



DISCIPLINARY COMMISSIONER

&

THE BOARD OF APPEALS

(TERMS OF REFERENCE AND PROCEDURE)

APPROVED BY THE COUNCIL ON

20TH JANUARY 2024

INTERPRETATION OF TERMS

- i. Unless explicitly stated, the definitions given in the Disciplinary Code DC-A2 (Definitions) also apply to these Terms of Reference and Procedure.
- ii. References to the “General Secretary” refer to the ASA General Secretary or their appointed assistants or delegates.
- iii. The term “Panel” refers to the panel of individuals approved by the Council to serve as Disciplinary Commissioners and/or members of the ASA Board of Appeals.
- iv. The terms “Disciplinary Commissioner” and “Commissioner” are used interchangeably and refer to the same individual.
- v. The term “Commissioner” also includes an Assistant Commissioner if and when assigned to a case.
- vi. The term “hearing” refers to a Hearing of the Disciplinary Commissioner or of the Board of Appeals.
- vii. The term “Board” refers to the ASA Board of Appeals.

SECTION 1 - GENERAL

TOR-11 THE STANDARD OF PROOF IN THE ASA DISCIPLINARY SYSTEM

- i. In the ASA Disciplinary System, the standard of proof is based on the preponderance of evidence. This means that during a hearing, the adjudicator must carefully assess the probability of the alleged offence being committed as reported or not. The determination of guilt or innocence relies on a balance of probabilities, considering the evidence presented by both parties. If, in the adjudicator's judgment, the evidence presented by the reporting party outweighs that provided by the accused party, the accused will be found guilty in accordance with the report. On the other hand, if the evidence presented by the accused party is more convincing, the adjudicator/s will not find the accused guilty.
- ii. The ASA judicial process diverges from traditional legal courts, as its primary focus lies in upholding and enforcing ASA rules and regulations. The paramount aim of this process is to preserve a fair and level playing field while safeguarding the sport's integrity. In contrast to traditional legal courts, the ASA process predominantly concerns itself with the imposition of sporting sanctions, including suspensions, fines, and disqualifications, rather than engaging in the broader range of legal remedies available within the conventional legal framework.
- iii. The ASA judicial process is designed to offer a specialized and streamlined approach to handling disciplinary matters within its sporting activities. This design places a strong emphasis on an understanding of sports law, rapid dispute resolutions, the maintenance of confidentiality, and the fair and just enforcement of sporting regulations.

TOR-12 DISCIPLINARY COMMISSIONERS & MEMBERS OF THE BOARD OF APPEALS

- i. The Council shall periodically approve a Panel of individuals to serve as Disciplinary Commissioners and/or members of the ASA Board of Appeals. Preferably, the Panel should be composed of individuals who possess a strong understanding of sports law, ASA regulations, and the various sporting disciplines managed by the ASA.
- ii. The General Secretary shall assign a disciplinary report to one member of the Panel. At their discretion, or at the request of the assigned Commissioner, they may also assign an Assistant Commissioner. The designated Commissioner/s shall preside over and submit a decision on the report to the General Secretary.
- iii. Appeals will be heard and decided by the Board of Appeals. The Commissioner/s who made the decision being appealed shall not form part of the Board. The Board shall consist of up to three members selected by the General Secretary from the Panel. If the Board is composed of more than one member then these members shall elect a chairperson from among themselves. The chairperson shall have a casting vote if required.

- iv. If none of the Panel members are available for a hearing of the Disciplinary Commissioner or the Board of Appeals, the General Secretary may, limitedly in emergency situations, dictated by time restrictions due to upcoming matches in which offenders are involved, nominate a qualified individual, who is not currently part of the Panel, to act as Commissioner or participate in the Board of Appeals for that particular hearing.
- v. Any Commissioner or member of the Board of Appeals who has a conflict of interest or bias related to the case assigned to them should recuse themselves from involvement in the case. For the avoidance of doubt, the decision on whether a conflict of interest or bias exists lies solely with the said member of the Commissioner or member of the Board of Appeals.

