

## **The Disciplinary Board of the International Ice Hockey Federation (IIHF)**

In the matter of an appeal and amended appeal by the Ice Hockey Federation of Israel concerning a decision of the Council of the International Ice Hockey Federation (IIHF) dated January 9<sup>th</sup>, 2024 in regards to Israel's participation in IIHF tournaments in 2024

### **Decision of the Deciding Panel of the IIHF Disciplinary Board**

Chair and Sole Panel Member - Nancy Orr (Canada),

February 29<sup>th</sup>, 2024

#### **BACKGROUND:**

[1] On October 7<sup>th</sup>, 2023, the group Hamas, recognized by many foreign governments as a terrorist organization, attacked Israeli military and civilian targets from the Gaza strip. In response, Israel launched a large counteroffensive against Gaza. This conflict has continued, and escalated since that date, attracting world wide attention, with widespread protests against the actions of both sides in many cities around the world.

[2] The Ice Hockey Federation of Israel was scheduled to host the IIHF Ice Hockey U20 World Championship Division III Group A in January 2024. However, on October 12, 2023, the IIHF Council, acting pursuant to IIHF Bylaw 9, removed that tournament from Israel due to safety and security concerns. The tournament was reallocated to Bulgaria. The Ice Hockey Federation of Israel did not object.

[3] On January 9<sup>th</sup>, 2024 the IIHF Council determined that the Ice Hockey Federation of Israel should not participate in the 2024 IIHF tournaments, due to safety concerns, and such decision was forwarded that date to the Federation by letter.

[4] The Ice Hockey Federation of Israel indicated on January 11<sup>th</sup>, 2024 that it would appeal, sought information regarding the appeal process, and filed an appeal of that decision on January 15<sup>th</sup>, 2024, requesting an expedited appeal, pursuant to Article 12.6.2 of the IIHF Disciplinary Regulations.

[5] As the first tournament that the Ice Hockey Federation of Israel was to compete in was scheduled to start on January 22, 2024 in Bulgaria, the Federation requested a "super" expedited appeal, as the ordinary filing times were such that the tournament would be over before the appeal could be heard. In the interests of fairness and to ensure that the Ice Hockey Federation of Israel, as a Member National Association of the IIHF, had a right to appeal a decision that directly affected its athletes, a hearing was scheduled for January 17<sup>th</sup>, 2024, over the objections of the IIHF. Since the IIHF would not have the usual seven days to file its response to the appeal of its decision, the IIHF was advised that it would be allowed to make oral representations during its allocated presentation time. Normally, no new information can be provided during the formal hearing, without the permission of the Panel.

[6] On January 17<sup>th</sup>, 2024, the IIHF Council held a meeting and determined that based on recent assurances from the Bulgarian government and host committee, the security concerns had been addressed and Israel would be allowed to participate in the tournament. The letter confirming that decision further indicated that the decision regarding the tournaments in March would be made at the February council meeting and the tournament in April would be made at the March council meeting.

[7] The formal hearing convened on January 17<sup>th</sup>, 2024 as scheduled. When the IIHF representatives indicated that Israel's participation would be reviewed at the upcoming council meetings, the Ice Hockey Federation of Israel indicated that it would not be withdrawing its appeal, as its status for the upcoming tournaments had not been determined by the January 17<sup>th</sup> decision. As there was no longer a need to proceed on an expedited basis, given that the next tournament was not until March, 2024, the Ice Hockey Federation of Israel was given the opportunity to file an amended appeal, if they wished to pursue the matter, and that would then provide the IIHF with the opportunity to file its response.

[8] Following an exchange of emails between the parties to clarify Israel's status for the upcoming tournaments, the Ice Hockey Federation of Israel filed an amended appeal on January 24, 2024. The IIHF filed its response on February 7<sup>th</sup>, 2024. The formal hearing was scheduled for February 19<sup>th</sup>, 2024.

[9] The IIHF Council met on February 12<sup>th</sup> and 13<sup>th</sup>, 2024. By letter dated February 16<sup>th</sup>, 2024, the IIHF advised the Ice Hockey Federation of Israel that as a result of correspondence and assurances received, the Israel national team would be allowed to participate in the tournament in Spain.

[10] At the time of the formal hearing, the IIHF Council had not determined if Israel would be allowed to compete in the 2024 IIHF Ice Hockey Women's World Championship III B ("WWIIIB") tournament in Estonia between March 24-29, 2024, although this was to have been reassessed at the February IIHF Council meeting on February 12, 2024. By letter dated February 26, 2024, the IIHF advised the Ice Hockey Federation of Israel that it would be allowed to participate in the WWIIIB tournament in Estonia.

#### **MATERIAL BEFORE THE DECIDING PANEL:**

[11] Attached as Appendix "A" to this decision is a list of the exhibits filed in this matter on behalf of the Ice Hockey Federation of Israel in respect of the original appeal.

[12] Attached as Appendix "B" to this decision is a list of the exhibits filed in this matter on behalf of the Ice Hockey Federation of Israel in respect of the amended appeal.

[13] Attached as Appendix "C" to this decision is a list of the "motions" filed in this matter on behalf of the Ice Hockey Federation of Israel. While the IIHF Disciplinary Regulations indicate that no application for provisional or interim measures or conservatory order may be

made to the Disciplinary Board or Panel, these “motions” were considered to be in the nature of requests for information or direction, and dealt with as appropriate in that context.

[14] Attached as Appendix “D” to this decision is a list of the exhibits filed in this matter on behalf of the International Ice Hockey Federation in respect of the original appeal and the amended appeal.

[15] The formal hearing on February 19<sup>th</sup>, 2024 was recorded, as requested by the Appellants, but a transcript was not prepared. Each of the parties was provided with a link to the recording. The formal hearing on January 17<sup>th</sup>, 2024 was supposed to be recorded, but due to an error, no recording occurred.

### **PRELIMINARY MATTERS:**

[16] As this appeal commenced as an expedited appeal, Article 12.6.2 of the IIHF Disciplinary Regulations directed that it was to be heard by a panel of one, appointed by the Chairperson of the Disciplinary Board. I appointed myself to deal with the matter. When the IIHF Council changed its decision regarding the first tournament that Israel was to compete in, there was no longer the same urgency to deal with this matter. However, in the interests of advancing the appeal and amended appeal in as timely a manner as possible, since there were three further tournaments that were subject to the appeal, I appointed myself to hear these matters as a panel of one, pursuant to Article 12.5.3 of the IIHF Disciplinary Regulations. Neither party indicated any objection.

[17] The Ice Hockey Federation of Israel requested a formal hearing. The formal hearing on January 17<sup>th</sup>, 2024 and the formal hearing on February 19<sup>th</sup>, 2024 proceeded by video conference. While there were some sound quality issues at the outset of the first hearing, those were resolved and the parties were able to see and hear each other during the formal hearings.

