



Tribunal Arbitral du Sport  
Court of Arbitration for Sport

**CAS 2018/A/5770 Luciano Rossi v. ISSF**

## **ARBITRAL AWARD**

**delivered by the**

## **COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition**

President: Mr Murray Rosen QC, Barrister in London, United Kingdom  
Arbitrators: Prof. Luigi Fumagalli, Attorney-at-law in Milan, Italy  
Mr Michele A.R. Bernasconi, Attorney-at-law in Zurich, Switzerland

in the arbitration between

**Luciano Rossi**, Italy  
Represented by Mr Alessandro Oliverio, Attorney-at-law in Rome, Italy

**-Appellant-**

and

**International Shooting Sport Federation (ISSF)**, Munich, Germany  
Represented by Mr Christian Keidel, Attorney-at-law in Munich, Germany, and by Prof.  
Antonio Rigozzi, Attorney-at-law in Geneva, Switzerland

**-Respondent-**

## **I. PARTIES**

1. The Appellant, Mr Luciano Rossi, is the President of the *Federazione Italiana Tiro al Volo* (“FITAV”), a federation affiliated to the Respondent, the International Shooting Sport Federation (“ISSF”), and, subject to the Decision the object of this appeal, a Vice-President of the Respondent. Until March 2018, he was also an elected senator in the Italian parliament.
2. The Respondent, ISSF, is the controlling body for shooting sports at international including Olympic level; it is domiciled in Germany and is governed by its Constitution and by-laws including a Code of Ethics (Annex “CE” to the ISSF Constitution).

## **II. FACTUAL BACKGROUND**

3. The Panel has considered all the allegations, evidence and arguments submitted by the parties: the summary below is background to its reasoning, and additional facts may be referred to (if and where necessary) in the legal discussion.
4. By way of preliminary, in 2015 Mr Rossi was one of a number of long-serving members of the ISSF’s Executive Committee (“ExCo”), including its President Mr Olegario Vasquez Rana and its Treasurer and Secretary General Mr Franz Schreiber and another Vice-President Mr Gary Anderson.
5. Mr Rossi had a particular interest in clay shooting, which with other shooting sports is heavily dependent for its popularity and funding of events on the Olympics; he and his wife have owned a registered company called Toro SRL which is (a) a 19.48% shareholder in a clay target and slings manufacturer called Eurotarget SRL and (b) the owner of the “Umbria Verde” resort, at which clay shooting facilities including Trap are publicly advertised as available.

### **A. The future of Olympic shooting events**

6. Within ExCo and elsewhere, from at least 2015, there were many discussions concerning the future of Olympic shooting events, of particular concern to shooting sports and their participants including national members’ federations and interested businesses including manufacturers and facility providers.
7. On 8 September 2015, an Ad Hoc Committee (the “AHC”) of ExCo was constituted to consider such issues. There was also a meeting on 3 February 2016 between Messrs.

Schreiber and Anderson and the Sports Director of the International Olympic Committee (the “IOC”) Mr Kit McConnell.