TOR-13 ASA MATCH DELEGATE AND DISCIPLINARY OFFICER

i. ASA Match Delegate

The ASA Match Delegate is defined as an individual of technical competence who is duly appointed by the Executive Committee, in the exercise of its reasonable discretion, in order to supervise a match. For the avoidance of doubt, all appointed referees, local or foreign, automatically qualify to be appointed as an ASA Match Delegate. Any other individual shall be duly appointed by the ASA Executive Council.

ii. Disciplinary Officers

The Executive Committee may appoint Disciplinary Officers who shall be individuals possessing a strong understanding of sports law, ASA regulations, and the various sporting disciplines managed by the ASA. Disciplinary Officers shall be independent of the ASA and shall have the authority to:

- Represent the interests of the ASA by presenting the case and acting as a prosecutor during hearings of the Disciplinary Commissioner and Board of Appeals.
- Initiate disciplinary processes, including investigation and preparation of formal charges or reports, for subsequent submission to the General Secretary or Disciplinary Commissioner for further action.
- Recommend specific measures or sanctions to be imposed on the accused party, contributing to the fair and effective enforcement of the disciplinary process within the ASA.

TOR-14 PROCEDURE DURING HEARINGS (COMMISSIONER & BOARD OF APPEALS)

i. Procedure

- a. Procedure in a hearing is entirely at the discretion of the Commissioner/Board, who shall uphold principles of equity and fairness. They shall ensure that every party has a just and unbiased hearing.
- b. In the case of dispute or points of order, the Commissioner/Board shall be the sole interpreter of procedural rules.
- c. The Commissioner/Board shall allow both parties to present their case.

ii. Witnesses and Evidence

- a. Both parties have the right to call witnesses during a hearing. Witnesses shall be present only while giving evidence. It is preferable that witnesses appear in person before the hearing.

However, testimony may also be provided through alternative means, such as by telephone, online, or via written statements.

- b. The Commissioner/Board and both parties have the right to question and cross-examine witnesses.
- c. If it is necessary to arrive to a fair and just decision, the Commissioner/Board may request additional evidence or testimony.
- d. The Commissioner/Board may censure, exclude, or fine (up to a maximum of €200 payable by the witness or the party that produced the witness) a witness when it becomes clear to the Commissioner/Board that the testimony or evidence presented is maliciously untrue, or in bad faith.
- e. Both parties have the right to present material evidence during the hearing, provided that the Commissioner/Board deems it reliable and relevant to the case. Evidence includes, but is not limited to video clips, photographs, and voice recordings provided that the Commissioner/Board is satisfied with the veracity and genuineness of such evidence.

iii. Deliberation

- a. Following the conclusion of the hearing, the Commissioner/Board shall initiate their deliberations. Prior to commencing deliberations, the Commissioner/Board may request the General Secretary or the secretary to furnish them with the disciplinary records of the accused and/or any precedents related to similar cases.
- b. While in deliberation, no one is allowed to communicate with the Commissioner/Board until a decision on the case is reached. However, while deliberating on a case, the Commissioner/Board may consult with another member of the Disciplinary Panel.
- c. Once the deliberation process is finalized, and a decision has been reached, the Commissioner/Board will either draft the decision or instruct the secretary to type it.

TOR-15 AMENDMENTS

These Terms of Reference and Procedure may be amended at any time by the Council of the ASA. Provided that any amendments affected during an ongoing senior competition shall only come into effect upon termination of the said competition.

SECTION 2 – DISCIPLINARY COMMISSIONER

TOR-21 COMPETENCE OF THE DISCIPLINARY COMMISSIONER

- i. The Commissioner has the authority to conduct hearings and/or make decisions on reports submitted by any individual or entity that has a vested interest in any activity falling under aegis of the ASA.
- ii. The Commissioner shall declare a report or contestation to be frivolous and vexatious when it lacks merit, substance, or validity and that is submitted with the primary intention of harassing, annoying, or causing trouble, rather than for legitimate or justifiable reasons. In such cases, the Commissioner may apply the disciplinary measures in the Disciplinary Code against the individual or entity responsible for submitting the frivolous and vexatious report or contestation.
- iii. The Commissioner may consider a request for the withdrawal of a report or contestation made by the individual or entity who submitted the report or contestation up until the point where the Commissioner begins deliberating on the case. Should the Commissioner perceive the withdrawal as an attempt at quid pro quo, then they may declare the withdrawal to be a frivolous and vexatious action subject to sanctions as prescribed in the Disciplinary Code. Once the Commissioner has initiated deliberations on a case, the report or contestation cannot be withdrawn.

