

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

DECISION

rendered by the

WORLD TRIATHLON TRIBUNAL

sitting in the following composition:

Chair of the Panel: Barry Lipp (Australia)

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

in the determination of charges against

Mr Jae-keun Lee (Korea, South)

and

Mr Woo-Kyong Ki (Korea, South)

and

Mr Yonghu Jeon (Korea, South)

for alleged violations of the ITU (World Triathlon) Code of Ethics.

I. PARTIES

1. Mr Jae-keun Lee (“J K Lee”) was, at the relevant time, Secretary General of the Korean Triathlon Federation (“KTF”).
2. Mr Woo-Kyong Ki (“W K Ki”) was, at the relevant time, Business Operations Manager of the KTF.
3. Mr Yonghu Jeon (“Y H Jeon”) was, at the relevant time, Deputy Secretary General of the KTF.

II. BACKGROUND FACTS

4. The elements set out below are a summary of the main relevant facts, as established by the Panel on the basis of the evidence obtained during the course of investigations, the written submissions, the exhibits filed and the witness statements produced by the Parties in the course of the proceedings. While the Panel has considered all the facts, allegations, legal arguments and pieces of evidence submitted by the Parties in these proceedings, it refers in the present decision only to those it considers necessary to explain its reasoning.
5. On 26 June 2020, Ms Suk-hyeon Choi, a member and athlete of the KTF died by suicide at the age of twenty two.
6. Ms Choi had won a bronze medal in the junior event at the 2015 Asian triathlon championships and had finished fourth in the elite event at the 2016 Korean national championships.
7. On or about 12 February 2020, the J K Lee and W K Ki were made aware that Ms Choi's father had filed a report with both the Gyeongju City Hall and the Gyeongju police against Ms Choi's former coach, Coach Kyu Bong Kim ("Coach Kim"), alleging that his daughter had been the subject of harassment and abuse when she was a member of the Gyeongju City Hall Triathlon Team.
8. The reports documented years of physical assaults, and verbal and psychological abuse suffered by Ms Choi at the hands of Coach Kim, two senior teammates and the team's physical therapist.
9. In July 2020, following investigations by the Korean Sports and Olympic Committee ("KSOC") Clean Sports Center, the KTF banned Coach Kim and team captain Jang Yun-jung for life, and suspended teammate Kim Do-hwan for ten years.
10. In late January 2021:
 - a. Coach Kim was sentenced to seven years in prison for physical abuse of Ms Choi;
 - b. team captain Jang Yun-jung was sentenced to four years in prison and teammate Kim Do-hwan was given a suspended prison sentence of eighteen months for physical and verbal abuse of Ms Choi; and
 - c. team physical therapist Ahn Joo-hyeon was sentenced to eight years in prison and fined 10 million won for sexually and physically assaulting Ms Choi.
11. On 12 February 2020, Y H Jeon expressed his opinion to J K Lee and W K Ki that the KTF should undertake an investigation into the matter.
12. In J K Lee's statement dated 1 October 2021 (filed as a witness statement by Mr Justin Park, in the defence of this Panel's charges against him in relation to the same matter) he states that on 12 February 2020 he reported the matter to the Sports Human Rights Center of the Korean Sports & Olympic Committee ("KSOC"), and was told by advisor Ho-sung Moon that Gyeongju Sports Council, the organization that Ms Choi had been affiliated with, had authority to investigate the matter.