8. The proposals made, discussed or feared during 2016 concerning the future of shooting sports at the Olympic, included (a) the removal and/or mixed-gender replacement of certain events and in particular the cancellation of the Double Trap Men, 50m Prone Rifle Men and 50m Pistol Men events at and from the Tokyo 2020 Olympics and (b) the risk at some subsequent future point, of laser instead of propulsive shooting events.
9. It seems that from early 2017, the majority of ExCo favoured approval of the IOC’s changes to the shooting events at Tokyo 2020, cancelling against the opposition of Mr Rossi and certain other participants in shooting sports such as national federations and businesses, some of whom wished for an Exceptional General Meeting of the ISSF (“EGM”) to overturn ExCo’s position on the issue.
10. In lobbying with federations and manufacturers, Mr Rossi had meetings and other contacts with Mr Andrew Lane of Eley Group (in particular on 29 March 2017 in Rome) and Mr Francesco Repich of Morini Competition Arm SA (who had presided at ISSF events and been awarded its Gold Medal) among others. Draft letters were circulated for presidents of national federations, and Mr Repich issued public statements against ExCo’s proposal (in particular on Facebook on 11 February 2018).
11. Much of this lobbying must have been well known to ExCo, whose minutes dated 20 February 2017 explicitly referred to the industry pushing the federations to retain the threatened events, and which appears to have had access to drafts and emails among the lobbyists including a draft letter of 2 February 2017 and an email of 22 March 2017. Indeed there is no reason why such matters were not likely to feature in the occasional “round table” meetings organised by the ISSF and the European Shooting Confederation with the shooting industry.
12. ExCo were also aware of a movement to initiate legal action against the proposed Olympics changes (see Slide 35 from its meeting on 21 February 2017), and it seems that at one point Mr Lane offered to fund this, but for his part Mr Rossi was not interested in it and in any event it came to nothing.
13. On or about 6 April 2017, Mr Rossi wrote a letter stating publicly that Messrs Schreiber and Anderson had been secretly discussing the introduction of laser shooting and he withdrew his long-standing support for the ISSF’s President Mr Vasquez Rana (who subsequently nominated as his successor for the elections at the end of November 2018 Mr Vladimir Lisin, another ISSF Vice-President).

14. Mr Rossi and others continued to lobby for an EGM to debate the issue of changes to the Olympics programme. This was opposed by Mr Carlos Silva Monterroso, President of the Confederation Americana de Tiro (“CAT”) who stated in a letter dated 14 April 2017 that the request “... was initiated by a group of arms and ammunitions manufacturers at the beginning of February, with the active participation of [Mr Rossi] who, in addition, holds a partnership in a well-known clay target company... ”.
15. On 5 May 2017, Mr Rossi circulated to ISSF members a letter of complaint as regards the President’s decision to grant travel expense refunds and €500 per day to ExCo members.
16. A subsequent attempt by Mr Rossi to raise his points before ExCo on 4 June 2017 (when he allegedly threatened Messrs Lisin and another ExCo member Mr Kevin Kilty) was rejected and he circulated another letter of complaint dated 5 June 2017.
17. On 25 June 2017, an Exceptional General Meeting of ISSF, as sought by Mr Rossi and others, took place in Munich, when it is alleged that Mr Rossi insulted Mr McConnell as regards the alleged laser discussions, and in the event, no vote was allowed.

**B. The complaints against the Appellant**

18. Under the ISSF Code of Ethics (the “CE”) (based on the IOC Code and promulgated under Article 3.12.3.5 of the ISSF Constitution), Mr Rossi was bound by a number of Rules of Conduct. These included :

*“... Persons bound by the Code ... 2.1.1 ... shall behave in a dignified manner and act with complete credibility and integrity ... [and]... may not abuse their position in any way, especially to take advantage of their position for personal or private aims or gains ...[and]...*

*” 2.1.3 ... have a duty of loyalty to the ISSF and its member [and] Therefore... shall in particular refrain from any act of indiscretion, insubordination or partiality...*

*“2.2.1 ... When performing an activity for the ISS, or being elected or appointed, persons bound by this Code shall disclose any potential conflicts of interest that could be linked with their prospective activities. Conflicts of interest arise if persons bound by this Code have , or appear to have, private or personal interests that detract from their ability to perform their duties with integrity and in an independent manner. Private or personal interests include gaining any possible advantage for the persons bound by this Code for themselves, members of their family, relatives, friends and acquaintances... Any such conduct shall be immediately disclosed and notified to the body or organisation for which the person bound by this Code performs his duties... ”.*

19. Following the EGM of 25 June 2017 and further acrimony between Mr Rossi and other ExCo members, complaints were made against Mr Rossi by Mr Monterroso dated 18 June 2017, Mr Lisin dated 6 September 2017, another ExCo member Mr Robert K Mitchell dated 14 September 2017 and Mr Kilty dated 14 October 2017.