TOR-22 REPORTS AND CONTESTATIONS

i. Match Card Reports

- a. Reports on Match Cards, whether they are written on separate sheets or attached to the Match Card itself, can cover any alleged offences or incidents occurring immediately before, during, or immediately after the relevant match.
- b. Match Card reports may be submitted only by
 - the officiating referee/s who may report on any alleged offence or incident that took place in the field of play, the pool deck, the changing rooms, the stands, the Restricted Area/s, and any other areas at the venue.
 - the ASA Match Delegate appointed for the match who may report on any alleged offences or incidents on the pool deck, changing rooms, stands, Restricted Area/s, and any other areas at the venue, or acts of violent action on the field of play.
- c. Match Card reports must be finalised within 15 minutes from the conclusion of a match and passed on to the General Secretary expeditiously.
- d. It is the responsibility of team officials to ensure they obtain a copy of the Match Card report. In the event that team officials fail to do so, the Club will still be considered to have received the report.
- e. Contestations
 - A Contestation shall be considered to be a formal request by the accused party to have the case adjudicated in a hearing of the Disciplinary Commissioner.

- Contestations of Match Card reports must be submitted by the President or Secretary of the Club to whom the subject/s of the reports appertain.
- On pain of nullity, contestations are to be in writing and must be received by the General Secretary by not later than 09:00 (9am) of the day after the match in question.
- Contestations are not required to include specific points from the report that are being contested. A list of witnesses or specification of legal representation is not required.
- The Club submitting the contestation binds itself to pay an administrative fee of €100 to the ASA.

ii. Supplementary Reports by Referees and ASA Match Delegates

- a. The short name for Supplementary Reports by Referees and ASA Match Delegates shall be “Supplementary Report” or “Supplementary Reports”.
- b. Supplementary Reports shall comprise alleged offences or incidents that could have been reported in a Match Card report but were not. These alleged offences or incidents must have been either witnessed by the individual submitting the report or on the basis of evidence presented from the official video of ASA or SportMalta, and not based on data gathered from third parties, social media, or any other type of video.
- c. Supplementary Reports may be submitted only by
 - the officiating referee/s who may report on any alleged offence or incident that took place in the field of play, the pool deck, the changing rooms, the stands, the Restricted Area/s, and any other areas at the venue.
 - the ASA Match Delegate appointed for the match who may report on any alleged offences or incidents on the pool deck, changing rooms, stands, Restricted Area/s, and any other areas at the venue, or acts of violent action on the field of play.
- d. On pain of nullity, Supplementary Reports are to be in writing and must be received by the General Secretary by not later than three hours after the termination of the match in question.

iii. Reports by ASA Officials

- a. The short name for Reports by ASA Officials shall be “Official Reports” or “Official Report”.
- b. The following individuals shall be considered to be “ASA Officials” for the purpose of this section.
 - Members of the ASA Executive Committee;
 - Disciplinary Officers;
 - Members on the Panel;
 - Referees when not involved in a match or event.
- c. ASA Officials may report on any alleged offence or incident that did not take place during a match in the field of play.
- d. On pain of nullity, Reports by ASA Officials, except for the President of the ASA and the General Secretary, are to be in writing and must be received by the General Secretary by not later than 48 hours from the time that the alleged offence or incident took place. However, any report filed by an ASA Official that would have declared a conflict of interest may not be considered.
- e. Reports by the President of the ASA or the General Secretary are to be submitted by not later than 7 days either from the time that the alleged offence or incident took place, or, from the time that the alleged offence or incident first came to the attention of the said ASA Officials, whichever is the latest.

iv. Miscellaneous Reports

- a. Miscellaneous Reports are to be in writing and may be submitted by
 - Affiliated Clubs and Bodies;
 - Parent Bodies of the ASA as listed in the Statute (Rule 4);
 - Local Sports Regulatory Bodies;
 - The National Anti-Doping Organisation of Malta (NADO) and the World Anti-Doping Agency (WADA).
- b. Miscellaneous Reports may refer to any alleged incident but shall not refer to alleged offences or incidents that took place during an event in the field of play, except for those cases of violent action which are corroborated by virtue of the official match video, which may be supplemented by photographic evidence and/or medical reports by a recognised medical practitioner.
- c. Miscellaneous Reports by affiliated Clubs and Bodies must be received by the General Secretary by not later than three hours after the termination of the event in which the alleged offence or incident took place.
- d. An affiliated Club or Body submitting a Miscellaneous Report binds itself to pay an administrative fee of €500 to the ASA.

v. Reports on Serious Offences

- a. Reports on alleged serious offences or incidents may be submitted by any individual or body.
- b. The subjects of reports on Serious Offences must be individuals or bodies that fall under the jurisdiction of the ASA.
- c. Alleged serious offences or incidents include:
 - Sports bribery;
 - Sports corruption and/or Match Fixing;
 - Doping rule violations;
 - Poaching of athletes;
 - Betting on a sporting activity falling under aegis of the ASA, or any match involving a National Team;
 - Violations related to the integrity of sports.