13. Also on 12 February 2020, W K Ki called Coach Kim who denied the allegations against him. No attempt was made to contact Ms Choi at this time to confirm the allegations, inquire as to her wellbeing or provide support.
14. On 14 February 2020, J K Lee told KTF President Mr Justin Park of the reports of harassment and abuse of Ms Choi by Coach Kim filed with Gyeongju police and the Gyeongju City Hall against Coach Kim.
15. In the circumstances that Ms Choi's allegations had been reported to Gyeongju Police and a criminal investigation of Coach Kim's conduct would ensue, by informing Coach Kim of Ms Choi's allegations, W K Ki may have violated Korea's Protective Law of the Informer.
16. On 23 March 2020, J K Lee and W K Ki met with former KTF Vice President Mr Moon Kyu Yoo. In its subsequent investigation findings in this matter¹ ("Sports Ministry Findings"), the Korean Ministry of Culture, Sports & Tourism found that at this meeting Mr Yoo told J K Lee and W K Ki that he had learned of the alleged harassment and abuse directly from Ms Choi's father, and that he recommended that the KTF should immediately commence its own investigations.
17. J K Lee and W K Ki confirmed that the meeting with Mr Yoo had taken place on 23 March 2020 but claimed that they could not recall discussing Ms Choi's case. Considering the detailed evidence given by Mr Yoo, the Korean Ministry of Culture, Sports & Tourism found his account to be more credible.
18. On 8 April 2020, Ms Choi filed a complaint containing detailed allegations of harassment and abuse with the KSOC's Clean Sports Center ("KSOC CSC").
19. On 9 April 2020 the KSOC CSC provided a copy of the complaint to the KTF, and on the same day J K Lee, W K Ki and Y H Jeon met with officials of the KSOC CSC to discuss how the complaint should be handled.
20. According to the Sports Ministry Findings, the KSOC CSC and the KTF divided the roles among them in accordance with Article 13 of the KSOC Clean Sports Center Operational Regulations, with a KSOC CSC investigator to direct the investigation and Y H Jeon of the KTF responsible for obtaining all evidence, including taking statements from Ms Choi and Coach Kim.
21. According to the Sports Ministry Findings, Y H Jeon did not attempt to contact Ms Choi until 26 April 2020, when he attempted to contact her by phone and sent an email requesting a copy of her statement filed with Gyeongju police.
22. On 26 April 2020, Ms Choi provided to the KSOC CSC evidentiary materials that she had submitted to the Gyeongju police, and the alleged offenders submitted statements via their lawyer.
23. On 18 May 2020, Ms Choi provided to the KSOC CSC a copy of the report she had filed with Gyeongju police.
24. On 19 May 2020, Y H Jeon received a supporting affidavit from Ms Jeong, a teammate of Ms Choi, but failed to pass it to the KSOC CSC until 2 June 2020.

¹ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

25. On 29 May 2020, other supporting affidavits filed with Gyeongju police by Ms Choi's former teammates were received by the KSOC CSC².
26. On 1 June 2020, Gyeongju police completed its investigation, and the case was sent to its prosecution office. Allegedly police told Ms Choi that the offenders would likely receive a fine only because she had not provided sufficient evidence³.
27. With the lack of progress of the KSOC CSC / KTF investigation, on 22 June 2020 Ms Choi's lawyer filed a disciplinary petition on her behalf with the KTF, containing detailed allegations, and demanding that the KTF take disciplinary action against the alleged offenders pursuant to Article 17 of the KTF Protection of Athletes Committee Regulations.
28. On 22 June 2020, J K Lee, W K Ki and Y H Jeon debated whether the KTF should now undertake independent investigation and disciplinary action.
29. According to the Sports Ministry Findings, on 23 June 2020 the Chairman of the KTF Sports Fairness Committee, Mr Young Ju Ahn told J K Lee, W K Ki and Y H Jeon that the matter could be dealt with by the KTF under the KTF Sports Fairness Committee Regulations⁴.
30. However, on 23 June 2020, J K Lee and W K Ki accepted Y H Jeon's recommendation that the KTF not take independent action but rather refer Ms Choi's petition of 22 June 2020 to the KSOC CSC.
31. As stated above, on 26 June 2020 Ms Choi died by suicide.
32. In the week following the death of Ms Choi, the Ministry of Sports, Culture and Tourism commenced an investigation into the matter, resulting in the Sports Ministry Findings and its request to the KTF to censure J K Lee, W K Ki and Y H Jeon.
33. According to the Sports Ministry Findings, when asked to provide details of the progress of their investigations to the KSOC CSC following the death of Ms Choi, J K Lee, W K Ki and Y H Jeon reported that they had contacted Ms Choi and two teammates, who were also victims, by phone during the period between 8 April 2020 and 22 April 2020 to ask for evidence when in fact they had not.
34. Prior to their interviews by the Sports Ministry investigation, on 10 July 2020 W K Ki, on the instruction of J K Lee, distributed notes to all KTF so that all answers given to the investigation by all staff, including on the conduct of the joint KSOC CSC / KTF investigation, would be uniform.
35. Following receipt by the KTF of the Sports Ministry Findings and its request to censure J K Lee, W K Ki and Y H Jeon, on 22 October 2020 the Governing Committee of the KTF decided to dismiss J K Lee and W K Ki from office, giving the following reasons:

J K Lee

In regard to the death of athlete, CHOI, the secretary general should have taken all the measures necessary to protect her from abuse by giving due attention to the complaints

² Kim & Chang Solicitors, Response to Notice of Charges, filed on behalf of Mr Justin Park, 22 August 2020

³ Korean Triathlon Federation, Report on death of Choi, Sook-hyun amid allegations of violence and abuse from her former team members, 10 July 2020

⁴ A Notification of Request to Censure by the Ministry of Culture, Sports & Tourism of the Korean Government, August 2020

made by the victim, following the relevant Rules of Protecting Athletes of The Committee for Athletes Protection and by taking actions of immediate investigation and supervising the procedures of settlement. In fact, he has neglected his duties in this regard.

W K Kee [also known as W K Ki]

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

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

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

III. PROCEEDINGS BEFORE THE WORLD TRIATHLON TRIBUNAL

37. Following investigation into the death of Ms Choi by World Triathlon's Lead Welfare Officer, the matter was referred to the World Triathlon Tribunal ("Tribunal") in accordance with Article 8 of the World Triathlon Safeguarding Policy Against Harassment and Abuse In Triathlon ("Safeguarding Policy"), to be dealt with pursuant to the World Triathlon Ethics Panel Rules ("Ethics Panel Rules").
38. On or about 15 September 2020, in accordance with Article 13 of the Ethics Panel Rules, the Chair of the Tribunal convened an Ethics Panel to adjudicate on potential violations of the Safeguarding Policy and the World Triathlon Code of Ethics ("Code of Ethics").
39. The Ethics Panel obtained further evidence by issuing procedural orders to Parties.
40. On 9 July 2021, in accordance with Article 13 of the Ethics Panel Rules, the Ethics Panel issued a Notification of Charge in the same terms to each of J K Lee, W K Ki and Y H Jeon, alleging that they have committed the following violations ("the Charges"):
- a. Failure to ensure that the personal rights of individuals are protected, respected, and safeguarded: Article C.1.g Code of Ethics
 - b. Failure to act in accordance with the fiduciary duties of an office bearer, complying with the spirit and letter of the law, and recognising both the legal and moral duties of the role: Article C.1.e Code of Ethics
41. The Notifications of Charge informed the parties that any written submissions they wish to make in response to the charges must be received by the Ethics Panel within fourteen days of receipt of the Notification.
42. Only Y H Jeon made a written submission, by email dated 22 July 2021.
43. A witness statement of J K Lee dated 1 October 2021 was filed by Mr Justin Park, former president of the KTF, in relation to charges issued to him by this Ethics Panel in relation to the death of Ms Choi. Whilst not filed by J K Lee as a submission in response to the

charges against him, his witness statement has been taken into account in the deliberation of the charges against him.

44. By letters dated 17 September 2021 the Ethics Panel informed each of the Parties that it now proposed to deliberate on the Charges and reach a decision without a hearing, unless they request it.
45. In the absence of a request by any Party that a hearing be held, in accordance with Article 17 of the Ethics Panel Rules, the Chair of the Tribunal determined that the adjudication should proceed without a hearing.

IV. LEGAL ANALYSIS

A. JURISDICTION

46. The World Triathlon Tribunal has jurisdiction over this matter under:
 - Article 50.7 of the World Triathlon Constitution ("*Constitution*"), which provides that: "*A panel or a Single Judge is responsible to handle and decide on all cases brought before the Tribunal in accordance with the Constitution, Rules, Regulations and Codes. Ethical issues shall be handled and decided exclusively by an Ethical Panel, not by a Single Judge.*"
 - Article 8 of the Safeguarding Policy, which provides that "*In the event of Harassment and Abuse, as defined in section 2 of this Policy, the Ethical Panel of the World Triathlon Tribunal will be the only relevant body in order to take sanctions to punish any kind of infraction of the World Triathlon Safeguarding Policy*";
 - Article I of the Code of Ethics, which provides that "*Any interested party shall bring any breach of this Code and its directions to the attention of the ITU Arbitration Tribunal, which will undertake an inquiry and may impose a sanction foreseen under the Procedures and rules of the Arbitration Tribunal*";
 - The World Triathlon Ethics Panel Rules ("*Ethics Panel Rules*"), which state that "*The Ethics panel as a part of the Tribunal is an independent judicial body formed to adjudicate upon violations of the Code of Ethics, to impose sanctions for violations of the Code of Ethics*".
47. Based on these provisions, the Ethics Panel has jurisdiction to adjudicate upon the Charges and determine any sanctions.