**C. The Ethics Committee**

20. These complaints were forwarded by Messrs Rana and Schreiber to an ISSF ethics committee comprising Mr Francisco Fernandez Lopez, Mr Alain Bionda and Dr. Martin Stopper. They delivered their decision against Mr Rossi in Madrid on 27 April 2018 (the “Decision”).
21. The Decision addressed the complaints under three headings (a) personal allegations (b) loyalty and (c) conflict of personal interests. It found that Mr Rossi had (a) breached CE Article 2.1.1 by telling Mr Lisin to “*be careful*” and inviting Mr Kilty to fight at the ExCo meeting on 4 June 2017 and calling Mr McConnell a liar at the EGM on 25 June 2017; (b) breached CE Article 2.1.3 by acting disloyally and insubordinately against decisions of ExCo in his letters; and (c) breached CE Article 2.2.1 by failing to disclose a conflict of interest, namely his ownership through Toro SRL in Eurotarget SRL and the Umbria Verde resort.
22. Particular passages in the Decision to which the Appellant takes exception was to the effect that Mr Rossi:

*“...intended to mislead the ISSF member federations by taking advantage of their potential fear of changing the laser shooting with the sole purposes to trigger support for his own political campaign and agenda... [and by the letter of 29 March] asked several member ISSF Member Federations to support a request for an EGA to overturn the above mentioned decision despite the lack of competence of the assembly ... [and the letter of 5 June was] a personal political campaign against the ISSF President...”*

23. The Decision proceeded to sanction Mr Rossi for these alleged breaches, taking account his senior position (which included a role in drafting the EC) by suspending him from office as ISSF Vice-President and banning him from any shooting-related activities “*administrative, sports and others*” for 36 months from 27 April 2017; requiring him during that period to “*behave in a dignified and loyal way with the ISSF... refrain from any comments ... related to [its] activities [and] regularise his ... business situation to avoid the current conflict of interest ...*”; and fining him EUR 30,000, which he has paid.

### **III. THE PROCEEDINGS BEFORE CAS**

24. On 1 June 2018, the Appellant filed a statement of appeal against the Decision before the Court of Arbitration for Sport (“CAS”) subject to the Code of Sports-related Arbitration, 2017 edition (the “Code”), in accordance with Articles R47 and R48 thereof.
25. The Panel appointed were Mr Murray Rosen QC, Prof. Luigi Fumagalli, appointed by Mr Rossi, and Mr Michele A.R. Bernasconi, appointed by the ISSF, who were assisted by Mr William Sternheimer, Deputy Secretary General of CAS, as CAS counsel.
26. In accordance with Article R28 of the Code, the seat of the arbitration is Lausanne, Switzerland; in accordance with Article R29 of the Code, the language of the arbitration is English.
27. On 6 June 2018, the Appellant filed an Appeal Brief under Article R51 of the Code together with a Request for Provisional Measures (“RPM”) in accordance with Article R37 of the Code.
28. The Respondent filed an Answer to the RPM on 25 June 2018 and an Answer to the appeal in accordance with Article R55 of the Code on 9 July 2018.
29. An Order for Procedure dated 25 July 2018 was countersigned on behalf of both Parties and provided for a hearing on 29 August 2018 under Article R57 of the Code.
30. In view of the proximity of the hearing, the Panel decided not to make any order on the RPM and to deliver the operative part of the Award shortly after the hearing; and the Appellant confirmed that he had no objection to such decision and withdrew the RPM.
31. Requests for production of documents were made on both sides. As a result, the Appellant commented by an email dated 9 August 2018 and produced some copy emails on 27 August 2018, regarding communications with Messrs Lane and Repich in late March 2017.
32. A hearing before the Panel duly took place on Wednesday 29 August 2018, commencing at 9:30 am at the CAS Headquarters in Lausanne, Switzerland. At the outset and conclusion, both Parties stated that they had no objections to the procedures followed by CAS.
33. The Appellant was accompanied by Messrs. Alessandro Oliverio and Nicola Noth as counsel and Ms. Marie Shannon as interpreter; and counsel on behalf of the

Respondent were Messrs. Sébastien Besson, William McAuliffe, Christian Keidel and Paul Fischer. CAS counsel Mr Daniele Boccucci was also present.

