms ██████ invading into her privacy were or could be taken, without her knowing it, while she was lying in bed asleep, and she was watched by Mr. Pina.

12. The clandestine observation of a young person and her bed and/or the person in her bed constitutes a serious violation of the Code of Ethics of World Taekwondo and basically also of state penal laws protecting personal rights and a person's right to privacy. The clandestine installation of this camera already constituted an especially serious violation of the Code of Ethics, in particular of its Article 10.
13. Where Mr. Pina maintains he had clandestinely installed the camera in the closet of ██████'s bedroom and directed it at ██████'s bed to protect himself and his family from false accusations by ██████, this is not credible. It is not understandable in the first place which concrete or imaginary false accusations Mr. Pina wanted to prevent or disprove in this manner. If Mr. Pina had been afraid of such accusations, he would not have let ██████ stay in his house in the first place. Where Mr. Pina maintains that Ms ██████ had accused other coaches, in particular German coach Markus Kohlöffel, of sexual harassment, this has been disproved as far as German coach Markus Kohlöffel is concerned. It is also obvious that, based on what can be inferred from the documents, first and principally denied having installed the camera himself. If he had installed the camera for his own or his family's protection, as he maintained in his most recent statement, Mr. Pina would have admitted this frankly right from the start and without denying such installation first. Where Mr. Pina maintains that ██████ is mentally ill and would therefore randomly make false accusations against third persons because of sexual harassment, he has failed to furnish any evidence for his claims. Such subsequent and unfounded attacks against Ms ██████ must be rated as another violation of the Code of Ethics.

14. To World Taekwondo, strict compliance with its Code of Ethics is of fundamental importance. The Code of Ethics is especially aimed at Taekwondo coaches to whom young girls are entrusted. This is why the sport of Taekwondo and particularly its female athletes will have to be protected against such action in a lasting manner in the future as well.
15. According to the sole arbitrator's firm belief, the protection intended to be given by the Code of Ethics will not be achieved by warnings or temporary suspensions only. There is always the risk that such harassments will be repeated. This is especially true when an offender such as Mr. Pina denies his offence and/or places the responsibility for his offence on the victim's shoulders and denigrates the victim on top of that. Offenders such as Mr. Pina must therefore be kept away from the sport of Taekwondo. This is why the decision in this matter is intended to demonstrate by the severity of the penalty imposed that World Taekwondo will punish similar offences in the same manner in the future.

V. DECISION

- A lifelong ban is imposed on Mr. Pina because of the violation of Article 10 of the Code of Ethics according to Article 3.12 of the WT Disciplinary Code.
- The Global Athlete Member Card (CBV-1000) will be withdrawn with immediate effect.
- Mr. Pina shall bear the costs of the proceedings.
- Under Article 3.15 of the World Taekwondo Code, this decision can be appealed within 20 days of receiving this decision.

Heidelberg (Germany), 13th February 2020



Dr. Michael Lehner
Sole Arbitrator