[18] The following attended both hearings on behalf of the Ice Hockey Federation of Israel: Mikhael Horowitz, CEO of the Federation; Dahlia Bushinsky, Attorney at Law from the firm Holin-Hadas, Gil Ator, NOC Counsel. Major General David Tsur appeared briefly on the second hearing but as Israel had been advised previously that the expert opinion he had provided did not meet the standards of independence and neutrality required of an expert, his report had not been admitted and he was not allowed to address the Panel.

[19] The following attended both hearings on behalf of the IIHF: Ashley Ehlert, and Adiaan Wijckmans.

[20] As the IIHF had indicated from the outset of the appeal process that it would take an active role during the appeals, David Racicot, a Canadian lawyer, was appointed and served throughout the process as the Independent Secretary to this Panel.

## **JURISDICTION:**

[21] The IIHF Disciplinary Regulations (adopted October 9<sup>th</sup>, 2023) provide as follows:  
*12.1.2 The Disciplinary Board is responsible for:  
... b. appeal cases for decisions of IIHF Council, Directorates or IIHF Officials, with respect to the application of IIHF Governing Documents, in accordance with Article 12.6.*

*12.6.1 The Parties directly affected by a decision passed by the IIHF Office, the Council or the Directorates regarding the application of the IIHF Governing Documents in a specific case, may submit a Notice of Appeal of such decision to the Disciplinary Board. The Appeal must be submitted in writing to the Disciplinary Board Secretary, within seven (7) days after the notification of the decision, failing such, the right of appeal shall have lapsed. The Appellant shall have fourteen (14) days from the filing of the Notice of Appeal, to submit the Objection Pleadings which shall contain:*

- a. the grounds of the appeal;*
- b. a summary of the relevant facts;*
- c. any evidence to support the Appellant's position and the grounds of appeal;*
- d. the Appellant's position and/or remedy sought; and*
- e. the Appellant's request for a Hearing.*

*12.6.2 If the appealed decision relates to the participation of the Appellant in an IIHF Event, then the Appellant may request an expedited appeal and must submit the Notice of Appeal to the Disciplinary Board Secretary within seven (7) days of the notification of the initial decision giving rise to the appeal, and not later than eighteen (18) days before the start of such competition. For Expedited Appeals, the Notice of Appeal must contain all of the information required in the Objection Pleadings, as indicated in Article 12.6.1. An Expedited Appeal will be heard by a Panel of one (1) Member selected from the Disciplinary Board, who has been appointed by the Chairperson of the Disciplinary Board.*

[22] The IIHF Council decision was January 9<sup>th</sup>, 2024. The first IIHF tournament that Israel was scheduled to participate in was the 2024 IIHF Ice Hockey U20 World Championship III A (2024WM20IIIA) in Bulgaria between January 22 and 28, 2024. Given the timing of the IIHF Council decision, a strict compliance with those regulations would have resulted in the Ice Hockey Federation of Israel being denied the right to appeal a decision that directly affected its players.

[23] By email on January 15<sup>th</sup>, 2024 the Secretary to this Panel advised the parties as follows:  
*“given the exceptional circumstances with respect of the matter, Ms. Orr is hereby accepting the IHFI's request to hear its appeal on an expedited basis under the fundamental principle of one's right to be heard that would otherwise not be met if the Panel were to strictly apply the IIHF's Disciplinary Regulations in this instance.” ... In light of the above, Ms. Orr acknowledges that the*

*International Ice Hockey Federation (IIHF) may not have the ability and time to submit a written Response within this short deadline and consequently, she will accept and consider any and/or all oral pleadings of the IIHF during their allotted time below. The hearing was then set for Wednesday, January 17, 2024 at 17:00 CET (UTC +1).*

[24] The IIHF filed a written response on January 16<sup>th</sup>, 2024, but asked the Secretary to the Panel to not distribute it until the IIHF Council had an opportunity to meet on January 17<sup>th</sup>, 2024 to ratify the anticipated decision set out in that response.

[25] In its January 16<sup>th</sup>, 2024 response, the IIHF formally objected to the fact that the Disciplinary Regulations for an expedited hearing were not being followed and to the fact it had not been provided the opportunity to submit written comments to counter the arguments advanced by Israel. The IIHF indicated its displeasure that no importance was attached to the fact that the decision was issued on January 9<sup>th</sup> and the appeal was not filed until January 15<sup>th</sup>, claiming that the IIHF's due process rights were completely ignored. While that is a factor that was considered prior to the early hearing date being set for January 17<sup>th</sup>, the greater inequity would have been setting a hearing date after the first tournament had concluded, thereby depriving a Member National Association of an effective right to appeal.

[26] The following position was set out in the IIHF written response:

*Second, the IIHF took note of the statement in Ms. Orr's email attached to your email dated 15 January 2024, indicating that the adherence to the timeframe set out in the IIHF Disciplinary Regulation would deny the IIHF Member its right to appeal a decision due to the timing of the IIHF decision and the start date of the tournament. In this respect, the IIHF wishes to point out that the IIHF Disciplinary Regulations, including the provision holding the timeframe for an expedited appeal, were approved by all IIHF Members, including Israeli Federation, at its most recent Semi-Annual Congress in October of 2023.*

*The IIHF believes that, in doing so, the IIHF Members, including the Israel Federation, unequivocally agreed to the possibility of not being able to appeal an IIHF decision, due to its timing. The IIHF feels that it is not up to the IIHF Disciplinary Board to question or break away from the will of the IIHF Members regarding the regulations which apply to them.*

With all due respect, it is unlikely that the scenario before this Panel was contemplated by Israel or the other MNA's when approving those regulations in October. However, the objections have been duly considered.

[27] As will be referenced further, it was later learnt that the IIHF decision disallowing Israel from competing had actually been made at the November 29<sup>th</sup>, 2023 IIHF Council meeting, but was not formally communicated until January 9<sup>th</sup>, 2024, following a subsequent Council meeting. The timing of the communication of this decision therefore was completely within the control of the IIHF and it did not allow sufficient time for even an expedited appeal in accordance with the Disciplinary Regulations, to occur.

[28] Following the Council decision on January 17<sup>th</sup>, 2024, allowing Israel to compete in 2024WM20IIIA in Bulgaria, the IIHF submitted that there was no basis upon which to consider the appeal, as decisions regarding the other tournaments would not be made until the February and March IIHF council meetings. The IIHF submitted that an appeal could only be considered following those decisions. However, during the formal hearing on February 19<sup>th</sup>, the IIHF made no further reference to this submission in its oral presentation.