34. On 7 September 2018, following the Panel's deliberations, the operative part of the award was rendered, as set out at the conclusion below.

#### **IV. THE PARTIES' SUBMISSIONS**

35. The Panel has carefully considered all the parties' submissions, and the following is a summary to assist in understanding what follows. It does not need to be and is not intended as a comprehensive reiteration of all the submissions made.

##### **A. The Appellant's Submissions**

36. Mr Rossi's main submissions may be summarised as follows:-
- (a) First he criticised the procedures before the ethics committee which he said applied the wrong standard and reversed the burden of proof and failed to ensure that he had copies of the complainants' evidence and had the opportunity to reply.
  - (b) Secondly, he claimed that the ethics committee was biased and its Decision was intended to prevent his opposition to ExCo in particular by standing for President at the next elections at the end of November 2018.
  - (c) Thirdly, he sought to justify his complaints against ExCo, including those as regards the allegedly secret discussions concerning the introduction of laser shooting instead of propulsion firearms, the undesirability of the proposed changes to the Tokyo 2020 shooting events, and the convening and conduct of the EGM as well as the President's expenses policy.
  - (d) Fourthly he denied issuing any insults or threats and any undisclosed conflicts of interest or disloyalty contrary to the CE, which was to be construed with legal certainty against the presumption of innocence.
  - (e) Fifthly, he argued that the Decision was arbitrary and for a political and punitive aim and that the sanction imposed was disproportionate and out of balance with the misconduct allegedly involved.
37. The Appellant requested the following relief, as regards the merits, namely that CAS orders:
- (a) that the Decision be set aside and Appellant be acquitted of all the charges ;

- (b) that the ban, suspension and the fine against the Appellant be removed or alternatively, significantly reduced;
- (c) that the ISSF ExCo dismiss the ethics committee;
- (d) that Mr Rossi be found to have been harmed and unfairly treated by the ISSF in order to prevent him from running as a candidate at the next presidential election;
- (e) that the ISSF pay EUR 45,000 to Mr Rossi; and
- (f) that the ISSF pay in full or by way of a contribution to the costs and legal fees of the present proceedings and those before the ISSF ethics committee.

#### **B. The Respondent's Submissions**

38. The ISSF's main submissions were, in summary:-

- (a) First, that the relevant standard of proof against Mr Rossi was on the balance of probabilities as stated in Article 4.3 of the CE or alternatively 'comfortable satisfaction' (the phrase used in CAS jurisprudence on disciplinary matters, but in any event not the criminal standard of 'beyond reasonable doubt' as contended by Mr Rossi).
- (b) Second, that Mr Rossi had orchestrated an improper campaign to damage ExCo and its President, including insults and threats towards ExCo's officers and the IOC's sporting director.
- (c) Third, that this involved the false use of a laser discussion between representatives of the ISSF and the IOC, of which he must have been aware for a year before raising it.
- (d) Fourth, that Mr Rossi conspired with manufacturers and others to overturn ExCo's proposal to cancel Double Trap Men, 50m Prone Rifle Men, 50m Pistol Men from the Olympics programme at Tokyo 2020, consulting over legal action as well as an EGM, using their draft letters and leaking ExCo minutes.
- (e) Fifth, that this represented disloyalty on the part of an ISSF Vice-President and had been motivated by his own undisclosed commercial interests, in conflict with the interests of the ISSF and its members.
- (f) Sixth, that the sanction was proportionate in the light of "... *the high degree of guilt, extreme negative consequences and ulterior motives of the Appellant*", whose claim for EUR 45,000 should be dismissed as wholly speculative and without any legal or evidential grounds.



39. The Respondent asked for relief as follows:

- (a) dismissing Mr Rossi's prayers for relief;
- (b) confirming the Decision;
- (c) ordering Mr Rossi to pay the costs of these proceedings; and
- (d) ordering Mr Rossi to pay a significant contribution towards the legal fees and other expenses incurred by the ISSF herein.

