



Arbitration CAS 2021/A/8058 Portuguese Padel Federation (PPF) v. International Padel Federation (IPF), award of 9 August 2022

Panel: Mr José Juan Pinto (Spain), President; Mr Joao Nogueira Da Rocha (Portugal); Prof. Luigi Fumagalli (Italy)

Padel

Disciplinary proceedings for infringement of the IPF SDR in obtaining public funds

Time limits under Article 57 IPF SDR

Request for production of documents, Article R44.3 para. 1 CAS Code

Violation of Article 20(F) IPF SDR

Limits of CAS review of sanctions imposed and proportionality of sanction

- 1. While the wording of Article 57 of the IPF Sport Discipline Regulation (SDR) is not very clear, two time-limits seem to exist regarding disciplinary proceedings. On the one hand, there is a first time-limit of 15 days to (i) expressly resolve any petition or claim brought before the disciplinary bodies or (ii) initiate said disciplinary proceeding. On the other hand, there is a second time-limit of a maximum of 30 days in order to conclude the disciplinary proceedings. The latter only starts once the investigatory phase is closed and the disciplinary proceedings have been initiated. Furthermore, according to Articles 37 and 41(A) of the IPF SDR, disciplinary procedures can also be initiated *ex officio* by the IPF Competition and Discipline Committee at any time, *i.e.* irrespective of a petition or claim and irrespective of the 15-day time limit contemplated by Article 57 of the IPF SDR. While the time limits stipulated by Article 57 IPF SDR intend to protect IPF members from endless disciplinary proceedings, it is considered that in disciplinary proceedings, the most important legally protected interest is the accused's right of defense.**
- 2. In circumstances where a party to CAS proceedings submits a request for production of documents but, despite repeated requests by the CAS panel, fails to provide the identification and clarification requested and does not demonstrate, in accordance with Article R44.3 para. 1 of the Code, that the requested documents are likely to exist and are relevant in the case at hand, the CAS panel may come to the conclusion that, in light of the information in its hand at the time the production request has been submitted, such request has to be considered as fishing expedition and may therefore deny it. Furthermore, in the absence of a showing of “*exceptional circumstances*” justifying why it had not been possible to properly and timely file a reasoned request for production of documents in accordance with the CAS panel's instructions, the respective request cannot be granted at a later stage of the arbitration.**
- 3. The fact that a national member federation, in the process of obtaining public funds to organise competitions, deliberately uses the name of the respective international**

federation to convey the impression that the international federation was involved in the organization of the events in question - even if this was not the case -, can be considered as *“notorious public acts that violate the dignity and the decorum of the sport”* in the meaning of Article 20(F) IPF Sport Discipline Regulation (IPF SDR) as well as a violation of the dignity and decorum of the padel community.

4. Whilst a hearing before the CAS is a hearing *de novo*, the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules should be reviewed only when the sanction is evidently and grossly disproportionate to the offense. Furthermore, whenever an association uses its discretion to impose sanctions, CAS will have regard to that association’s expertise; but, if having done so, the CAS panel considers nonetheless that the sanction is disproportionate, it must, given the *de novo* powers of review, be free to stipulate so and to apply the appropriate sanction. In order to benefit from the deference usually allowed, the deciding body is required to explain why the sanction imposed should be considered proportionate. Accordingly, in circumstances where the disciplinary body fails to provide such explanation, it is not appropriate for the CAS panel to apply the usual deference in assessing the proportionality of the sanction imposed.

I. PARTIES

1. The Portuguese Padel Federation (the “PPF”) is the national federation responsible for governing the sport of padel in Portugal, registered in Lisbon and affiliated to the International Padel Federation.
2. Mr Ricardo Da Silva Oliveira is the President of PPF.
3. The International Padel Federation (the “IPF” or “Respondent”) is the international governing body of the sport of padel with its registered office in Lausanne, Switzerland.
4. The PPF and its President are jointly referred to as the “Appellants”. The Appellants and the IPF are jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

5. A summary of the most relevant facts and the background giving rise to the present dispute will be developed based on the Parties’ written submissions, the evidence filed and the statements made by the Parties at the hearing held in the present case. Additional facts may be set out where relevant in connection with the legal discussion which follows. The Panel refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning. The Panel however has considered all the factual allegations, legal arguments and evidence submitted by the Parties in the present proceedings.

6. The Instituto Português do Desporto e Juventude (the “IPDJ”), a governmental entity in Portugal, having as its mission the implementation of a public policy for the support of sport and youth, issued in 2018 a guidance document (the “Guidance Document”) in order to regulate the conditions that had to be satisfied by any stakeholder which wished to apply for funds for the “*Organisation of International Sports Events*” to be held in 2019 in Portugal. In Section 3 of such Guidance Document, the specific deadline of 7 December 2018 was established for the submission of the corresponding application in order to obtain said funds.
7. Within the mentioned deadline, the PPF submitted several applications for funds regarding the organization of the following padel events in 2019: the European Team Championship, the EuroAmerica Padel Cup, the Four Nations Cup (which was scheduled, but never took place) and the European Champions Trophy (which did not take place and was postponed to 2020).
8. In the relevant application forms the PPF included several references to the fact that the mentioned tournaments would be co-organized together with the IPF. In this regard, the PPF stated that the involvement of the IPF in these tournaments would be the following:
 - The inclusion of the IPF as one of the organizing entities, jointly with the PPF.
 - The inclusion of the events in the international calendar of the IPF.
 - The assignment to the participants of valid qualification points for the international ranking of the IPF.
 - The promotion and broadcasting of the events in the IPF’s website and Facebook page.
 - In the specific case of the application for the European Padel Championship, the event was referenced as the next edition of the European Padel Championship (organized by the IPF), which last edition was in 2017 in Estoril, Portugal.
9. On 30 January 2019, the IPF and the European Padel Association (the “EPA”) released a joint public statement that *inter alia* announced that “*EPA and IPF will jointly organize the European championship in 2019*”.
10. On 26 July 2019, the PPF and the IPDJ signed the “*Operating Contract for Sporting Development N. CP/218/DDF/2019*” for the event named “European Padel Championship”, under which the IPDJ would grant a financial co-participation up to the maximum of €50,000. The IPF was not a signatory to said agreement and was never informed of its existence. The PPF application form referenced in para. 7 above was annexed to the relevant agreement.
11. On 5 August 2019, the PPF and the IPDJ signed the “*Operating Contract for Sporting Development N. CP/219/DDF/2019*” for the event named “EuroAmerica Padel Cup”, under which the IPDJ would grant a financial co-participation up to the maximum of €40,000. The IPF was again not a signatory to said agreement and was never informed of its existence. The PPF application form referenced in para. 7 above was also annexed to the relevant agreement.
12. In both contracts it was agreed that the co-participation budget would be given in two different

instalments: 50% would be granted 30 days before the respective event took place and 50% after the event and when the PPF had delivered a final report of the respective event and the IPDJ had given a positive validation about it. Additionally, the contracts and their respective attachments were always public and accessible.