B. APPLICABLE LAW

48. Pursuant to Article 63 of the Constitution, "*The governing law of World Triathlon shall be Swiss law*". Article 1 of the DR states that "*These rules set out the applicable procedure before the ITU, within the limitations of Swiss law*".
49. As set out in paragraph 46 above, the World Triathlon Ethics Panel has power to adjudicate upon and impose sanctions for violations of the Safeguarding Policy and the Code of Ethics.

C. SCOPE OF PANEL'S REVIEW

50. Pursuant to Paragraph B of the Ethics Panel Rules, *The Chair of the Tribunal* [and therefore the appointed Panel] shall have the following powers under the Code:
- ii. *to adjudicate whether violations of the Code have been committed, (other than violations of the Anti-Doping Rules);*
 - iii. *to determine for each proceeding:*
 - a) *its procedure is in accordance with the Procedural Rules; and*
 - b) *any other procedural matters that are not set out in the Procedural Rules, in accordance with the rules of natural justice;*
 - vii. *To impose sanctions for violation of the Code.*

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

Types of evidence

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

Inadmissible evidence

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

Evaluation evidence

4. *The Panel shall have the sole discretion regarding evaluation of the evidence.*
5. *The Panel shall have the sole discretion to accept any facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction, which is not subject of a pending appeal, as irrefutable evidence against the parties to whom the decision pertained of those facts.*
6. *The Panel may draw an inference adverse to a party if the party, after a reasonable request to attend a hearing, answer specific questions or otherwise provide evidence, refuses to do so.*

Standard of Proof

7. *The standard of proof in all cases shall be determined on a sliding scale from, at minimum, a mere balance of probability (for the least serious violation) up to proof beyond a reasonable doubt (for the most serious violation). The Panel shall determine the applicable standard of proof in each case.*
52. Having regard to Article 11 of the Ethics Panel Rules, the Ethics Panel has full power to determine its procedure, determine the admissibility of evidence and evaluate the evidence.
53. Having regard to the seriousness of the alleged violations, in accordance with Article 11.7, the Ethics Panel determines that the applicable standard of proof shall be 'a comfortable

satisfaction', being greater than a mere balance of probability but less than proof beyond reasonable doubt.

D. DISCUSSION

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

When presented with reports and complaints of harassment and abuse of the triathlete Suk-Hyeon Choi in February and April 2020 you failed to protect and safeguard the rights of the triathlete, as detailed in the "Notification of Request to Censure" by the Ministry of Culture, Sports & Tourism of the Korean Government issued to the governing committee of the Korean Triathlon Federation on 7 September 2020, in which the following findings were made about you:

- i. negligence and grave violations of the regulations and ethical codes of the Korean Triathlon Federation; and*
- ii. failure to act in accordance with the duties of office of the Korean Triathlon Federation,*

such findings supported by further evidence from the Ethics Panel's investigations.

55. On 12 February 2020, when J K Lee, W K Ki and Y H Jeon became aware of the allegations of the harassment and abuse of Ms Choi, they referred the matter to the KSOC Sports Human Rights Center, and relied upon the advice given to them that Gyeongju Sports Council, the organization that Ms Choi had been affiliated with, had authority to investigate the matter. It is noted that Y H Jeon was of the opinion that the KTF should undertake an investigation, but ultimately it was agreed to refer the matter to the KSOC Sports Human Rights Center.