## V. JURISDICTION

40. Article R47 of the Code states:

*"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."*

41. The Appellant relies on Article 7 of the CE as conferring jurisdiction on the CAS, which was not contested by the Respondent and was confirmed by the signature of the OP.

## VI. ADMISSIBILITY

42. Under Article R49 of the Code:

*"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."*

43. Article 7 of the ISSF also provides for 21 days for the filing of an appeal. The Decision, although dated 27 April 2018, was only notified to the Appellant on 16 May 2018. He filed his Statement of Appeal on 1 June 2018, accordingly within that deadline, and thus the appeal is admissible.

## VII. APPLICABLE LAW

44. Article R58 of the Code states:

*“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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

45. In the present case the applicable regulations are the ISSF Constitution and the CE. If necessary, German law has subsidiary application, as both Parties agree.

## VIII. MERITS

46. The Parties’ submissions in this appeal procedure, whilst extensive, were highly variable in both quality and focus. Moreover, apart from selected documents, further factual explanations were lacking at the hearing. On the Appellant’s side, he seemed unable to provide direct answers; on the Respondents’ side, in the absence of any responsible ISSF officer, their counsel could not provide any relevant information as what ExCo knew regarding the alleged matters founding the alleged undisclosed conflicts of interest and communications with industry representatives on the part of Mr Rossi.
47. These considerations highlight the imperative need in this appeal procedure to prioritise and contextualised the complaints against Mr Rossi by reference to the documents which the parties chose to produce – all the more so, given that this appeal is by way of rehearing (and irrespective of the issues in which the ISSF ethics may have been deficient as claimed on behalf of Mr Rossi).
48. Accordingly, the following discussion set out key findings (and limitations) regarding the relevant aspects of the case as determined by the Panel, both as to the nature and context of the Appellant’s alleged misconduct and as to the appropriate sanction. For the avoidance of doubt, the Panel is comfortably satisfied of these matters, beyond the balance of probabilities prescribed by the CE.

### A. The CE

49. In the view of the Panel, CE Articles 2.1 and 2.2 (headed respectively “Duties” and “Undue Advantage”) contain crucial rules as regards the standards expected of, among others, executive officers of a sports organisation such as the ISSF, in particular for the protection of its members and the wider public. Personal integrity, dignity, and respect, are important ingredients of all interaction.
50. However, the need for respect, loyalty and disclosure of conflicts of interest is not absolute and unqualified, short of any context. These are matters of degree and

balance, having regard to the purpose of the CE as a whole, its references to the need to prevent personal gain (entirely unestablished against Mr Rossi in this case) and the particular conduct, issues and background in issue.

51. In the present case, neither party has demonstrated complete transparency in the interests of ISSF and its stakeholders and on the evidence and submissions before the Panel
- (a) the Panel does not consider that opposition to ExCo and criticism and debate between individuals in relation to ISSF issues, however trenchantly expressed and whether within or without ExCo, necessarily constitutes a breach of CE Article 2.1.1: the governance of such an organisation and service of its members may require some robustness in debate;
  - (b) whilst loyalty may require discretion and collective obedience, as stated in CE Article 2.1.3, that cannot always outweigh the right to campaign for objectives *bona fide* considered to be in the interests of the organisation as a whole ; and
  - (c) questions of conflict of interest and the need for disclosure depend on the particular circumstances: Article 2.2.1 CE clearly imposes a continuing duty, and the persons bound by the CE must judge how stark a conflict may be and what disclosure is required if those who may be affected are to decide on its ramifications.
52. The Panel does not regard it as necessary to determine Mr Rossi's complaints as regards the allegedly deficient procedures of the ethics committee, since the present appeal is a rehearing *de novo* and those procedural aspects are cured and, therefore, moot.