13. The EuroAmerica Padel Cup took place from 4 to 6 July 2019 in Lisbon, Portugal and was organized by the PPF and EPA.
14. On 4 September 2019, the PPF issued the final report for the EuroAmerica Padel Cup, in which it eliminated the references to the IPF and instead indicated EPA as a co-organizer of the event.
15. The European Padel Championship took place from 4 to 9 November 2019 in Lisbon, Portugal and was organized by the PPF and EPA.
16. From 4 to 9 November 2019, the IPF organized an event also called European Padel Championship (11th edition), which was held in Rome.
17. On 7 December 2019, the PPF issued the final report for the European Padel Championship, in which it eliminated the references to the IPF and instead indicated EPA as a co-organizer of the event.
18. Regardless of the changes on the PPF application for funds, the IPDJ validated the final reports issued by the PPF and therefore awarded the full money requested in the aforementioned contracts of 26 July 2019 and 5 August 2019. The respective payments were done on 5 August 2019 and 2 January 2020 for the European Padel Championship and on 15 August 2019 and 19 September 2019 for the EuroAmerica Padel Cup.
19. On 4 February 2021, the Court of Arbitration for Sport (the “CAS”) issued an award in CAS 2020/A/6728 to resolve a dispute between the Parties concerning a decision issued by the IPF to sanction the PPF for: (a) the withdrawal of the PPF to host the 2019 Junior World Championship; (b) the PPF application to register the names “European Padel Team Championship” and “European Padel Veterans Team Championship” before the European Union Intellectual Property Office; (c) the organization of the European Championship awarded by the EPA. In said CAS award, the Panel confirmed the sanction only for the organization of the European Championship with EPA.

III. PROCEEDINGS BEFORE THE INTERNATIONAL PADEL FEDERATION

20. On 11 March 2020, and once the signature of the mentioned agreements between the PPF and the IPDJ were reported by the IPF Directive Board, the IPF Competition and Discipline Committee (the “IPF CDC”) issued a decision to open an investigation (“*Providencia de incoación de expediente*”) to establish whether the agreements between the IPF and the IPDJ were in breach of the relevant provisions of the IPF and, thus, whether to open disciplinary proceedings against the PPF or not. The IPF CDC granted the PPF a 10-day time limit from receipt of the decision to file its comments.

21. On 30 March 2020, the PPF filed its answer to the above decision issued by the IPF CDC.
22. On 3 August 2020, the IPF CDC notified the PPF that the evidence gathered was sufficient to initiate disciplinary proceedings against it and its President for a possible violation of several IPF provisions, and therefore opened disciplinary proceedings.
23. On 15 March 2021, the IPF CDC requested the PPF to forward a copy of the recently issued award in the case CAS 2020/A/6728 to examine its relevance in the disciplinary proceedings that had been opened.
24. On 29 March 2021, the IPF CDC closed the investigatory phase.
25. On 6 April 2021, the IPF CDC issued a decision (“the First Decision”) by means of which it sanctioned the PPF with the following:
 - *“A fine amounting to EUR 10.000€ fine based on Article 23 a) of the FIP Sport Discipline Regulations (“FIP SDR”)*
 - *A public warning on FIP President Mr. Ricardo Da Silva Oliveira based on Article 25 a) of the FIP SDR, since he is a representative of a National Federation affiliated to the FIP and he signed the Agreements”.*
26. The PPF appealed the First Decision before the IPF Appeal Committee.
27. On 18 May 2021, the IPF Appeal Committee issued a decision (the “Appealed Decision”) as follows:
 - “1. The appeal lodged by the Federación Portuguesa de Pádel is dismissed.*
 - 2. Decision n.1 passed by the Committee for Competition and Discipline of the FIP on 6 April 2021 is confirmed in its entirety.*
 - 3. All further or different motions or prayers for relief are dismissed”.*
28. The findings given in the Appealed Decision, dealing with the grounds adduced by the PPF in support of its appeal against the First Decision, were in essence the following:
 - The appointment of the disciplinary bodies by the Board of Directors is provided under the Bylaws, which are approved by the Council of which PPF is part. Furthermore, the Council may, through an extraordinary general meeting, approve further amendments to the referred Bylaws and therefore prove that there is not such lack of democracy as alleged by the PPF.
 - In light of the above, the IPF Appeal Committee concluded that the IPF CDC that rendered the First Decision was legitimately appointed and the appointing process in general did not lack any independence or impartiality.
 - Despite the fact that Article 57 of the IPF Sport Discipline Regulation (the “IPF SDR”)

is unclear as to the *dies a quo* from which the time limits established must be calculated, there is a first reference to a 15-day time limit, without a specific commencement date, in order to initiate disciplinary proceedings, to be concluded within a maximum period of 30 days, with no further specifications.

- The time limit provided under Article 57 of the IPF SDR is primarily intended to protect IPF members from endless disciplinary proceedings, since an excessive length may well go to the detriment of the accused party (considering that it would remain uncertain as to the outcome of disciplinary proceedings for an unspecified period of time).
- A logical conclusion to the above-mentioned lack of clarity of the time limits established in the regulations is that the 30-day time limit shall be respected by the IPF CDC when rendering a decision once the investigatory phase has been concluded. In this regard, the initiation of the proceedings for the purposes of Article 57 of the IPF SDR is to set to run from the day on which the investigatory phase reaches its end and the IPF CDC is fully informed to reach its decision.
- In light of the above, all the time limits set in the IPF CDC were respected in the present case.
- Regarding the conduct of the PPF and its President, it shall be noted that the PPF had led the IPDJ to believe that the IPF was involved in the organization of the events mentioned in the agreements of 26 July 2019 and 5 August 2019 in order to be allocated with the requested public funds, even though these events were never organized or authorized by the IPF. The PPF acted in a deliberately and conscious way and therefore it shall be concluded that said conduct constitutes a violation of Articles 18, 20(F) and 20(N) of the IPF SDR.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

29. On 14 June 2021, pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (the “CAS Code”), the PPF filed its Statement of Appeal before the CAS against the IPF with respect to the Appealed Decision.
30. In said Statement of Appeal the PPF nominated Mr Joao Nogueira Da Rocha, Attorney-at-law in Lisbon, Portugal, as arbitrator and chose English as the language of the present proceedings.
31. On 24 June 2021, pursuant to Article R51 of the CAS Code, the PPF submitted its Appeal Brief, which included the following requests for relief:

“All this being pledged, the Court should the reverse the decision appealed against and revoke the sanction imposed to the Appellant and its President.

If it is not so understood, which is obviously not accepted, the minimum limit of the penalties provided should be applicable to the Appellant and its President, that is, a public warning”.