[29] It is important to consider the actual wording of the letter dated January 9<sup>th</sup>, 2024, conveying the decision of that date by the IIHF Council to the Ice Hockey Federation of Israel: (underlining added)

***Re: IIHF Council decision to disallow the Israeli National Teams' participation in IIHF Championships due to safety and security reasons***

*Dear Mr. Gamsu, dear Mr. Horowitz,*

*Please allow this Letter to serve as an official notification regarding the IIHF Council's decision to disallow the Israeli National Team's participation in IIHF Championships due to safety and security reasons.*

*In accordance with IIHF's duty of care to protect all participants at IIHF Competitions and its obligation to create corresponding health and safety policies (IIHF Statute 4), the IIHF Council, within its power found in IIHF Statute 15.4.4.1(w), has decided to restrict the Israeli National Team from participating in IIHF Championships until the safety and well-being of all participants (including Israeli participants) can be assured.*

*Please note that the IIHF Council took this decision after careful consideration and based on a risk assessment, discussions with the participating countries and discussions with the Hosts.*

*In this light, the IIHF acknowledges that for the 2024 season the Israeli National Teams participate in the following IIHF Championships:*

*1) 2024 IIHF Ice Hockey U20 World Championship IIIA ("2024 WM20IIIA") in Bulgaria between 22-28 January;*

*2) 2024 IIHF Ice Hockey U18 World Championship IIB ("WM18IIB") in Spain between 17-23 March;*

*3) 2024 IIHF Ice Hockey Women's World Championship IIIB ("WWIIIB") in Estonia between 24-29 March; and*

*4) 2024 IIHF Ice Hockey World Championship IIA("WMIIA") in Serbia between 21-27 April.*

*As such, while this decision is fully applicable to the 2024 WM20IIIA in Bulgaria, please note that the IIHF will reassess whether this decision is applicable to the 2024 WM18IIB in Spain and WWIIIB in Estonia in its February meeting and will reassess whether the decision is applicable to the 2024 WMIIA in Serbia in its March meeting.*

[30] The IIHF posted a press release on its website on January 9<sup>th</sup>, 2024 which stated: *After careful consideration, the IIHF Council has decided that, due to concerns over the safety and security of all participants in the Championships, Israel will not participate in IIHF Competitions for the time being. ...the IIHF Council, within its power found in IIHF Statute has decided to restrict the Israeli National Team from participating in IIHF Championships until the safety and well-being of all participants (including Israeli participants) can be assured.*

[31] While a clarification of its decision, indicating it would be reviewed, was subsequently posted on the IIHF website, after a great deal of attention from media and other sporting associations, including the International Olympic Association and the National Hockey League, no change was made to the official notification letter of January 9<sup>th</sup>, 2024.

[32] An excerpt from the Minutes of the Extraordinary Council Meeting of the IIHF on January 9<sup>th</sup>, 2024 was provided and indicated the following:

*Agenda Item: 3. Update on Israeli participation in the Championship Program during the 2023/2024 season.*

*MNU (General Secretary Matti Nurminen) explained that in November 2023, the IIHF had commissioned an outside expert report verifying that it was unsafe for Israel to participate in the coming championships. The IIHF Council decided in November 2023 to disallow the Israeli National Teams' participation at the IIHF Championships for safety and security reasons. After this decision, the IIHF has received a lot of pressure from different parties, including the Israeli MNA and NOC and the IOC. MNIJ summarized that the IIHF had conducted 3 calls with the Israel Federation, and they requested to promise to bring this matter back to the attention of the Council. He further said that the IIHF was in contact with the participating countries. From the organizer's view, they see the participation of Israel as a risk. One or two of the participating MNAs were neutral as long as the IIHF could guarantee safety; the others were rather negative on Israel's participation. Our proposal to the Council is to reconfirm the decision on the 29th of November, 2023. If this is approved, the IIHF will officially inform the MNA about the decision via an official letter.*

*Following a short discussion in accordance with IIHF's duty of care to protect all participants at IIHF Competitions and its obligation to create corresponding health and safety policies (IIHF Statute 4), the IIHF Council, within its power found in IIHF Statute 15.4.4. I(w), has decided to restrict the Israeli National Team from participating in IIHF Championships until the safety and well-being of all participants (including Israeli participants) can be assured. The IIHF Council discussed assessing the situation for the tournaments in March and April in the upcoming meetings.*

*Action: The Ill-AF (sic) Council has decided to reconfirm the decision of the 29th of November, 2023.*

[33] It is clear that the IIHF decision, made on November 29<sup>th</sup>, 2023 and formally communicated to the Ice Hockey Federation of Israel on January 9<sup>th</sup>, 2024 was that Israel's national teams were "disallowed" from participating in all IIHF tournaments in 2024, namely the four tournaments listed in the January 9<sup>th</sup> letter that they were scheduled to participate in. That was the decision made and communicated, as evident from the wording which I have underlined in the letter, the press release and the excerpt of the Council meeting which refers throughout to **Championships** in plural terms.

[34] Counsel for the Ice Hockey Federation of Israel sent a letter (by email) to the IIHF on January 11<sup>th</sup>, 2024, clearly expressing the Federation's displeasure with the decision of January 9<sup>th</sup>, 2024 disallowing its national teams from participating in 2024 IIHF tournaments, and indicating that legal action would be taken as a result.

[35] By letter (forwarded by email) dated January 12, 2024 and signed by the IIHF President and General Secretary, the Ice Hockey Federation of Israel was advised as follows:

*First, the IIHF wishes to note that it is disappointed to see that this is the direction of which the Israeli Federation is choosing to take this matter. The IIHF has clearly indicated during this entire process that it is leaving a spot open for the Israel national teams in each championship of which the respective team was originally scheduled to participate in for the 2024 season. In the notification letter, the IIHF indicated that it wants to constantly review the situation in the hopes of allowing Israel to participate this season.*

[36] While that letter then provided the information about the IIHF appeal process, it is clear that the January 9<sup>th</sup> decision was that the Israel national teams were out of those competitions unless the IIHF allowed them back in at some later time.

[37] The fact that Israel has now been allowed to participate in three 2024 IIHF tournaments does not change the original decision, which was that Israeli national teams would not compete in IIHF Championships until safety and security of all participants could be assured.

[38] The original appeal filed by Israel on January 15<sup>th</sup>, 2024 alleged that the IIHF decision communicated to it on January 9<sup>th</sup>, 2024 was discriminating, was communicated late and was based on wrong facts. Israel submitted that the competitions should be moved to hosting countries that could meet all demands, including security, to enable all participants to compete in the competitions. In the alternative, Israel submitted that the IIHF should cancel the competitions, as the IIHF should either find a way for all its members to participate in its competitions or there should be no competition.

[39] Following the decision on January 17<sup>th</sup>, 2024 by the IIHF to allow Israel to participate in the IIHF tournament in Bulgaria, and the adjournment of the formal hearing on that date, there were several emails between the IIHF and Israel.

[40] At the hearing on January 17<sup>th</sup>, the IIHF submitted there was no basis for the appeal to proceed, as decisions regarding the March and April tournaments had not yet been made, and so



there was nothing to appeal until those decisions were made. As Israel was then allowed to participate in the tournament in Bulgaria, the IIHF submitted there was no longer an appeal in respect of that tournament.

[41] Israel sought clarification from the IIHF as to whether the January 9<sup>th</sup> decision to disallow Israeli national teams from 2024 IIHF Championships was still in effect. The IIHF responded that the participation of the Israeli teams would be reviewed at the February and March council meetings. A further email from Israel to the IIHF requested the IIHF to clarify the situation, but if it was responded to, that response has not been provided for this appeal.