TOR-23 COMMUNICATION TO REPORTED PARTIES

- i. The contents of TOR-23 apply only to Supplementary Reports, Official Reports and Miscellaneous Reports since the process for Match Card Reports is described in TOR-22(i).
- ii. The General Secretary shall forward a copy of the report to the President and/or Secretary of the Club to whom the subject/s of the reports appertain. The individual subject/s of the report including the Club itself, its players, team officials, club officials, members, supporters (identified or unidentified) and any other individuals associated with the Club, are deemed to have been informed about the report once the General Secretary has forwarded a copy of the report to the President and/or Secretary of the Club. Provided that, should an individual that is the subject of a report not be associated with a Club, the General Secretary shall endeavour to forward a copy of the report to such individual.

- iii. The General Secretary must ensure that these submissions are made expeditiously, and not later than 24 hours from the moment they receive the report. Failure to abide by this article shall not necessarily invalidate the report.
- iv. The General Secretary may also forward reports to:
 - the members of the ASA Executive Committee;
 - the ASA's legal advisor;
 - the members of the ASA Council.

TOR-24 HEARINGS OF THE DISCIPLINARY COMMISSIONER

i. Multiple Reports

Reports dealing with the same alleged offence or incident but received from more than one source, shall be treated as one report.

A report involving multiple individuals or entities may, at the discretion of the Commissioner, be subdivided or grouped into several reports. Such reports shall be handled in the same manner as other reports.

ii. Uncontested Match Card Reports

The Commissioner shall consider one of two options before adjudicating an uncontested Match Card Report.

a. Assume Unconditional Admission of Guilt

The Commissioner can assume that the reported party has unconditionally admitted guilt based on the contents of the report. In this case, the Commissioner will proceed to apply sanctions as per the Disciplinary Code. The Commissioner is entitled to request clarifications from the party that submitted the report.

b. Hold a Hearing

The Commissioner may choose to hold a hearing to further investigate and decide on the uncontested Match Card report. In this case, the report shall be processed as a contested Match Card Report.

iii. Date, Time, and Venue of Hearings

- a. The date, time, and venue of a hearing will be set by the General Secretary, and no requests for postponements will be considered. At the discretion of the Commissioner, hearings may be conducted online.
- b. Hearings should be held without undue delay, however, in cases involving athletes or coaches (as distinct from other team officials), where suspension is a potential consequence, the date and time should be set so as to ensure that a final decision can be reached before the next scheduled match or event in which the said athlete or coach is reasonably expected to participate. This should also allow time for any potential appeal to be lodged and heard. The General Secretary may choose not to apply this provision if it is not possible to organise the hearing within these constraints.
- c. The General Secretary shall communicate the date, time, and venue of the hearing to
 - The Commissioner assigned to hear the case;
 - The secretary to the Commissioner;

- The Disciplinary Officer, if appointed and when the report is submitted by an ASA entity;
 - The individual or the representative of the entity that submitted the report;
 - The President or Secretary of the Club/s to whom the subject/s of the reports appertain, including the Club itself, its athletes, team officials, club officials, members, supporters (identified or unidentified) and any other individuals associated with the Club. It is the responsibility of the Club President or Secretary to promptly relay the communication details to the respective individual or individuals involved. The reported individual shall be considered as officially notified once the Club President or Secretary has been notified. Provided that, should an individual that is the subject of a report not be associated with a Club, the General Secretary shall endeavour to forward a copy of the report to such individual.
- d. The General Secretary may also communicate the date, time, and venue of a hearing to members of the ASA Executive Committee.

iv. Attendance during Hearings

- a. The individuals listed below have the right to be present as participants during hearings:
- The Commissioner;
 - A secretary to the Commissioner;
 - The individual or the representative of the entity that submitted the report;
 - The Disciplinary Officer;
 - The reported individual/s or a delegate of the reported entity;
 - Not more than 2 individuals to assist the reported individual/s or not more than 1 individual to assist the delegate of the reported entity;
- b. The Commissioner may proceed with the hearing in the case of absence of any of the above individuals.
- c. Members of the ASA Executive Committee may be present as observers during hearings.
- d. During the hearing, the Commissioner has the right to exclude any attendee without giving a reason.

v. Procedure

Procedure shall be as defined in TOR-14(i).

vi. Witnesses and Evidence

The rules for witnesses and evidence shall be as defined in TOR-14(ii).

vii. Deliberations by the Commissioner

The procedure for deliberations following the conclusion of a hearing shall be as defined in TOR-14(iii).