32. On the same day, the IPF nominated Mr Michele Bernasconi, Attorney-at-law in Zurich, Switzerland, as an arbitrator for the present procedure.
33. On 6 July 2021, the PPF challenged Mr Michele Bernasconi's appointment. On the same day Mr Michele Bernasconi declined his appointment as arbitrator in the present proceedings.
34. On 20 July 2021, the IPF nominated Prof. Luigi Fumagalli, Attorney-at-law in Milan, Italy, as arbitrator in the present proceedings.
35. On 9 August 2021, the IPF filed its Answer to the Appeal in which it included the following requests for relief:

"The IPF respectfully requests the Court of Arbitration for Sport to issue an award:

- i. dismissing the Appellant's requests for relief because without merit;*
- ii. condemning the Appellant to bear the entire costs of these proceedings and to reimburse in full the IPF of its legal costs and expenses".*

36. On 10 August 2021, the CAS Court Office informed the Parties, pursuant to Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, that the Panel had been constituted as follows:

President: Mr José Juan Pintó Sala, Attorney-at-law, Barcelona, Spain

Arbitrators: Mr Joao Nogueira Da Rocha, Attorney-at-law, Lisbon, Portugal
Prof. Luigi Fumagalli, Attorney-at-law, Milan, Italy.

37. On 18 August 2021, the CAS Court Office, on behalf of the Panel, sent a letter to the Parties, informing, *inter alia*, the Appellants of the following:

"... the Panel has noted the Appellant's request that the disciplinary file be produced by the Respondent. By virtues of Article R.44.3(1) of the Code, the Appellant shall demonstrate that the requested documents are likely to exist and are relevant in the case at hand".

38. In this same letter, the CAS Court Office informed the Parties that, taking into account the Appellants' request, the Panel had decided to hold a hearing in the present matter.

39. On 25 August 2021, the Appellants answered to the abovementioned letter sent by the CAS Court Office without identifying the documents it was seeking.

40. On 26 August 2021, the CAS Court Office, on behalf of the Panel, sent a letter to the Parties stating, *inter alia*, the following:

"The Appellant is reminded that, in international arbitration, any party requesting the production of certain documents must identify the documents it is seeking for, as well as it must establish the existence of such documents and their relevance in the case at hand.

The principle is codified by Article R44.3 (1) OF THE Code and enshrined in the IBA Guidelines on the Taking of Evidence in International Arbitration (the “IBA Guidelines”). A failure to comply with this principle leads to the conclusion that the request for production of documents shall be considered as a fishing expedition, which is not allowed under the IBA Guidelines”.

41. On 27 August 2021, the CAS Court Office, on behalf of the Panel, invited the Parties and their witnesses to appear at the hearing to be held on 28 October 2021 at the CAS Headquarters in Lausanne, Switzerland.
42. On 15 September 2021, the CAS Court Office advised the Parties that Mr Alberto Donado-Mazarrón Cebrián, Attorney-at-law in Barcelona, Spain, had been appointed as *ad hoc* clerk in order to assist the Panel in these proceedings.
43. On the same letter, the CAS Court Office sent the Parties the Order of Procedure, which was duly signed and returned by the Parties.
44. On 28 October 2021, an in-person hearing was held in Lausanne, Switzerland. In addition to the Panel, the *ad hoc* clerk and Mr Fabien Cagneux, Counsel to the CAS, the following persons attended the hearing:
 - For the Appellant: Mr Carlos André Dias Ferreira legal counsel, Mr Ricardo da Silva Oliveira, PPF President, and Mr Vitor Pataco and Mr José Sanchez as witnesses.
 - For the Respondent: Mr Stefano Laporta as legal counsel and Mr Luigi Carraro, IPF President.
45. At the hearing, the Parties had the opportunity to present their case, to submit their arguments, question the witnesses, and to comment on the issues and questions raised by the counterparty and the Panel. At the closing of the hearing, the Parties expressly stated that they did not have any objections with regard to the procedure. The Parties further confirmed that their right to be heard had been respected.

V. SUMMARY OF THE PARTIES’ SUBMISSIONS

46. The following summary of the Parties’ positions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Panel, however, has carefully considered, for the purposes of the legal analysis which follows, all the submissions made by the Parties, even if there is no specific reference to those submissions in the following section.

A. The Appellants

a) *The facts of the case*

47. When the PPF submitted the application for several possible Padel events to take place in

Portugal, the administrative department of the PPF was just not careful enough in the fulfilment of the application forms and wrongly established that the IPF was a co-organizing entity of the referred events.

48. Despite the above, the contracts signed between the PPF and the IPDJ did not even mention the Respondent. In this regard, said contracts had to mandatorily attach the abovementioned application forms, which cannot be modified. However, the IPDJ had always full knowledge that the EPA was the organizer of the event and not the IPF.
49. Moreover, Article 4.1.1 of the Guidance Document, establishing the criteria for assessing the application for public funding, did not mention as relevant the indication of the entity associated to the organization together with the PPF, which means that the reference of the IPF or EPA to guarantee the funding was not relevant.
50. Moreover, the President of the IPDJ issued a declaration which confirms that the mention of the IPF did not affect the funding allocation. Said declaration states the following:

“The Portuguese Institute for Sports and Youth, I. P. (IPDJ) confirms that it has become aware, after the signature of the respective program contracts, that the events European Padel Championship (2019) and Euro.America (2019) have been organized by the Portuguese Padel Federation (FPP) and the Federation of European Padel (FEPA).

Accordingly, the IPDJ and FPP have altered the contractual conditions for support for the event designated as the European Padel Championship (2019) in order to adjust the maximum percentage of support according to a set of analysis indicators that include verification of the relevance of the competition. Even so, this adjustment, in light of the contractual rules, did not alter the support granted”.

b) The law and the sanctions

51. The PPF and its President were already sanctioned for the involvement in the organization of the European Padel Championship with EPA according to the CAS Award CAS 2020/A/6728, and thus they cannot be sanctioned twice for the same facts (*non bis in idem* principle).
52. The PPF has been sanctioned in the present case for violating Article 20(F) of the IPF SDR, which regards *“the notorious public acts that violate the dignity and the decorum of the sports, when they are of a special gravity”*.
53. However, the Appealed Decision did not substantiate how the dignity and the decorum of the sport were violated. On the contrary, what has been seen is that the Portuguese government is supporting the sport of padel by helping its national federation to receive important international competitions, showing the evolution of padel in Portugal and how Portugal is capable of hosting such events, promoting and increasing the visibility of the sport in the country including school padel and adapted padel (for the disabled).
54. At most, the present case concerns a negligent administrative act, that did not bring any economic advantage to the PPF and did not violate the dignity and decorum of the sport.

55. Consequently, in the worst-case scenario, if sanctions are to be applied, it should be taken into account the lack of bad faith of the PPF and the lack of any damage for the IPF. Therefore, the PPF should not be sanctioned with more than a public warning.

c) *The illegitimacy of the disciplinary bodies of IPF*

56. The disciplinary procedure against the PPF cannot be considered valid, due to the fact that there is no evidence of the regular appointment of the members of both disciplinary bodies that issued the First Decision and the Appealed Decision: the IPF CDC and the IPF Appeal Committee.