56. Article 15 of the KTF Protection of the Athletes Committee Regulations provides as follows:

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

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

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

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

57. In the circumstances that Ms Choi was a member of the KTF, article 15 of the KTF Protection of the Athletes Committee Regulations provides power for the KTF to undertake an investigation. Having regard to the seriousness of the allegations, in the Ethics Panel's view article 15 constitutes an obligation upon the KTF to immediately undertake its own investigation instead of referring the matter to another body, and the Ethics Panel is comfortably satisfied that the failure of J K Lee, W K Ki and Y H Jeon to follow this course constitutes a violation by them of both of the Charges.
58. Even if it were not the case that the KTF was obliged to immediately commence its own disciplinary investigation of Ms Choi's allegations pursuant to article 15 of the KTF Protection of Athletes Committee Regulations, the Ethics Panel is comfortably satisfied that the failure of J K Lee, W K Ki and Y H Jeon to immediately arrange to contact Ms Choi for the purpose of member protection and to ensure her wellbeing constitutes a violation by them of both of the Charges.
59. As noted in paragraph 18 above, on 8 April 2020 Ms Choi filed a complaint with the KSOC CSC. On 9 April 2020 the KSOC CSC provided a copy of the complaint to the KTF, and on the same day J K Lee, W K Ki and Y H Jeon agreed with the KSOC CSC that the complaint should be investigated, and the roles for the investigation should be divided between the KSOC CSC and the KTF in accordance with Article 13 of the KSOC Clean Sports Center Operational Regulations. This cooperative investigation also appears to be broadly consistent with article 16 of the KTF Protection of Athletes Committee Regulations.
60. As noted in paragraph 20 above, the KSOC CSC investigator was to direct the investigation and Y H Jeon of the KTF was to be responsible for obtaining all evidence, including taking statements from Ms Choi and Coach Kim. However Y H Jeon failed to diligently and immediately investigate, in violation of his obligation under article 13 of the KSOC Clean Sports Center Operational Regulations.
61. Considering that the KTF had become aware of the serious allegations of harassment and abuse of Ms Choi on 12 February 2020, now that the KTF was finally investigating the matter, the Ethics Panel is comfortably satisfied that Y H Jeon's failure to attempt to contact Ms Choi until 26 April 2020 constitutes a violation of the Charges.
62. As noted in paragraphs 22 to 25 above, between 26 April 2020 and 29 May 2020 the KTF received a copy of Ms Choi's report as filed with Gyeongju police, and all supporting evidentiary materials and affidavits. In the circumstances, by 29 May 2020 the KSOC CSC and the KTF had the materials they needed to promptly advance their investigation.
63. As noted in paragraph 27 above, with the KSOC CSC / KTF investigation's failure to reach a conclusion, on 22 June 2020 Ms Choi's lawyer filed a disciplinary petition on her behalf directly with the KTF, demanding that the KTF take disciplinary action against the alleged offenders, pursuant to Article 17 of the KTF Protection of Athletes Committee Regulations.
64. On 23 June 2020, notwithstanding the advice of the Chairman of the KTF Sports Fairness Committee that the KTF could now directly investigate pursuant to the KTF Sports Fairness Committee Regulations, (and in the Panel's view, also pursuant to articles 15 and 16 of the KTF Protection of Athletes Committee Regulations), J K Lee, W K Ki and Y H Jeon chose not to initiate independent investigation by the KTF but rather refer Ms Choi's petition of 22 June 2020 back to the KSOC CSC.
65. Having regard to the substantial evidence of Ms Choi's harassment and abuse now in the possession of the KTF, the unacceptable delays of the KSOC CSC / KTF investigation and the KTF's independent investigatory powers under the KTF Sports Fairness

Committee Regulations and Protection of Athletes Committee Regulations, the Ethics Panel is comfortably satisfied that the decision of J K Lee, W K Ki and Y H Jeon on 23 June 2020 not to commence an independent KTF investigation constitutes a violation of the Charges.

66. As noted in paragraphs 33 and 34 above, following Ms Choi's death on 26 June 2020:
- a. J K Lee, W K Ki and Y H Jeon reported to the KSOC CSC that the KTF's first contact with Ms Choi was on 8 April 2020, when in fact she was not contacted until 22 April 2020, when the KTF made a request for evidence; and
 - b. prior to their interviews by the Sports Ministry investigation, on 10 July 2020 W K Ki, on the instruction of J K Lee, distributed notes to all KTF so that all answers given to the investigation by all staff, including on the conduct of the joint KSOC CSC / KTF investigation, would be uniform,
- such conduct constituting a violation of the Charge under article C.1.e of the Code of Ethics.
67. Having regard to the evidence before the Panel and the foregoing discussions, the Panel unanimously finds that J K Lee, W K Ki and Y H Jeon have committed the violations of the Charges referred to in paragraphs 57, 58, 61, 65 and 66.