#### **B. Mr Rossi's conduct**

53. Against those principles, it seems obvious to the Panel that Mr Rossi's ownership of Toro SRL and his discussions with firearms manufacturers as to how to oppose ExCo's approval of the changes to shooting events programme at Tokyo 2020, on the face of it, required formal and specific disclosure by him, in the interests of the members of ISSF, in particular for the purpose of the EGM of 25 June 2017.
54. Mr Rossi's indirect ownerships in Eurotarget SRL and the Umbria Verde resort clearly tended to give him a commercial interest in the retention of the threatened events including the Double Trap Men event at Tokyo 2020. His communications with other manufacturers as regards the issue reinforced that.

55. Mr Rossi may have considered that this did not significantly affect his ability to act impartially in opposing ExCo, including calling and addressing the EGM; and that conferring with others interested such as firearms manufacturers was normal and proper. He did not conceal his ownership of Toro SRL and its commercial interests (and for all the Panel knows, others on ExCo may have had similar connections and/or may or should have been aware of these matters).
56. However, neither did he draw ISSF's attention to his connections with the commercial interests, including of course his own, in the questioned Olympic events at the crucial time for the ISSF leading up to and at the EGM, when he was a senior and prime mover in the supposed sole interest of the ISSF and its members. The only reference which he could identify to his shareholding interest in Eurotarget SRL was in passing in an email to Messrs Vasquez Rana and Schreiber some 2 years previously, dated 13 March 2015.
57. In this Mr Rossi made at least an error of judgment. The commercial interests of both himself as owner of Toro SRL and of other manufacturers with whom he consulted were potentially if not actually, liable to be advanced by retention of the men's double trap and other shooting events under Olympic threat. That his consultations resulted in no more than the unsuccessful EGM is no answer, since (as the Respondent argued) that involved costs, disruption and public relations effects which might not have been justified for the sake of ISSF "democracy".
58. The members of ISSF deserved and were entitled to be specifically informed by Mr Rossi of his position and situation before or at the latest when considering the issues at the EGM. The Panel regards the failure by Mr. Rossi to disclose his private, conflicting interests, as a serious breach of CE Articles 2.1.3 as regards "loyalty" and more so CE Article 2.2.1 as regards the disclosure of conflicts of interest. The fact that others (his opponents) may have referred to his conflict of interest did not relieve him from his own duty of disclosure.

### **C. ExCo**

59. On the other hand, the manner of proceeding against Mr Rossi on the part of ExCo seems (again on the evidence and submissions before the Panel) to leave a certain amount to be desired. Their emphasis on the personal and political differences between him and other ExCo members appears inappropriate and perhaps distracting as far as the ethics committee were concerned.
60. The complaints against Mr Rossi included those from Mr Monterroso and Mr Mitchell, whose letter of 14 September 2017 stating that he had "*become aware of*" Mr Rossi's ownership in Eurotarget and the Umbria Verde resort which "*could*

*explain why he was so concerned about the cancellation of the Double Trap event*". But neither the basis and date of this awareness (shared at least in part with Mr Monterroso as above), nor Mr Schreiber's possession of emails passing on 23 March 2017 between Messrs Lane, Repich and Rossi was explained, leaving room for suspicion that ExCo had known of Mr Rossi's interests and manufacturer discussions throughout, albeit without his own specific disclosure.