57. Although the PPF already contested the appointment of the members of the IPF CDC and of the IPF Appeal Committee, the IPF did not present any minutes, document or evidence that proves that the members of both bodies were appointed in accordance with Articles 21.11 and 23 of the IPF By-laws and Articles 13 and 15 of the IPF SDR.

d) *The lack of independence and separation of powers of the disciplinary bodies of the IPF*

58. Even if the members of both disciplinary bodies were legally appointed, the disciplinary procedure should not be considered valid due to the lack of independence of those members towards the IPF President and the Board of Directors.

59. According to Article 23.3 of the IPF By-laws, said members of the disciplinary bodies are appointed and nominated by the IPF President and the Board of Directors, which is in contradiction with Article 12 of the IPF SDR, which states that the IPF disciplinary bodies “*shall have absolute independence from the other federative bodies*”. In fact, every member of the disciplinary bodies has close relationships with the IPF President and its Board of Directors.

60. For a trial to be fair, the judicial body in charge of the relevant proceedings must be independent. All international human rights instruments refer to the necessity of conducting a fair trial by “an independent and impartial tribunal”. In this particular case, the judicial power, that is, the disciplinary power, is dependent on the executive power, that is, the Board of Directors and the President of the Respondent, in strict violation of Swiss law. Therefore the Appealed Decision must be annulled.

61. In the present case there is also an obvious conflict of interest, or, at least, the close relationship between the members of both discipline bodies and the President and Board of Directors of IPF cannot be ignored, because it raises many unavoidable doubts about the independence and impartiality of those members.

62. The abovementioned situation contradicts the legal principle of independence between the executive power and the judicial power (in this case, disciplinary). An impartial judgement and decision cannot be expected on a dispute between the PPF, on one side, and the IPF President and the Board of Directors, on the other side (since the latter initiate the disciplinary proceedings), because the disciplinary body members are appointed by the IPF President and

the Board of Directors.

e) Termination of the disciplinary proceedings

63. The extraordinary disciplinary proceedings against the PPF had been formally opened and initiated on 3 August 2020, which means that the maximum period of 30 days for the disciplinary procedure to be concluded, in accordance with Article 57 of the IPF SDR, ended at the most on 3 September 2020. However, the IPF CDC issued its decision on 6 April 2021, which clearly means that the 30 days' time limit had already expired and therefore the claims should have been considered rejected.
64. Article 57 of the IPF SDR establishes the following:

“Article 57 Obligation to resolve

The petitions or claims brought before the disciplinary sports bodies must be resolved expressly within a period of no more than fifteen (15) days, or within that period, at least, the appropriate disciplinary procedure must be initiated, which must be concluded within a deadline of no more than fifteen (15) days to a maximum thirty (30) days. After said period, without written resolution of the competent body, they will be considered rejected”.
65. The IPF in fact breached both time-limits periods provided by the regulations. In fact, not only was the 30 days' time-limit exceeded. If we consider that the petition or claim was brought to the disciplinary bodies when the reserved investigatory phase started, on 11 March 2020, the disciplinary procedure was only initiated on 3 August 2020; and this that also the 15 days' time-limit provided in said Article 57 was exceeded.
66. The entire disciplinary proceedings are based on the two contracts signed between the PPF and the IPDJ, that were at least brought to the IPF by 11 March 2020 (or even before that moment, as the IPF had knowledge of the existing documents at least since 27 December 2019, due to the CAS proceeding CAS 2019/A/6571).
67. The IPF CDC stated that the mentioned Article 57 is only applicable to the ordinary procedures and not to the extraordinary such as the one conducted against the IPF. Nevertheless, said article is part of chapter 4 of title 2 of the IPF SDR, which is entitled “*common dispositions*”, which clearly means that they apply to both types of disciplinary procedures.
68. Furthermore, even if it is considered that the petition or claim was brought to the disciplinary bodies when the reserved investigatory phase started on 11 March 2020, the disciplinary procedure was only initiated on 3 August 2020, that is to say, a much longer period than the 15 days provided by Article 57 of the IPF SDR.

B. The Respondent

a) *Factual background surrounding the present proceedings*

69. It is impossible to understand the present proceedings and the violation committed by the Appellants without firstly having in mind the circumstances surrounding the present case. The Appellants and some other federations have been trying during the last years to undermine the IPF through a series of activities and initiatives, that included the vast recourse to CAS against several decisions and deliberations of the IPF (CAS cases 6509, 6571, 6577, 6728 and 7256).
70. Right after the 2018 election to the IPF presidency, in which the actual President of the IPF was elected to detriment of the President of the PPF, Mr Da Silva, started a strong opposition to the new elected President of the IPF and intended not only to boycott many proposals of the IPF, but also intended to organize international padel tournaments that had to be organized by the IPF.
71. In this regard, the PPF intended to organize an unofficial competition to be staged in Portugal in November 2019 instead of the official European Padel Championship organized by the IPF. In order to obtain public funds to organize all these unofficial tournaments to substitute for the official tournaments organized by the IPF, the PPF included the reference to the co-organization of the tournaments with the IPF so that the request of funds was approved. In other words, the PPF deliberately informed the IPDJ that the tournaments in question were going to be organized with the IPF in order to obtain the funds, while the main objective of said funds were precisely to organize unofficial parallel tournaments, that could substitute for the tournaments organized by the IPF.

b) *The appointment of the members of the IPF disciplinary bodies*

72. All members of the IPF disciplinary bodies have been appointed in full compliance with the IPF applicable rules (*i.e.*, Article 23.3 of the IPF By-laws and Article 13 of the IPF SDR), as evidenced by the relevant acts of appointment.
73. Such acts indicate that all members were appointed following the IPF Board of Directors meeting of 25 April 2019 and that all the appointed individuals had the necessary legal skills and qualifications.

c) *The alleged lack of independence of the members of the IPF disciplinary bodies*

74. It is not extraordinary in the sports environment that the executive board is entrusted with the duty of appointing the members of the disciplinary bodies: for instance, according to Article 59 of the Olympic Charter, in the system of the International Olympic Committee, the disciplinary power lies with the Executive Board, which may delegate all or part of its authority to a disciplinary committee.
75. In any case, the CAS already ruled in CAS 2020/A/6728, hearing a dispute between the Parties, that all procedural issues raised in said case by the PPF, similar to the ones discussed in the

present case, are cured by the appeal at CAS, since the Panel hears the case “*de novo*”.