[42] As there was no confirmation that the Israeli teams would be allowed to participate in the remaining three tournaments, Israel filed an amended appeal on January 24<sup>th</sup>, 2024 and indicated that the categorization of Israeli teams as “to be reassessed” was discriminating and contrary to the IIHF Statutes and Bylaws, the Olympic charter and the IOC’s guidelines of dealing with security issues in a competition. Israel submitted that the January 9<sup>th</sup>, 2024 decision contradicted the basic principle of equality, a core value of Swiss law to which the IIHF is obliged to comply.

[43] By email dated January 25<sup>th</sup>, 2024, the IIHF provided, in part, the following response to Israel’s amended notice of appeal:

*With respect to such, first please note that the IIHF is of the opinion that the amended Notice of Appeal filed by the Ice Hockey Federation of Israel (“IHFI”), shall be deemed inadmissible. Specifically, at this juncture, no appealable decision exists which can form the basis of an appeal procedure before the IIHF Disciplinary Board under Article 12.6 of the IIHF Disciplinary Regulations.*

*In this light, please note that the Swiss Federal Tribunal defines a decision as “an act of individual sovereignty addressed to an individual, by which a relation of concrete administrative law, forming or stating a legal situation, is resolved in an obligatory and constraining manner. The effects must be directly binding both with respect to the authority as to the party who receives the decision”. (ATF 101 Ia 73).*

*Thus, as the IHFI was informed that the participation of the Israeli National Team in the 2024 IIHF Ice Hockey U18 World Championship IIB, 2024 IIHF Ice Hockey Women’s World Championship IIIB and 2024 IIHF Ice Hockey World Championship IIA would be assessed by the IIHF Council in their February and March meetings respectively, there are currently no directly binding effects to the IHFI that can form the basis of an appeal.*

*In addition, consistent CAS caselaw has held that “an appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an ‘animus decidendi’, i.e. an intention of a body of the association to decide on a matter [...]. A simple information, which does not contain any ‘ruling’, cannot be considered a decision”. (See e.g. CAS 2015/A/4213)*

*Therefore, at this point in time, due to the absence of any ‘animus decidendi’ on the part of the IIHF, currently no appealable decision exists, and as*

*such, the matter should be dismissed or suspended until Council makes a decision regarding Israel's participation in its February and March meetings, respectively.*

[44] The IIHF further indicated that it objected to the matter proceeding as an expedited appeal and that it should be allowed fourteen days to file its response, as in the course of a normal appeal. The IIHF submitted that as there were 50 days before the start of the next tournament, that was adequate time to deal with the matter.

[45] It is evident from reading the letter of January 9<sup>th</sup>, 2024, the IIHF press release, the excerpt of the Minutes of the IIHF Council meeting on January 9<sup>th</sup>, 2024 previously referenced, and the letter from the President and general Secretary of the IIHF on January 12, 2024, that the IIHF had determined that the National Teams of the Ice Hockey Federation of Israel were not allowed to participate in 2024 IIHF tournaments, and specifically the four tournaments that they were scheduled to compete in. In the simplest of terms, Israel was out of those competitions until and unless it was established to the satisfaction of the IIHF that it was safe to allow Israel to participate. Those reviews of the January 9<sup>th</sup> decision would occur at the February and March council meetings.

[46] The indication that the “*decision is fully applicable to the 2024 WM20IIIA in Bulgaria*” has to be read in the context that the timing of the Council decision precluded even an expedited appeal, had the Disciplinary Regulations been strictly complied with.

[47] The remainder of that sentence “*that the IIHF will reassess whether this decision is applicable to the 2024 WM 18IIB in Spain and WWIIB in Estonia in its February meeting and will reassess whether the decision is applicable to the 2024 WM IIA in Serbia in its March meeting*” can only be read, for the reasons noted previously, including the subsequent emails, as indicating that Council could decide at those meetings to then allow Israel to participate - otherwise Israel would not be participating in those IIHF championships.

[48] That interpretation is supported by the three letters that the IIHF has now sent to the Ice Hockey Federation of Israel, indicating as follows:

January 17, 2024: *Please allow this Letter to serve as an official notification to the Israeli Federation that the IIHF Council has decided to allow the Israeli National Team to participate in the 2024 IIHF Ice Hockey U20 World Championship Division III Group A (2024 WM20IIIA).*

February 16, 2024: *Please allow this Letter to serve as an official notification to the Israeli Federation that the IIHF Council has decided to allow the Israeli National Team to participate in the 2024 IIHF Ice Hockey U18 World Championship Division II Group B (2024 WM18IIB) in Spain.*

February 26, 2024: *Please allow this Letter to serve as an official notification to the Israeli Federation that the IIHF Council has decided to allow the Israeli National Team to participate in the 2024 IIHF Ice Hockey Women's World Championship Division III Group B (2024 WWIIB) in Estonia.*

[49] It is evident that the IIHF Council decision of January 9<sup>th</sup>, 2024 to disallow “*Israeli National Teams from participating in IIHF Championships until the safety and well-being of all participants (including Israeli participants) can be assured*” applied to all (4) Championships that Israel was scheduled to participate in, and that decision is still in effect. Therefore the appeal and the amended appeal by the Ice Hockey Federation of Israel are properly before this Panel, and pursuant to the IIHF Disciplinary Regulations, this Panel does have jurisdiction to hear these appeals. These are not moot issues.

## **POSITION OF THE PARTIES:**

[50] The position of the Ice Hockey Federation of Israel is set out previously at paragraphs 38 and 42. In essence, it submits that it has been discriminated against and that it is not being treated on an equal basis with other MNAs. It submits that the IIHF and the host MNA have the obligation to provide the security necessary for an IIHF Championship.

[51] The IIHF submitted that it has the legal authority and legal obligation to review participation in its championships, based on contract, tort and employment law. It further submitted that it has the legal authority to implement necessary safety measures, pursuant to IIHF Statute 4 and IIHF Bylaw 15.4.4.1.

[52] The IIHF submits that Council’s actions are not discriminatory, that it is not violating the Olympic Charter and that it is not obligated to follow all IOC guidelines and rules for an IIHF Championship. Finally it submits that Israel’s right to be heard is not violated.

## **ANALYSIS:**

[53] IIHF Statute 4 sets out the IIHF’s mission and role, and provides in part:  
*The IIHF's mission is to promote ice hockey throughout the world and to lead the ice hockey movement as recognized by the International Olympic Committee. The IIHF's roles, include but are not limited to:*  
... (d) *Formulate or adopt and implement appropriate policies and programs in relation to discrimination, sexual harassment, equal opportunity, equality, drugs and doping, integrity, health, safety, ethical governance and environmental sustainability, and such other matters that arise from time to time as issues that are in the best interest of ice hockey; ...*

[54] Both parties rely on IIHF Statute 4(d) but for different reasons. The IIHF cited it as support for its ability to make a safety policy. Israel cited it to support its contention that the IIHF has a responsibility to ensure that all its members can equally participate in all IIHF competitions. It further submits that “safety” is not of higher importance than “equality” and/or “equal opportunity” but rather they are equal values that the IIHF is obligated to maintain and promote towards all of its members.