61. It was common ground that Mr Schreiber, Mr Repich and their families were also friends. It is not to cast any aspersions upon either of them or others, to infer that there must be many contacts between important members of the shooting sports community; and discussions between them about developments, opportunities and threats to shooting sports, as perceived by members and suppliers at all level must be frequent and at times intense.
62. It also cannot be ignored that the ethics committee were ExCo appointees and that complaints by Mr Rossi's were ignored or rejected *in limine*, without (as far the Panel is aware) any proper consideration. Alongside that, the Respondent chose to put further allegations before the Panel regarding Mr Rossi's attendance at 3 shooting sports events since and putatively in breach of the Decision, without any proof that it breached the Decision's ban by any purportedly "official" ISSF or FITAV role there, and in a way which suggested that malice against him was not impossible.
63. At the very least, the appearance of possible personal and/or political motivation has been allowed to enter into ExCo's actions against Mr Rossi and indeed the ethics committee's endorsement of extensive punishment, which would have a disproportionate effect and tend to stifle his rights of sporting participation, free speech, and any inside or outside role in relation ISSF's affairs.
64. Be that as it may, the Panel is not satisfied that the personal allegations against Mr Rossi, that he was insubordinate and insulting to Messrs Schreiber, Kilty and McDonald, have been proved. He accepted at the time that any threats against them were inappropriate and that he believed in democracy. It is symptomatic of ExCo's political antipathy to him that he was even accused, without foundation, of misusing his title of senator.
65. To oppose the current and potential future ISSF President, and argue against the changes he feared to the Olympic shooting sports programme, were not on their own, in motive substance or effect, breaches of the EC which justified his prosecution and conviction before the ethics committee.

**D. Mitigation**

66. As already suggested by the discussion above, whilst Mr Rossi's breaches of CE Article 2.2.1 and 1.2.3 were serious, especially given his seniority and profile, they are subject to a number of mitigating factors of which the ethics committee did not appear to take account.
67. Mr Rossi's essential wrong-doing was not so much his ownership interests or communications with manufacturers which gave rise to the questions of conflict of interest and loyalty, but his failure to make proper disclosure. For this he is culpable. However, on the basis of the evidence submitted, the Panel is not satisfied that the allegations of personal gain and bad faith raised by Respondent against Appellant can be sustained.
68. Mr Rossi took no decisions for the ISSF or other direct measures to advance his own or other commercial interests, and the EGM was an attempted exercise in democracy. Instead he became involved in a passionate, and too hostile political debate, and failed to use his discretion to ensure that the ISSF members, and indeed Mr Rossi himself, were protected from his own collateral interests, available alliances and other means.
69. As for the harm done by his breaches, the Panel does not consider that the convening of the EGM or Mr Rossi's conduct there (from the video in evidence) caused any severe damage calling for harsh sanction. The cost and publicity involved, and the annoyance felt by Mr Rossi's political adversaries, were as much the effect of several factors, including ISSF's constitutional make up, responsibility to its members through an EGM as Mr Rossi's manufacturing connections.
70. It is impossible to say how and the extent to which matters might have been different if Mr. Rossi had made the necessary disclosure, but it is possible that they would have proceeded in much the same way but with more obvious scope to discredit Mr Rossi and his views at the time. In any event, the Panel is satisfied that Mr. Rossi committed serious breaches of the CE, as set out above. Such finding of serious breaches by Mr. Rossi will in itself affect his reputation and his sport-political activities.
71. Finally, the ISSF failed to explain how Mr Rossi's interest in Toro SRL and discussions with firearms manufacturers came to be discovered, other than that information was received from ExCo members. Given Mr Schreiber's family friendship with Mr Repich's family, and likely contacts within shooting sports, there is a risk and it is not impossible that members of ExCo were aware of these matters long before, and were not misled by Mr Rossi, but chose when to deploy them against him for their own purposes.