d) *The alleged termination of the disciplinary action*

76. The 30-day term encompassed by Article 57 of the IPF SDR cannot start running before the conclusion of the investigatory phase of the proceedings.
77. *In casu*, it is to be noted that CAS was requested in CAS 2020/A/6728 to rule on the role played by the PPF in the organization of the padel competition staged in November 2019 in Portugal. Therefore, the decision of the IPF CDC to keep the investigation phase open until the publication and acquisition of a copy of the award rendered in CAS 2020/A/6728, and to close it on 29 March 2021, once the CAS award was published, was appropriate, since that CAS award was relevant for the present proceedings.
78. In this sense, it would be unreasonable to have said time limit commencing on an earlier date, such as, for instance, from the 3 August 2018. Indeed, at that moment the IPF CDC was certainly not ready to issue its decision and, in fact, granted PPF a 30-day time limit to provide some further information. Were the time limit under Article 57 of the IPF SDR applicable from that day, it would have illogically expired before the PPF had the chance to file the requested information.

e) *The violation of Article 20 of the IPF SDR committed by the PPF*

79. The Appellants try to excuse themselves by explaining that the agreements with the IPDJ were finally amended and that the indication of the IPF as organizer was due to a mistake or was done in a moment when the involvement of the IPF was still a possibility. However, the chronology of the events does not permit any misunderstandings about the intentions of the PPF:
- The contract with the IPDJ for the “*parallel European competition*” in Portugal was signed one week after the PPF had publicly announced on its website that it was organizing the competition with EPA rather than with the IPF.
 - The contract with the IPDJ for the EuroAmerica Padel Cup was signed when said competition had been played and closed one month earlier.
80. Therefore, and in light of the above, it must be confirmed the Appealed Decision’s findings in this regard, where it establishes that the PPF deliberately “*decided to indicate FIP as the organizer of the Events although it was perfectly aware of the contrary; even worse, it did so in official documents submitted to a public entity in order to obtain public funds. This constitute a serious behaviour which undermines the credibility of the FIP system and thus deserves to be properly sanctioned*”.
81. From the IPDJ declaration it may be extracted that:
- Mentioning the IPF as organizer of the events made a difference in the calculation of the maximum percentage of the organizational expenses that the IPDJ could fund, that

in fact needed to be “adjusted” after discovering that the IPF was not involved.

- Such adjustments were made only in relation to the “European Padel Championship (2019)” and not also in relation to the EuroAmerica Padel Cup (since this competition was over when the agreement with the PPF was signed).
- Therefore, the PPF may have benefitted from an undue and excessive percentage contribution for the EuroAmerica Padel Cup, thanks to the indication of the IPF as organizer of the event.

82. The relevance of the role of the IPF in the organization of the event for the purposes of the calculation of the contribution of the IPDJ is confirmed by the fact that the amendment was signed on 30 December 2019 between the IPDJ and the PPF, and that in said amendment express reference was made to the need to reduce the percentage of organizational expenses (originally established at 34% and reduced to 25%) due to the lack of any participation of the IPF and that the event was not part of the official calendar of the IPF.

VI. JURISDICTION

83. Article R47 of the CAS Code provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the Parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned”.

84. Article 31 of the IPF By-laws provides that CAS has jurisdiction to hear appeals against final decisions rendered by the IPF:

“31. ARBITRATION

31.1. Any dispute or difference not bound by the relevant handbooks or regulations of the various circuits and competitions of the Federation between a Member and the Federation or between the Federation and any other individual or organisation shall be referred to the Court of Arbitration for Sport, Lausanne, Switzerland. The rules of the Court of Arbitration for Sport shall govern the arbitration and the decision of the Court of Arbitration for Sport shall be final and binding on all parties concerned.

31.2. Any dispute or difference between two or more Members shall be referred by such Members to the Court of Arbitration for Sport, Lausanne, Switzerland. The rules of the Court of Arbitration for Sport shall govern the arbitration and the decision of the Court of Arbitration for Sport shall be final and binding on all parties concerned.

31.3. *Any such Arbitration shall be governed by Switzerland Law.*

31.4. *The Associated Members and Recognised Organisations agree not to present before any court of justice legal disputes between themselves or between themselves and the FIP, and their incorporation to the FIP implicitly implies that they renounce any right to take a dispute before a court of justice. Any such dispute shall be referred to the Court of Arbitration for Sport, unless the interested parties agree by common consent to anything else”.*

85. The jurisdiction of the CAS is based on the above-mentioned provisions.
86. Moreover, the jurisdiction of CAS was confirmed in the Order of Procedure, which was duly signed and returned by the Parties.
87. Therefore, the Panel holds that the CAS has jurisdiction to rule on this case.

VII. ADMISSIBILITY

88. Article R49 of the Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late”.

89. Given that the IPF By-laws do not establish a specific deadline to file an appeal, the 21-days’ time limit set in Article R49 of the CAS Code applies.
90. Since the Appealed Decision was notified to the Appellants on 24 May 2021 and the Statement of Appeal was presented by the PPF on 14 June 2021, the Panel considers that the Appeal is admissible.

VIII. APPLICABLE LAW

91. Article R58 of the CAS Code reads as follows:

“R58.1 The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the Parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

92. Article 31.3 of the IPF By-laws states the following:

“31.3. Any such Arbitration shall be governed by Switzerland Law”.

93. In view of the foregoing, the Panel finds that the dispute must be decided in accordance with the various IPF regulations and, subsidiarily, Swiss Law.

IX. MERITS

94. On the basis of the relief requested by the Parties in the case at stake, the Panel considers that the object of these proceedings is the potential infringement of the IPF SDR undertaken by the Appellants due to the information given to the IPDJ in order to obtain public funds for the organization of several padel tournaments in Portugal. The Appellants were sanctioned in the first instance by the IPF CDC based on Articles 23(A) and 25(A) of the IPF SDR for an alleged violation of Articles 18 and 20 of the referred IPF SDR. This First Decision was challenged by the Appellants before the IPF Appeals Committee, that finally confirmed, in the Appealed Decision, the entirety of the First Decision.
95. The decision issued by the IPF Appeals Committee has, in turn, been appealed to CAS by the Appellants, requesting to set aside the Appealed Decision due to the alleged potential violation of several procedural rules committed by the IPF within the disciplinary procedure initiated and also due to the alleged lack of a violation of any article of the IPF SDR.
96. In light of the above, the Panel considers that the issues to be resolved by the Panel are:
- A. The procedural issues alleged by the Appellants;
 - B. The potential violation of the IPF SDR committed by the Appellants;
 - C. If the potential violation was to be considered proven, the proportionality of the sanctions imposed by the Respondent.