[55] There is no question that the IIHF has an obligation to ensure the safety and security of participants at its championships, as well as those attending in other capacities, such as

observers/fans, staff, officials, or organizers. However, it has delegated much, if not all of that responsibility to the Host Member National Association, through the IIHF Championship Regulations, approved as of October 9<sup>th</sup>, 2023, and as further specified in the Host MNA's contract.

[56] These Regulations govern all of the levels of tournaments at issue in this appeal. The delegation of responsibility from the IIHF to the Host MNA is evident in Articles 1.4 and 1.5 of the Championship Regulations, which specify the Host obligations:

*1.4.1 General*

*It is the practice of the IIHF to entrust the organisation of an IIHF Championship or competition to a hosting member national ice hockey association, hereinafter referred to as the Host.*

*1.4.2 Hosting Rights*

*The Hosting rights are regarded granted to the Host as soon as the specific Host Country Contract has been signed by the Host and the IIHF after the allocation of the Championship by the IIHF Annual Congress. The hosting rights of the Championship granted to the Host are not transferable to a third party. Inability of the Host to perform in accordance with the IIHF Statutes, Bylaws and Regulations can only result in the return of the event to the IIHF or it being reclaimed by the IIHF.*

*The Host, in accepting the hosting rights and organisational responsibilities, must at all times maintain full hosting and organisational control, and provide at the request of the IIHF interim progress and financial reports.*

*1.5 The Host shall organise the Championship on behalf of the IIHF.*

*The Host must take full responsibility for the organisation of the event in accordance with the IIHF Statutes, Bylaws and Regulations without exceptions, and fulfil all organisational responsibilities specified therein and in the Host Country Contract as well as in any separate agreement with the IIHF.*

*Any agreement entered by the Host in order to fulfil such requirements shall be entered into solely in the name of the Host. The IIHF is not in any way a partner of agreements with third parties sub-contracted by the Host.*

[57] As suggested during the February formal hearing, many of those obligations can be met through appropriate insurance coverage. In fact, Article 16 of the IIHF Championship Regulations, mandates that the Host for an IIHF tournament must obtain various types of insurance to specifically address such potential issues. The Host contract contains similar terms (Article 4.1(I) and Annex VI of the Estonian host contract).

[58] The IIHF Championship Regulations are extremely detailed, from the requirement for the players to have breakfast in a separate room or private area to how many flags each participating MNA is to bring to the tournament. Security requirements are set out in Article 17 of the regulations as follows:

### *17.1 ARENA SECURITY AND PROTECTION*

*The Host shall provide sufficient security and access control to the entire arena and for the seats in the spectator area , e.g. While the puck is in play, spectators are not allowed to enter the seating bowl. Event Service Personnel at the seating bowl entrance gates are required to stop spectators at the entrance while the “Puck is in Play”. Once the game has stopped spectators are requested to proceed accordingly and take their seat.*

*The Host shall work in close co-operation with the local police and fire department to develop a Security Plan. The plan shall include emergency and evacuation scenarios for special political situations and risk groups, bomb and similar threats, security for high ranked VIPs, players and IIHF Officials, partners and guests.*

*The Host has to provide sufficient security to the ice-level (including player benches, penalty boxes and timekeeping bench), the team area, the mixed Zone and the office area during and beyond practice and game times. The Host may be held responsible for claims in case of incidents.*

*The Host must provide 24h security for the installed TV equipment in the arena and at the TV compound outside the arena.*

### *17.2 ACCESS TO CHAMPIONSHIP HOTELS*

*The Host shall ensure that the media and fans have restricted access to player hotels as specified by the IIHF and that the hotels provide sufficient security.*

### *17.3 ACCESS TO THE ICE SURFACE*

*The Host shall take all reasonable steps to ensure that no unauthorised persons are able to access the ice surface at any time.*

### *17.4 SAFETY CERTIFICATION*

*The Host is responsible for ensuring all required safety certifications related to the operation of the arena and its facilities and occupation by members of the public, participants, and employees have been obtained prior to the start of the Championship.*

[59] Sanctions that can be imposed are set out in Article 18 of the Championship Regulations and include withdrawing hosting rights and cancellation of the tournament “*if the host is unable to meet its obligations in accordance with the hosting contract*”... or “*if there is reason for concern that the well-being or the safe freedom of movement of the players, officials, travelling spectators and media is in doubt.*” Those options can be taken by the IIHF Council but “*after having exhausted all possible remedies with the Host National Association*”. (emphasis added)

[60] There is no question that the October 7<sup>th</sup>, 2023 attack on Israel and the subsequent, and continuing, conflict have raised significant security issues. This is acknowledged by the Ice Hockey Federation of Israel in a number of ways. First of all, it did not object to the 2024 WM20IIIA Championship being moved from Israel to Bulgaria in mid October, 2023. Israel indicated that due to security concerns, it was withdrawing the participation of a linesman from the upcoming Championships. There were several meetings and emails between the Federation and the IIHF, and others, regarding security issues.

[61] As early as November 8<sup>th</sup>, 2023, Israel indicated by email to the IIHF that it planned to participate in the IIHF Championships, but acknowledged that it required government approval to travel outside the country, and was working to obtain such.

[62] Although the IIHF Championship Regulations (Article 2.6) require the Host country to keep minutes of all meetings between the Host and the IIHF, and to provide the minutes within a week of the meeting, no minutes of the various meetings between the IIHF and the Host regarding security issues were provided. In fact the IIHF indicated there were no minutes as it was only verbal discussions.

[63] The IIHF Council met on November 29<sup>th</sup>, 2023. The minutes of that meeting were not provided. In its response the IIHF provided the following details relating to that meeting:

*After reviewing the risk assessment and analyzing it against the championship level in which the Israeli National Teams were scheduled to participate, the IIHF Council determined that it was not worth taking even a small risk to the safety of the players (including the Israeli players). The IIHF Council decided that, rather than issuing a formal decision, it wanted to cooperate with IHFI (Israel) on this matter and determine how to best proceed moving forward with the goal of allowing Israeli National Teams to participate as soon as safety concerns were diminished.*

*On 6 December 2023, the IIHF Office had a call with the IHFI to explain IIHF Council's concerns and feeling that it was best if the Israeli National Teams did not participate in the 2024 IIHF Championship season.*

[64] Although Israel asked to participate in meetings with the Host and other participants regarding the upcoming tournament in Bulgaria, the IIHF, through its event manager, advised Israel by email that it would “*be better if they did not participate in such meetings*”, and that they would be informed in due course of anything that they needed to know.