### **E. Sanctions**

72. In this case the Panel finds that Mr Rossi was guilty of serious breaches of the CE, i.e. non-disclosure as regards his commercial interests and discussions with manufacturers relevant to the matters for the EGM. However, upon due consideration of the evidence produced, the Panel is not satisfied that Mr Rossi acted in bad faith or for personal gain. Therefore, the Panel considers that a proportionate ban should be measured in months, not in years.
73. Taking the opportunity from the Appellant's reference to other disciplinary cases, like those of former FIFA officials, the ISSF submits that his misconduct is comparable with those of officials who made improper, substantial gains and were banned for many years. But the Panel considers that the present matter deserves a different evaluation.
74. More scientifically, perhaps, in the Panel's view, the just, appropriate and necessary period for the Appellant's suspension from his office at the ISSF is one which might be seen as roughly equating to the relevant period of misconduct (approaching 5 months between February and June 2017) which the Panel puts at 20 weeks; and does not render likely the end his involvement in shooting sports by ousting him from the cycle of administrative and political processes including the next 4 year term of ExCo.
75. The Panel also considers that Mr Rossi's ban from related activities, which forms a major element of punishment for one so eminently involved in shooting sports, should be for the same period, that is, 20 weeks.
76. Moreover, since it was the Appellant's commercial interests which constitute the main conflict of interest which should have been disclosed, the Panel considers it fitting for the fine imposed upon him to be significantly increased, from EUR 30,000 to EUR 50,000. In the Panel's view, the level of the fine and the period of suspension and ban should be proportionate to the nature, culpability and harm involved in the serious breaches of the CE in their proper context, both together and in relation to each other.
77. For completeness, the Panel should make it explicit that it will not grant any relief as regards Mr Rossi's requests for orders that the ISSF ExCo dismiss the ethics committee, or that it harmed and unfairly treated him in order to prevent his running at the next ISSF presidential election and should pay him EUR 45,000 or any other sum by reference to costs or at all. In the circumstances these requests were inappropriate for the fair and efficient resolution of this appeal. Accordingly, they shall be rejected.

## VIII. COSTS

78. R64.4 of the Code provides that:

*“At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include: - the CAS Court Office fee, - the administrative costs of the CAS calculated in accordance with the CAS fee scale, - the costs and fees of the arbitrators, - the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale, - a contribution towards the expenses of the CAS, and - the costs of witnesses, experts and interpreters. The final account of the arbitration costs may either be included in the award or communicated separately to the parties.”*

79. R64.5 of the Code provides that:

*“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.”*

80. In the present case, whilst the appeal by Mr Rossi has been upheld in part, it remains that Mr. Rossi has nonetheless committed serious breaches of the CE as regards conflicts of interest and loyalty, deserving of appropriate sanction, and some of his claims for relief served only to escalate the dispute.

81. In all the circumstances, the Panel considers it just to order that the Appellant pay 75% of the costs of the appeal and the Respondent pay the remaining 25%, to be determined and separately communicated to the parties by the CAS Court Office.

82. Separately, in the light of the above, the Panel further considers that the Appellant should make a payment of CHF 3,000 (three thousand Swiss francs) to the ISSF as a contribution towards its expenses for legal and other costs.



## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed by Mr Luciano Rossi on 1 June 2017 against the decision rendered by the Ethics Committee of the International Shooting Sport Federation dated 27 April 2018 is partially upheld.
2. The decision rendered by the Ethics Committee of the International Shooting Sport Federation dated 28 April 2018 is modified as follows:
  - (i) Mr Luciano Rossi is held responsible for serious breaches of Article 2.2.1 (Conflict of Interest) and Article 2.1.3 (Loyalty) of the Code of Ethics of the International Shooting Sport Federation;
  - (ii) Mr Luciano Rossi is banned from taking part in any shooting-related activities (administrative, sports and other) for a period of twenty (20) weeks as from 27 April 2018;
  - (iii) Mr Luciano Rossi is suspended from his office of Vice-President of the International Shooting Sport Federation for a period of twenty (20) weeks as from 27 April 2018;
  - (iv) Mr Luciano Rossi is subjected to a fine in the total amount of EUR 50,000 (fifty thousand Euros).
3. The costs of the arbitration, to be determined and served on the parties by the CAS Court Office, shall be borne as to 75% by Mr Luciano Rossi and as to 25% by the International Shooting Sport Federation.
4. Mr Luciano Rossi is ordered to pay to the International Shooting Sport Federation a total amount of CHF 3,000 (three thousand Swiss francs) as a contribution towards its legal costs and expenses incurred in connection with these arbitration proceedings.
5. All other requests or prayers for relief are dismissed.

Seat of Arbitration: Lausanne Switzerland

Date: 10 October 2018

Operative part issued on 7 September 2018

## **THE COURT OF ARBITRATION FOR SPORT**



Murray Rosen QC  
President