A. The procedural issues alleged by the Appellants

97. The Appellants, in the course of the disciplinary procedure before the IPF CDC, in its subsequent appeal procedure before the IPF Appeals Committee and in the present CAS proceedings, has alleged that, during the entire disciplinary procedure conducted by the IPF, several procedural violations have occurred. In this regard, the Appellants consider illegitimate the IPF disciplinary bodies, due to an alleged lack of evidence regarding the correct and legal appointment of their members. The Appellants also contest the independence of said bodies, as they consider that there is no separation of powers between the disciplinary bodies of the IPF, its Board and the President of the Board, and submit that most of the members of the IPF disciplinary bodies have flagrant conflicts of interest, due to the dependent professional relation with the IPF Board. Finally, the Appellants also contend that the IPF violated the time-limits to issue a formal disciplinary decision established in Article 57 of the IPF SDR and therefore consider that the Appealed Decision was unlawfully issued after the referred time-limits had expired.
98. In this regard, the Panel considers worth noting that most of these procedural issues have been

already alleged before CAS in the previous case CAS 2020/A/6728, in which the same Parties were involved. It shall also be noted that there are up to 5 recent cases regarding the same Appellants and Respondent. Despite the fact that the Panel does not consider itself to be legally bound by any prior decision of the IPF or CAS regarding the alleged potential procedural violations as it is independent and has the capability to analyze the case *de novo*, the Panel shall not turn a blind eye to those cases in which the Appellants and the Respondent are directly involved and in which the same issues were analyzed. Consistency of interpretations is desirable whenever possible and justified, in order to establish and increase the level of confidence and legal certainty of the existing system. It certainly would not be desirable for the legal certainty of padel stakeholders that contradicting decision could be issued regarding the same federation as an obvious and undesired legal uncertainty would overfly not only the federation at stake but the padel community as a hole.

99. In the referred case CAS 2020/A/6728, the Panel concluded that even if there had been procedural deficiencies in the proceedings before the IPF (*quod non*), a number of such flaws were cured within the proceedings conducted before CAS, taking into account the *de novo* principle. In this regard the CAS Panel refers to the consolidated CAS jurisprudence regarding Article R57 of the CAS Code established in para. 64 of the award in CAS 2017/A/5127, that reads as follows:

“The first is linked to the CAS power of review of the facts and the law under Article R57 of the Code. As it is well known, the Panel, on such basis, hears the case de novo: therefore, the Panel is not limited to a mere review of the legality of the Challenged Decision, but can issue a new decision on the basis of the applicable rules and considers for such purposes all new evidence and submissions brought by the parties. This implies that, even if a violation of the principle of due process occurred in prior proceedings, it may be cured by a full appeal to the CAS (CAS 94/129; CAS 98/211; CAS 2000/A/274; CAS 2000/A/281; CAS 2000/A/317; CAS 2002/A/378). In fact, the virtue of an appeal system which allows for a full re-hearing before an appellate body is that issues relating to the fairness of the hearing before the tribunal of first instance “fade to the periphery” (CAS 98/211, citing Swiss doctrine and case law). In other words, as held in CAS 2008/A/1574, “any allegation of denial of natural justice or any defect or procedural error even in violation of the principle of due process which may have occurred at first instance ... will be cured by the arbitration proceedings before the appeal panel and the appeal panel is therefore not required to consider any such allegations”.

100. The Panel does not find any valid reason to set aside the long-standing jurisprudence of CAS in the application of the *de novo* principle and therefore totally concurs with the conclusion reached in the abovementioned CAS case. By appealing the IPF decision before CAS and conducting the present proceedings, all of the Appellants’ fundamental rights have been duly respected. In this regard, the Panel notes that, at the end of the hearing, the Appellants’ counsel expressly confirmed that the Appellants had no objections in respect of their right to be heard and to be treated equally in the present proceedings. Therefore, even if some of the Appellants’ rights could have been infringed in the previous proceedings conducted before the IPF, the *de novo* proceedings before CAS, where all procedural rights of the Appellants have been respected, would be deemed to have cured any such infringements.
101. In addition to the above, this Panel also agrees with the conclusion reached in CAS

2020/A/6728 regarding the procedural issues brought forward by the Appellants regarding the illegitimacy of the IPF disciplinary bodies and the alleged lack of independence of its former members, where it was found that *“the mere fact that the members of the IPF disciplinary bodies were appointed by the IPF Board of Director is certainly no compelling reason to set aside the Appealed Decision”*. In addition to the above, the Panel considers that it has not been proven that it exists any kind of lack of independence or illegitimacy of the IPF Disciplinary bodies as it has been alleged by the Appellants.

102. With respect to the time-limits established in Article 57 of the IPF SDR (see § 64 above), the Panel considers that, despite the unclear literal wording of said article, there seems to exist two time-limits regarding disciplinary proceedings. On one hand, there is a first time-limit of 15 days to (i) expressly resolve any petition or claim brought before the disciplinary bodies or (ii) initiate said disciplinary proceeding. On the other hand, there is a second time-limit of a maximum of 30 days in order to conclude the disciplinary proceedings once these have been initiated.
103. Regarding the first time-limit of 15 days, the Panel considers that there is no evidence on file that proves that the IPF violated it and that more than 15 days elapsed from (i) the moment in which the agreements signed between the PPF and the IPDJ were reported by the IPF Board of Directors to the IPF CDC, and (ii) the moment (11 March 2020) in which the IPF CDC issued the *“Providencia de incoación de expediente”*. At the same time, the Panel notes that, even if evidence had been brought to show that more than 15 days had elapsed, this would not have prevented the IPF CDC from initiating disciplinary proceedings against the Respondents.
104. The Panel notes that the Appellants objected at the CAS hearing that they intended to prove the non-compliance of the above-mentioned time-limits by requesting the production of the IPF disciplinary file, a petition that was rejected by the Panel. In this regard, however, the Panel notes the following:
 - i. in the CAS Court Office letter of 18 August 2021, sent on behalf of the Panel, the Appellants were reminded that, in compliance with Article R44.3(1) of the CAS Code, they had to *“demonstrate that the requested documents are likely to exist and are relevant in the case at hand”*. Consequently, the Appellants were invited, by 25 August 2021, to identify/clarify the documents they were seeking;
 - ii. in response to such letter, the Appellants only noted that they did not understand why they had to show that the documents existed and to demonstrate their relevance to the present case. Therefore, they did not provide the clarifications requested by the Panel;
 - iii. the Appellants voluntarily decided not to comply with the identification and clarification requested by the Panel despite having been granted in a letter of 26 August 2021 with a second opportunity to correctly identify and clarify which exact documents they were requesting from the Respondent and to demonstrate their relevance to the present proceeding. The Appellants could even have requested a clarification from the Panel in order to exactly understand what had to be clarified; instead, they decided to simply contest the procedural request brought forward by the CAS Court Office on behalf of the Panel;