[65] When asked during the formal hearing about what steps the IIHF had taken to address the heightened security issues with the Host MNAs, considering the provisions of the Championship Regulations and of the Host contract for the Host MNA to provide the security required for the tournaments, the IIHF indicated that the contracts had been signed before the October 7<sup>th</sup>, 2023 attack. The IIHF further indicated that it was hoped that Israel would decide to not participate in the Championships.

[66] While the contracts may have been signed prior to October 7<sup>th</sup>, as those contracts and the Championship Regulations provided that the Host was responsible for security for the Championship, one would have expected the IIHF to immediately ensure that the Hosts were aware that additional security would be required.

[67] Furthermore, since Bulgaria was not awarded the WM20III A tournament until October 12<sup>th</sup>, 2023, clearly after the October 7<sup>th</sup> attack, any contract it signed should have been with full knowledge of the security risks that had led to the tournament being moved from Israel.

[68] Given the fact that the WM20IIIA was moved from Israel to Bulgaria within days of the October 7<sup>th</sup> attack on Israel, and the resulting counter-offensive, and considering that the Ice Hockey Federation of Israel was to be a participant in that same championship in Bulgaria in January 2024, it is hard to understand why there is no record, or even suggestion, of the IIHF taking steps immediately on the change of venue to advise Bulgaria that it would be required to take additional security measures as a result of that conflict, or even to be assured before the Championship was moved, that Bulgaria was in a position to address the obvious need for additional security.

[69] This is even harder to understand when there was a clear indication from Israel on November 8<sup>th</sup>, 2023 that it planned to participate in the upcoming Championships, and was working to get the necessary permission from the government to leave the country to do so.

[70] The IIHF requested Wallbrook to prepare a memo assessing the risks to the safety and well being of both spectators and athletes that could arise if Israel participated in three specified Championships (its initial report did not deal with the WWIIB in Estonia).

[71] Wallbrook's memo was dated November 20<sup>th</sup>, 2023, and indicated in part that there was a realistic possibility that pro-Palestinian protesters would seek to disrupt the events, as the three host countries (Bulgaria, Serbia and Spain) had been having such protests since October. Countries across Europe had reported higher volumes of antisemitic violence, and a need for increased police protection of Jewish communities. The report indicated that Bulgaria, Serbia and Spain also have a track record of disruption and /or violence at sporting events, and local pro-Palestinian may seek to use the profile of an IIHF event to stage highly visible protests.

[72] Without disrespecting the importance of these Championships to the participants, and additionally to the development of the game, it must be noted that these were Division II and III events, and as Bulgaria estimated that attendance for its Championship would be in the range of 1000 to 1500, they would not be considered to be events on the size or scale of the IIHF World Mens or IIHF World Juniors, for example.

[73] The Wallbrook Report also considered the relationship between Israel and two of the countries that it would face in all three tournaments, namely, Turkey and Kyrgyzstan. The report indicated the level of support that those two countries had expressed, both through their governments, and according to recent surveys of the general population, for Hamas and /or Palestine. The report stated:

*Given this stance, a match between Turkey and Israel, which would likely involve fans and players travelling from Turkey, could create a febrile atmosphere. Sustained contact between fans and players from the two sides is likely to lead to verbal or physical confrontation. ... Like Turkey, sustained contact between Kyrgyz fans and spectators, and their Israeli counterparts, is likely to result in verbal or physical confrontation. ...Israel's remaining competitors in the IIHF pool matches, such as Mexico, China and Iceland, appear to pose a more limited risk to fans and players.*

[74] In its initial response to this appeal, on January 16<sup>th</sup>, 2024, the IIHF described its efforts to deal with these security issues and stated:

*However, at an early stage, the IIHF made it clear to the Israeli Federation that it would prioritize the safety of the event over the participation of the Israeli team. This is, for example, clear from the email sent by IIHF Event Manager, Jakub Mihule, to the Israeli Federation president already on 18 December 2023. Thus, it was entirely clear to the Israeli Federation that the IIHF would explore all possibilities regarding the safety of the event together with the Host, but that unless the IIHF could obtain sufficient guarantees regarding the safety of the event, the Israeli team would not be able to participate. As no such guarantees were received by the IIHF from the Bulgarian Federation or local authorities, the IIHF saw no other way than to confirm what the Israeli Federation already knew on 9 January 2024. (Emphasis added)*

[75] As there were no minutes from the meetings between the IIHF and Bulgaria, the first email on the issue was from Bulgaria to the IIHF on January 3<sup>rd</sup>, 2024, providing some information that could relate to security concerns, and indicating that as Host MNA, Bulgaria had written that date to the Sofia police to see what assistance would be provided for the tournament starting nineteen days later.

[76] Bulgaria's letter to the police stated in part:

*In view of the military conflict between Israel and Hamas in October...and last but not least taking into account the participation of Turkey and Kyrgyzstan, the BIHF kindly requests your opinion on the expected risks of participation of Israeli team and what security measures will be taken to ensure the safe hosting of 2024 IIHF Ice Hockey U20 World Championship. Division III.*

[77] While it is understandable, as the first tournament was set for Bulgaria on January 22, 2024, that attention would focus on it first, it is not possible to know what steps the other three Hosts were taking to address the security issues for their upcoming tournaments, as there is no documentation of the discussions during the conference calls or meetings held.

[78] However, the IIHF's response on February 7<sup>th</sup>, 2024 sets out the procedural history of this matter and indicated that the IIHF had meetings January 30<sup>th</sup>, 2024 with the Estonian Federation (host of the 2024 WWIIB) and Serbian Federation ( hosts of the 2024 WMIIA) and on January 31<sup>st</sup>, 2024 with the Spanish Federation ( host of the 2024 WM18IIB).

[79] There is no indication that the IIHF had any earlier meetings with these three Hosts about the increased security risks, but yet the IIHF was aware of such since October 7<sup>th</sup>, and further confirmed by the Wallbrook report to the IIHF on November 20<sup>th</sup>.

[80] The IIHF indicated that during these recent meetings, the hosts were asked to contact the relevant government authorities to obtain assurances that the federal or local police will help with the organization and costs relating to ensuring the safety and security of the championship. In addition, the Security Report from Bulgaria was provided to the three Hosts.



[81] What is clear from the materials filed and the oral submissions during the hearings, as well as the acknowledgment by the IIHF, is that the IIHF hoped that Israel would decide to not participate in the tournaments. The tone of the emails between the parties, particularly following the decision of January 9<sup>th</sup>, 2024 reflects the increasing level of frustration and entrenchment of the various positions of the parties. Little will be served by reviewing them here.

[82] The Ice Hockey Federation of Israel submitted that the IIHF's decision on January 9<sup>th</sup>, 2024 violated IIHF Bylaw 17.1.7, which provides:

*The IIHF will comply with the IOC Charter with respect to participation.*

[83] In its written response dated February 7<sup>th</sup>, 2024, the IIHF acknowledged that it is part of the Olympic movement and supports the principles established in the Olympic Charter. The IIHF submitted that it is not in violation of the Olympic Charter. It further submitted that as the IIHF Championships are not Olympic events, the IIHF was not legally obliged to follow all the guidelines and rules established by the IOC when organizing the IIHF Championships.