V. SANCTIONS

68. The Panel's power to impose sanctions for violation of the World Triathlon Code of Ethics is provided under paragraph C of the World Triathlon Ethics Panel Rules as follows:
- (i) to caution or censure;*
 - (ii) to issue fines;*
 - (iii) to suspend a person (with or without conditions) or expel the person from office;*
 - (iv) to suspend or ban the person from taking part in any Triathlon-related activity, including Events and Competitions;*
 - (v) to remove any award or other honour bestowed on the person by the World Triathlon;*
 - (vi) to impose any sanctions as may be set out in specific Rules; and*
 - (vii) to impose any other sanction that it may deem to be appropriate, including community service within Triathlon and/or restitution;*
 - (viii) for any appeals under C16(v) above, to uphold, dismiss or refer back to the Member Federation or Continental Confederation for further consideration and to do so without procedural costs.*
69. As noted in paragraphs 35 and 36 above, following receipt of the Sports Ministry Findings:
- a. on 22 October 2020, the Governing Committee of the KTF decided to dismiss J K Lee and W K Ki from office; and
 - b. on 19 November 2020, the Governing Committee of the KTF decided to suspend Y H Jeon from office for the period of three months.

70. The Notifications of Charge issued to each of J K Lee, W K Ki and Y H Jeon on 9 July 2021 provisionally suspended each of them for the period of ninety days from that date.
71. Considering the seriousness of their multiple violations, and their apparent failure to have regard for the protection and wellbeing of Ms Choi throughout the relevant period, the Panel considers that the sanctions imposed by the Governing Committee of the KTF and the provisional suspensions to be insufficient.
72. The evidence indicates that the decisions and inactions which constitute the violations of the Charges were most often collective, and in the circumstances the Panel considers that the sanctions to be imposed upon each of J K Lee, W K Ki and Y H Jeon should of equal proportion.
73. The Panel considers that the appropriate sanction for the violations of the Charges shall be suspension from any office and from taking part in any Triathlon-related activity within World Triathlon and its members for the period of two years.
74. In his submission in response to the Notification of Charges, Y H Jeon requested that the Panel takes into account the three-month suspension from holding office within the KTF that he has already served, which was imposed by the Governing Committee of the KTF on 19 November 2020. The Panel considers that this is appropriate, and will also take into account the ninety day provisional suspension imposed by the Panel with the Notification of Charges.
75. Therefore, the further sanction to be imposed upon Y H Jeon shall be suspension from any office and from taking part in any Triathlon-related activity within World Triathlon and its members for the period of 18 months from the date of this decision.
76. In relation to J K Lee and W K Ki, the Panel notes that they were dismissed from office within the KTF by the Governing Committee of the KTF on 22 October 2020. Whilst the Panel understands that they have not been re-appointed to office within the KTF, the Panel also notes that:
 - a. the dismissals did not prevent them from seeking re-appointment at any subsequent time; and
 - b. the dismissals did not prohibit them from holding office within any other member body of World Triathlon.
77. Indeed, until the imposition by the Panel of the provisional suspensions on 9 June 2020, W K Ki had intended to fulfill his appointment as International Technical Official for the Tokyo 2020 Paralympic Games, as nominated by Asia Triathlon, notwithstanding his dismissal from office within the KTF.
78. The Panel therefore considers that the appropriate further sanction for J K Lee and W K Ki should be in parity with that imposed upon Y H Jeon, being suspension from any office and from taking part in any Triathlon-related activity within World Triathlon and its members for the period of 18 months from the date of this decision.

ON THESE GROUNDS

The Panel of the World Triathlon Tribunal decides that:

1. J K Lee, W K Ki and Y H Jeon have committed violations of Articles C.1.g and C.1.e of the World Triathlon Code of Ethics.
2. J K Lee, W K Ki and Y H Jeon are suspended from any office and from taking part in any Triathlon-related activity within World Triathlon and its members for the period of eighteen months from the date of this decision.

COSTS

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

Lausanne, Switzerland, 7 February 2022

WORLD TRIATHLON TRIBUNAL

Barry Lipp

Barry Lipp (Feb 9, 2022 13:31 GMT+11)

Barry Lipp
Chair of the Panel

Monique Houten

Monique Houten (Feb 7, 2022 19:00 GMT+1)

Monique Houten
Member of the Panel

Sarah Springman

Sarah Springman (Feb 8, 2022 09:01 GMT)

Dame Sarah Springman DBE
Member of the Panel

Appeal to the Court of Arbitration for Sport

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

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

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

Publication

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

Tribunal-SafeSport-2021-01 Lee, Kee, Jeon final decision

Final Audit Report

2022-02-09

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