- iv. it was only at the CAS hearing, and answering a question posed by the Panel, that the Appellants informed, for the first time, that the objective of such document production request was to know exactly how many days had elapsed between the petition or claim brought to the IPF CDC and the decision of said body to initiate the investigation phase of the disciplinary procedure;
 - v. the Appellants could have clarified such relevance when first requesting the document production within its Appeal Brief or when the Panel expressly demanded twice this information in order to decide whether to grant them with the requested measure. However, they omitted to provide this information and therefore, in light of the information that was in the Panel's possession at that moment, the Panel had no other option but to consider the disclosure of documents to be a *fishing expedition* and deny its production by the Respondent. Such request, therefore, was properly denied when it was submitted and, in the absence of a showing of "*exceptional circumstances*" justifying why a reasoned request could not be properly and timely be filed according to the Panel's instructions, cannot be granted at a later stage of the arbitration;
 - vi. as a result, in light of the evidence that has been filed in the present proceedings, the Panel concludes that it has not been proven that the IPF disciplinary bodies failed to comply with the first time-limit of 15 days included in Article 57 of the IPF SDR.
105. In any case, even conceding that, as a result of the production of documents (as requested by the Appellants, but denied by the Panel), evidence could be established to prove that more than 15 days had passed from the moment on which a petition or claim against the Appellants had been submitted to the IPF disciplinary bodies and the moment on which disciplinary proceedings were initiated, this would not have prevented the IPF CDC from initiating disciplinary proceedings against the Respondents. The Panel, in fact, notes that disciplinary procedures can be initiated also *ex officio* by the IPF CDC (Articles 37, second paragraph (A) and 41(A) of the IPF SDR): therefore, a procedure against the Appellants could be initiated at any time by the IPF CDC, irrespective of a petition or claim and of the first time limit contemplated by Article 57 of the IPF SDR.
106. Regarding the second time-limit (*i.e.*, the maximum period of 30 days that the IPF CDC had to conclude the disciplinary procedure it had initiated), the Panel considers that it is only when the investigatory phase is closed that it has to be calculated. In the Panel's opinion, this is the most reasonable interpretation of an otherwise obscure provision, as it is shown by its application. Once the investigatory phase was opened, the IPF granted the Appellants a 30-day period in order to file their comments on the potential infringements committed by them. Therefore, it would not be reasonable to sustain that the IPF had 30 days to conclude the disciplinary proceedings, when it granted the same period to the Appellants to defend themselves in the framework of the investigation phase. The Panel, therefore, finds itself comfortably satisfied that the 30-period for the conclusion of the disciplinary proceedings should only commence once the investigation had been concluded, what, as a consequence, implies that the IPF complied with the second time-limit established in Article 57 of the IPF SDR.
107. In addition to the above, even if it was to be considered that the time-limit in order to initiate

the proceedings was to be breached by the IPF (*quod non*), the Panel considers that no procedural right of the Appellants would have been breached.

108. The Panel observes that time limit indicated in Article 57 of the IPF SDR intends to protect IPF members from endless disciplinary proceedings since an excessive length could negatively affect the proper accused.
109. Despite the above, in disciplinary proceedings, the most import legally protected interest is the accused right of defense. In the present case, the Appellants' rights of defense were fully respected as they were granted with a first 10-period in order to provide all the information it considered relevant to submit to the IPF CDC that was conducting an investigatory phase, and a subsequent 30-day period in order to defend themselves. This right of defense was also respected in the proper appeal proceedings that was initiated by the Appellants before the IPF Appeals Committee.
110. The Panel also notes that the delay in the disciplinary proceedings was due to the fact that the IPF CDC decided to wait until the CAS 2020/A/6728 case had finished and the award in that case notified, since its findings could directly affect the present disciplinary proceedings. The Panel considers such decision to be coherent and lawful and that it did not produce any adverse effect for the Appellants.
111. Accordingly, the Panel considers that the legal protected interest was not violated by the IPF and that all the Appellants' fundamental rights have been duly respected and therefore any procedural issue, even in violation of the principle of due process, which may have occurred at first instance have been cured by the appeal arbitration proceedings filed before CAS.
112. In light of all the above, the Panel considers that there are no procedural issues that should be taken into account by the Panel in order to automatically uphold the Appeal and therefore overturn the decision issued by the IPF Appeal Body.

B. The potential violation of the IPF Discipline Rules committed by the Appellants

113. Regarding the merits of the present case, the Panel notes that it is undisputed that the PPF submitted several applications for public funds regarding the organization of the following international padel events that were scheduled to be held in 2019 in Portugal: the European Team Championship, the EuroAmerica Padel Cup, the Four Nations Cup (which was scheduled but never took place) and the European Champions Trophy (which did not took place and was postponed to 2020). This applications for funds were submitted to the IPDJ, which is the Portuguese governmental body in charge of granting public funds for the organization of international sports events in Portugal in order to promote sport in said country.
114. The IPDJ issued the Guidance Document in order to regulate the application conditions for the official form that had to be completed by any interested federation that intended to organize international sport events in Portugal for 2019. Within the given deadline, the PPF fulfilled the abovementioned official application form indicating, *inter alia*, that the padel tournaments that the PPF intended to organize in Portugal, and for which it was applying for public funds, were

going to be co-organized with the IPF.

115. On 26 July 2019 and 5 August 2019, the PPF and the IPDJ signed the “*Operating Contract for Sporting Development*” for the events “European Padel Championship” and “EuroAmerica Padel Cup” in which the IPDJ granted a financial co-participation of up to the maximum of €50,000 and €40,000, respectively.
116. It is also undisputed that the IPF was not a signatory to said agreements and was never informed of their existence. The above-mentioned application forms in which the PPF informed the IPDJ that the padel tournaments were going to be co-organized with the IPF were attached to said contracts.
117. In both contracts it was agreed that the co-participation budget would be given in two different instalments: 50% would be granted 30 days before the respective event took place and 50% after the event.
118. It is also undisputed that the PPF finally co-organized the referred padel tournaments with the European Padel Association (“EPA”) as it has been concluded in CAS 2020/A/6728. It shall also be noted that the EPA is not under the scope of the IPF and is a totally different entity.
119. The IPF initiated the disciplinary proceedings due to the fact that the PPF had been granted with public funds in order to organize official padel events due to the misleading information that was submitted to the IPDJ, stating that the tournaments were going to be co-organized with the IPF, and would be included in the events of the international calendar of the IPF, when the reality is that those tournaments were finally co-organized with the EPA and intended to substitute the European Padel Championship that had to be organized by the IPF.
120. The disciplinary bodies of the IPF sanctioned the PPF considering that the conduct of the PPF violated Articles 20(F) and 20(N)(1) of the IPF SDR, that read as follows:

“Article 20. Very serious infractions.

The following are considered to be very serious violations of the rules of the game or competition, or the general rules of the sport:

(F) The notorious public acts that violate the dignity and the decorum of the sport, when they are of a special gravity.

(...)

(N) In the opinion of members of the Boards of Directors of National Federations affiliated to the FIP that are considered very serious infractions:

- 1. Failure to comply with the agreements of the General Assembly of the FIP, as well as other statutory provisions, regulations and norms. (...).”*

121. The PPF contends that the express indication in the official IPDJ form was due to an

administrative innocent mistake committed by the PPF’s administrative staff and had no bearing on the allocation of funds. In this regard, the witness proposed by the Appellants, Mr José Sánchez, personally assumed the administrative error and explained to the Panel that he was the person in charge of filing the correspondent forms. Mr José Sánchez contended that he never received a clear and unambiguous order from the President of the PPF or the Board of said federation in order to expressly include the IPF as co-organizer and his intention was never to mislead the IPDJ. This personal mistake was allegedly committed as Mr Sánchez exposed that he used past forms that were sent from the PPF to the IPDJ for past events that were co-organized with the IPF and that did not realize that it had to eliminate the IPF as co-organizer and therefore considered that there was not bad faith at all.