[84] That would not appear to be the view of the International Olympic Committee. The IOC, through its Sports Director, wrote to the IIHF President on December 21<sup>st</sup>, 2023, and referenced a meeting between the IOC, NHL, NHLPA and the IIHF, held after the IOC had been contacted by the Israeli Federation and NOC about this matter. In part, that letter indicated:

*We appreciate the efforts the IIHF has made to address the concerns raised in regards to the security considerations around the events listed above, including in your discussions with the Israeli National Federation and NOC which we understand will continue in the coming days.*

*However we also would like to highlight the importance of all parties respecting the Olympic Charter fundamental principles of non-discrimination and fairness. In this regard it is the duty of every sports organisation belonging to the Olympic Movement to make sure that athletes can participate in any sport competition under their jurisdiction (not only the Olympic Games or Olympic qualification events) without any discrimination.*

*Based on the above it is clear that the Israeli teams and players are entitled to equal opportunities for participation as all other teams and players and therefore we do request the IIHF reconsider the IIHF Council decision of November 29, 2023 and find solutions which would not prejudice the Israeli teams and players.*

*We understand the Israeli teams have been approved by their government authorities and security services to travel to the listed above countries. We would therefore request further discussions with the host country security agencies and the local organizing committees to find solutions, otherwise relocate the events to countries which can guarantee the security of the event and the participation of all eligible teams and players (as has been done by a number of other IFS in a similar position).*

*We hope a mutually acceptable decision will be found in your discussions with the Israeli National Federation and NOC to ensure all athletes are able to enjoy their right to participate in the sport competitions.*

[85] In December, 2021, the IOC had circulated a letter to the Presidents and Secretaries General of International Sporting Federations, referencing situations where teams or athletes had been refused entry into the host country for an international competition (the Kosovo boxing team denied entry to Serbia and the Israel squash team denied entry to Malaysia). The IOC urged those federations who were holding international sporting competitions to obtain written assurances from host countries that all eligible teams and participants would be permitted to enter for such competitions, without any political discrimination by the host and that all participants would be treated equally, failing which, appropriate action should be taken.

[86] The IIHF, however, submitted that letter was “*not mandatory on the IIHF*” and further, that it was “*written at a time when the geopolitical situation and risk factors related to Israel’s participation was completely different.*” While Israel’s situation certainly was different from 2021, the IOC’s letter was guidance to international sporting federations to be proactive from the outset of awarding hosting privileges, and to take steps to avoid situations where teams and players could be subjected to discrimination.

[87] Israel submitted that it was denied the right to be heard, as it was not present when Council made the decisions of November 29<sup>th</sup>, 2023 and January 9<sup>th</sup>, 2024. Israel expressed concern that the other countries participating in the tournaments it was scheduled to play in had been contacted for their input or position on Israel’s participation, or had been before Council when its decisions had been made.

[88] However the IIHF submitted that the other MNAs had been contacted at the request of Israel, and none of them had been before the Council meeting. The minutes from the January 9<sup>th</sup>, 2024 Council meeting referred only to the General Secretary, who provided the information to Council. According to the IIHF Statutes and Bylaws, the IIHF Council had the authority to make decisions pursuant to those Statutes and Bylaws. Israel was not denied the right to be heard in that regard, and its right to be heard has been respected and assured in regards to this appeal.

[89] Israel has not disputed the IIHF’s ability to make decisions regarding security, but submits that in doing so, the IIHF did not treat Israel on an equal basis with the other MNAs.

[90] Wallbrook provided a second risk assessment memo to the IIHF on February 5, 2024. The Executive Summary indicated:

*Since we delivered the previous report in November 2023, widespread pro-Palestinian rallies have continued in Spain, suggesting that there remains a realistic possibility that protesters will seek to disrupt IIHF Puigcerda. There is a lower likelihood of disruption to IIHF Kohtla-Järve in Estonia.  
...1.4)The key tensions surrounding Israel’s pool matches in the two IIHF events centre on Israel’s relationship to Bosnia and Herzegovina. Many people in Bosnia and Herzegovina, particularly among the country’s Muslim Bosniak*

*population, have supported the Palestinian cause for some time. Since October 2023, there have been large-scale pro-Palestinian protests in Bosnia and Herzegovina calling for an end to the conflict in Gaza. In addition, we observe that there is a history of Bosnians engaging in antisemitic activities at sporting events, including football matches. As an example, in March 2015, Bosnian football fans held a pro-Palestinian protest in the Austrian capital of Vienna where demonstrators chanted antisemitic slogans. As such, sustained contact between Bosnian fans and spectators, and their Israeli counterparts, is likely to result in verbal or physical confrontation.*

*1.5) Israel's remaining competitors in the IIHF pool matches, such as Singapore, Thailand and China appear to pose a more limited risk to fans and players.*

[91] Counsel for Israel wanted to call expert evidence to show that the risk assessments were not properly conducted. However, an expert is required to be independent, impartial and provide information that would not otherwise be within the reasonable knowledge of the adjudicative body, here the Panel. The opinion that Israel provided did not meet that standard, contained personal opinions unrelated to the questions the expert was asked to address, and as a result, was not admitted for consideration on the hearing.

[92] The risk assessments provided have to be considered in light of the general difficulty of obtaining clear and independent information in any type of political or military strife. Information is not readily available from government sources, for obvious reasons, and if it is, it may be difficult to assess its accuracy. As a result, media reports, surveys, documented information and social media is usually what has to be considered, and these risk assessments have to be considered in respect of that information.

[93] Israel provided a number of examples of other countries that were encountering or engaged in political strife or military action, but whose national teams were fully participating in IIHF Championships. The IIHF referred to the decisions of its Council to disallow Russian and Belarusian National teams from IIHF competitions as a result of Russia's invasion of Ukraine as an example of the IIHF implementing a safety measure.

[94] Israel submitted however, that Ukraine, who was the subject of the Russian invasion and had taken action against Russia to counter those attacks, had not been disallowed from participating in IIHF competitions. In fact, Israel noted that as the Ukraine National team had just earned its place in the final round of the IIHF Men's Olympic Ice Hockey Qualifications. Israel submitted that its situation, of having been attacked on October 7<sup>th</sup> by Hamas, and engaging in a counter-offensive, was no different than that of the Ukraine, but yet, Israel had been treated differently than Ukraine.

[95] Of particular note in the two risk assessments that Wallbrook prepared for the IIHF, was the section on the other teams scheduled to participate in the tournaments with Israel, and the risks posed if Israel played those opponents in those tournaments. The relevant summaries from those reports were referenced earlier. Examples were provided in the risk assessments of previous protests or violent confrontations having occurred in Turkey, Kyrgyzstan, Bosnia and

Herzegovina and in the case of each of those countries, the risk assessment indicated that sustained contact between the fans and players from those countries and Israeli fans and players was likely to lead to verbal or physical confrontations.

[96] However, there is no indication that the IIHF considered taking any measures in respect of those four countries, specifically, despite the fact they were identified in the risk assessments as the most problematic, and despite each having a documented history that supported that they would pose a risk themselves in a tournament with opponents whose political or military actions they did not support. No reason was provided by the IIHF as to why taking security measures in respect of those teams would not have been required to address the IIHF's concerns about "*ensuring the safety of all the participants in the tournament*".

[97] It is also noteworthy that in contrast to those countries, the risk Israel was indicated to pose was its very presence. The risk assessment did not document any incidents where Israel teams or fans were the aggressors, but rather the incidents referred to were where Israel was the subject of the protest or attack.

[98] The risk assessments did not provide any suggestions as to how to provide adequate security for the IIHF Championships nor examples of the type of measures that had been used in other situations, and with what success.

[99] While the IIHF provided a copy of a press release indicating that a Gent League Conference game had to be played behind closed doors, and Aerology basketball games had been moved to a different venue to show the security issues faced when Israel teams were participating, Israel indicated that those articles illustrated how those organizations were able to find solutions to the security issues, such that the teams were able to continue to participate.

[100] The IIHF did not indicate any safety measures were considered, so that Israel would be able to participate in its Championships. Israel provided a list of approximately fifty (50) sporting events, including some of considerable prominence, that Israeli athletes had been able to compete in since October 7<sup>th</sup>, 2023. Israel submitted that if those fifty sporting events had been able to provide the security needed for Israel to participate in those events, then IIHF should have been able to do so for the four Championships in question here.

[101] The materials filed in this case, and the submissions of the IIHF during the formal hearings make it clear that the IIHF "*would prioritize the safety of the event over the participation of the Israeli team*", as noted in the IIHF's response on January 16<sup>th</sup> to the initial appeal.

[102] In doing so, it appears that the only consideration by the IIHF was removing Israel from the tournament, as opposed to, for example, dealing with the other countries that themselves would possibly pose a safety risk by their potential actions if Israel participated.

[103] Through the host contract, the IIHF was already saved harmless from any actions that could result from security issues at its Championships, and while the IIHF certainly has

obligations in contract, tort and employment law, which were not challenged by Israel in its submissions, the IIHF Championship Regulations and the Host contracts provided the IIHF with significant, if not total, indemnity from such claims, as evident from Articles 4.1.e and I ; 10, 12, 16.1 and 17.4 of the Estonia Host contract. The IIHF indicated all Host contracts for these divisions of hockey were the same.

[104] The IIHF referred to its implementation of a safety policy that resulted in 2022 in Russia and Belarus being disallowed from participating in IIHF competitions until the war ends and the security of the participants can be assured. Initially, there was no risk assessment in that situation, but there was direct evidence from organizers of some of the pending championships that there were no security measures that could be put in place to assure the security of the tournaments. In one case, the tournament was set to begin about four days after the Russian invasion of Ukraine, and so there was not sufficient time to set up additional security measures. In another, it was the IIHF World Mens Championships, and given its size, and in particular the number of teams competing and the length of the tournament (approximately two weeks), measures such as playing games in empty arenas and hiring extra security personnel were simply inadequate to address that situation.

[105] In contrast to that scenario, here there is little or no evidence that the Hosts were unable to provide the security needed. What is clear here is that security requirements and/or arrangements were not addressed in a timely manner, either by the Hosts or the IIHF. While the letter from Bulgaria to the IIHF on January 3, 2024 set out some details of the logistics for the tournament to be considered, it was only 19 days before the tournament that contact was made with the local police to see what assistance was needed and would be provided. The first documented meetings between the IIHF and the Hosts of the three remaining Championships to discuss security issues, as provided to this Panel, were January 30<sup>th</sup> and 31<sup>st</sup>, 2024.

[106] Furthermore, there is no indication that the IIHF considered moving any of the tournaments, other than initially from Israel to Bulgaria, if the Host was not able to provide adequate security. That was always an option, and certainly one suggested by the IOC in its general cautionary letter to international sporting federations in December 2021, and then more specifically directly to the IIHF in relation to Israel's situation, in December 2023.

[107] As the Panel of one, sitting on this appeal and amended appeal, I am satisfied on the preponderance of the evidence provided herein, that in considering the safety of the Championships, the IIHF Council, in its decision on January 9<sup>th</sup>, 2024 (which confirmed the Council decision of November 29<sup>th</sup>, 2023) failed to treat the Ice Hockey Federation of Israel on an equal basis to other Member National Associations participating in those tournaments, or on an equal basis to Member National Associations, facing a similar situation, for example, such as Ukraine, in suffering an attack on its country. The IIHF Council's decision contradicted and/or ignored the basic principles of equality and equal opportunity and the role of the IIHF as established in IIHF Statute 4 (d) to formulate or adopt and implement appropriate policies and programs in regards to those areas, as well as safety and other areas, that were in the best interests of ice hockey.

[108] The appeal and amended appeal of the Ice Hockey Federation of Israel are hereby granted and the decision of the IIHF Council on January 9<sup>th</sup>, 2024 (which had confirmed its earlier decision taken on November 29<sup>th</sup>, 2023) to disallow the Ice Hockey Federation of Israel from participating in the 2024 IIHF Championships is overturned and of no effect.

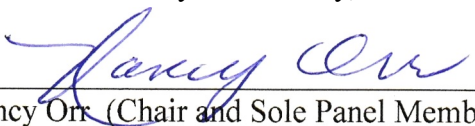
[109] To ensure clarity in this matter, although the January 9<sup>th</sup>, 2024 decision of the IIHF Council confirmed its earlier decision of November 29<sup>th</sup>, 2023, there was no formal notification of that earlier decision taken on November 29<sup>th</sup>, 2023. Therefore the granting of this appeal has the effect of rendering both the November 29<sup>th</sup>, 2023 and the January 9<sup>th</sup>, 2024 IIHF Council decisions to disallow the Ice Hockey Federation of Israel's National Teams participation in IIHF Championships due to safety and security reasons, as overturned and of no effect.

[110] In its response to the amended appeal, the IIHF asked for the following relief, namely:  
*to not entertain any further appeals submitted by the IHFI (Ice Hockey Federation of Israel) regarding IIHF Council decisions taken in February or March in respect of these matters.*

[111] When I asked the IIHF during the formal hearing what authority there was for me to prohibit a Member National Association from pursuing an appeal of a future IIHF decision, none was provided, and certainly there is no such authority in the IIHF's Disciplinary Regulations or Statutes.

[112] Pursuant to section 12.5.4 of the IIHF Disciplinary Code, this decision is final within the IIHF. It can be appealed to the Court of Arbitration for Sport (CAS) in accordance with the Code of Sports Related Arbitration after receipt of this written decision. The decision of this Disciplinary Panel remains in effect while under appeal unless the Court of Arbitration for Sport orders otherwise.

Dated this 29<sup>th</sup> day of February, 2024.

  
\_\_\_\_\_  
Nancy Orr (Chair and Sole Panel Member- Canada)