122. That notwithstanding, in light of the overall information provided, the Panel is not comfortably satisfied by the explanations brought by both the Appellants and Mr Sánchez and does not consider reasonable to conclude that the inclusion of the IPF as co-organizer was due to a personal administrative mistake. The PPF was aware that when requesting public funds to organize padel competitions in Portugal it was important to include the IPF as a co-organizer in order to grant an international dimension to the competition, something that was necessary for the allocation of funds. The Panel is not convinced by the Appellants’ argument that Mr Sánchez used a past form and changed the content of the form in order to adapt it to the following tournaments but just didn’t realize that it was including the IPF as a co-organizer when the IPF was not going to have any kind of involvement in said tournaments. The reality is that the PPF was granted with 50% of the funds requested before the tournaments were played and the inclusion of the IPF as co-organizer was crucial in order to obtain said funds. The Panel considers that the PPF was fully aware of this situation and therefore doesn’t seem reasonable to conclude that it was just a simple mistake.
123. In view of the findings above, the Panel concludes that the Appellants effectively committed a violation of Articles 20(F) and 20(N)(3) of the IPF SDR regulation. The inclusion of the IPF in the official forms submitted to the IPDJ had an important impact on the fact that the PPF was allocated with public funds in order to organize several international padel tournaments that were supposed to be organized by the Respondent and finally were co-organized by the EPA.
124. In this regard, the Panel understands that this conduct by the PPF can be considered as stated in Article 20(F) in a “*notorious public acts that violate the dignity and the decorum of the sport*” as the PPF used the IPF to obtain public funds in order to organize padel tournaments that intended to substitute the proper tournaments that had to be organized by the IPF and also constitutes a violation of Article 20(N)(1) committed by the President of the PPF. The Panel considers that the fact that a member federation deliberately misuses the name of the IPF in order to obtain public funds can be considered as a violation of the dignity and decorum of the padel community and therefore, the Panel confirms the conclusion reached by the Appealed Decision in this regard.

C. Proportionality of the sanctions

125. In addition to all the above, the Panel also wishes to analyze the proportionality of the sanctions imposed to the Appellants. In this regard, it is worth noting that the violation committed by the

Appellants is considered by the IPF SDR as a very serious infraction that is punished by Article 23(A) in the following way:

“A) Fines of not less than 3,000 Euros and not more than 30,000 Euros”.

126. When turning the attention to the question whether the imposed pecuniary sanction is to be considered disproportionate or not, the Panel accepts the approach taken by previous CAS Panels in the context of reviewing a decision on sanctions according to which:

“Whilst a hearing before the CAS is a hearing de novo the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules should be reviewed only when the sanction is evidently and grossly disproportionate to the offense” (CAS 2019/A/6672; CAS 2014/A/3467; CAS 2004/A/690 among others).

127. The Panel notes that the Appealed Decision lacks any reasoning as to how the IPF CDC or the IPF Appeal Committee reached the conclusion that the infringement committed by the PPF was to be sanctioned by the imposition of a pecuniary sanction of € 10,000. It shall be taken into account that the sanctions due to very serious infringements may vary from a pecuniary sanction of €3,000 to €30,000. The discretion allowed implies that the deciding body is required to explain why the sanction imposed should be considered proportionate in order to benefit from the deference usually applied in CAS jurisprudence (CAS 2016/A/4558).
128. The Panel also notes that there is a well-recognized CAS jurisprudence that establishes that whenever an association uses its discretion to impose sanctions, CAS will have regard to that association’s expertise but, if having done so, the CAS panel considers nonetheless that the sanction is disproportionate, it must, given the *de novo* powers of review, be free to say so and apply the appropriate sanction (CAS 2018/A/5977; CAS 2017/A/5003; CAS 2015/A/4338).
129. Taking into account that the IPF CDC failed to explain what led the disciplinary body to decide that the sanction imposed should amount to € 10,000 and therefore justify its proportionality, the Panel considers that it is not appropriate to apply the usual deference in assessing the proportionality of the pecuniary sanction imposed.
130. In order to analyze the proportionality of the sanction imposed, the Panel wishes to recall that the IPF already sanctioned the PPF with a €10,000 pecuniary sanction, together with a 7-months suspension, due to the effective co-organization with the EPA of the European Championships of 2019. This decision was appealed before CAS that decided to confirm the decision imposed due to the violation of the IPF SDR committed by the PPF by organizing an international padel event without informing the IPF.
131. In this regard, it shall be noted that what is being sanctioned in the present proceedings is the fact that the PPF misused the name of the IPF in order to obtain public funds to co-organize the abovementioned event and therefore it seems clear that both infringements are closely connected. The Panel considers that the infringement committed in the case CAS 2020/A/6728 is of a higher severity than the one analyzed in the present case. In this sense it doesn’t seem reasonable to sustain that the sanction for using the IPF for obtaining funds to co-organize and

supplant a tournament that had to be organized by the IPF is to be punished with the same severity than the co-organization with the EPA of the corresponding tournament. The Panel is of the opinion that the violation regarding the means used in order to organize the referred international tournament cannot and should not be punished with the same pecuniary sanction than the one imposed due to the violation committed by effectively supplanting the IPF.

132. Consequently, on the basis of all the above the Panel considers that the pecuniary sanction imposed to the PPF shall be considered as disproportionate, taking into account the particular circumstances of the present case, and considers that a pecuniary sanction of €5,000 would be more proportional taking into account the previous sanctions imposed by the IPF in connected cases.
133. In light of all the above, the Panel decides to partially uphold the Appeal filed by the Appellants and consequently annuls the Appealed Decision and the previous First Decision and condemns the PPF due to the violation of Article 20(F) of the IPF SDR to a pecuniary sanction of € 5,000 and with a public warning sanction to the President of the PPF for the violation of Article 20(N)(1) of the IPF SDR.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the Portuguese Padel Federation against the decision rendered on 6 April 2021 by the International Padel Federation Appeal Committee is partially upheld.
2. The decision rendered on 18 May 2021 by the International Padel Federation Appeal Committee that confirms the decision of the International Padel Federation Competition and Discipline Committee is set aside.
3. The Portuguese Padel Federation is found responsible for a violation of Article 20(F) of the Sport Discipline Regulations of the International Padel Federation. A fine of € 5,000 is imposed on the Portuguese Padel Federation for such violation.
4. Mr Ricardo Da Silva Oliveira is found responsible for a violation of Article 20(N)(1) of the Sport Discipline Regulations of the International Padel Federation. A public warning is imposed on Mr Ricardo Da Silva Oliveira for such violation.
5. (...).
6. (...).
7. All the other motions or prayers for relief are dismissed.