TOR-25 DECISIONS OF THE DISCIPLINARY COMMISSIONER

- i. The Commissioner shall decide on the case and submit a written, signed decision to the General Secretary as expeditiously as possible. A decision documented within an email unmistakably sent by the Commissioner is considered to bear the Commissioner's signature.

- ii. Decisions that involve suspension of athletes or coaches (as distinct from other team officials) should be submitted by the Commissioner to the General Secretary before the next match/event in which such athlete or coach is reasonably expected to participate, also allowing time for an eventual appeal to be lodged and heard. In default, the decision shall not necessarily be invalidated, and the term of the suspension shall be adjusted as required.
- iii. The Commissioner may impose any fine, suspension or other penalty contemplated in the Disciplinary Code or other Statutes of the ASA.
- iv. The Commissioner may suspend in part or in full any decision, particularly in cases where it transpires that the offence was instigated by provocation or incitement, or where there are special circumstances surrounding the case.
- v. The Commissioner's decision may incorporate any recommendations they deem appropriate for the Executive Committee's consideration. These recommendations may include requests for the General Secretary to initiate disciplinary proceedings regarding offences that surfaced during the hearing.
- vi. The Commissioner has the discretion to refund all, or part, of any administrative fees paid in connection with a report, or to declare that an administrative fee payable in accordance with this terms of reference document is not due.
- vii. Communication of the Decision
 - a. The General Secretary shall expeditiously forward a copy of the decision to the President or Secretary of the Club to whom the subject/s of the reports appertain. The individual subject/s of the report including the Club itself, its players, team officials, club officials, members, supporters (identified or unidentified) and any other individuals associated with the Club, are deemed to have been informed about the decision once the General Secretary has forwarded a copy of it to the President or Secretary of the Club.
 - b. The communication by the General Secretary should state the time limit by which an appeal against the decision may be lodged as long as a minimum of 9 hours is afforded to the party effected by the decision. If this time limit is not stated, then the default time stated in TOR-32(iii) shall apply.
 - c. The General Secretary may also forward reports to:
 - The individual or body that had submitted the report ;
 - The members of the ASA Executive Committee;
 - The members of the ASA Council;
 - All Clubs and Affiliated Bodies;
 - Any other individuals or entities at the General Secretary's discretion.
 - d. The General Secretary may publish any decision, including its associated report/s and contestation/s, on the ASA of Malta website, with the option to redact content at their discretion. Furthermore, the General Secretary may opt to upload a summarized version instead of the complete document.

viii. It is incumbent upon all relevant parties to enquire with the General Secretary about the case's outcome. In the absence of such enquiries, they shall be considered to have received notification along with a copy of the decision.

ix. Right of Appeal

Any of the parties to the case have the right to appeal to the ASA Board of Appeals against the Commissioner's decision if and only if:

- a. it is alleged that a serious procedural irregularity has been committed by the Commissioner, or
- b. it is alleged that the wrong individual was convicted by the Commissioner, or
- c. it is alleged that a wrong clause of the Disciplinary Code was applied by the Commissioner, or
- d. a suspension containing a multiple match ban is imposed upon the accused, and the accused alleges that a lesser ban is warranted according to the range of sanctions applicable to the offence, or
- e. a suspension of 2 matches or more for the same offence, or a period suspension from all ASA activities exceeding 1 month for the same offence has been inflicted.

SECTION 3 – BOARD OF APPEALS

TOR-31 COMPETENCE OF THE BOARD OF APPEALS

- i. The Board shall hear and decide upon appeals from disciplinary decisions taken by the Council, the Disciplinary Commissioner and any other entity duly authorised by the ASA Council to take disciplinary decisions.
- ii. The Board shall also hear and decide upon appeals lodged by athletes against disciplinary measures taken against them by their respective club.
- iii. The Board may only hear appeals lodged by
 - The individual or entity found guilty of an offence, or
 - The individual or entity who lodged the original report, or
 - The Executive Committee, provided that such appeals may only be lodged against decisions related to “Reports on Serious Offences” as defined in TOR-22(v).
- iv. The Board shall declare an appeal to be frivolous and vexatious when it lacks merit, substance, or validity and that is lodged with the primary intention of harassing, annoying, or causing trouble, rather than for legitimate or justifiable reasons. In such cases, the Board may apply the disciplinary measures in the Disciplinary Code against the individual or entity responsible for lodging the frivolous and vexatious appeal.
- v. The Board may consider a request for the withdrawal of an appeal up until the point where the Board begins deliberating on the case. Should the Board perceive the withdrawal as an attempt at quid pro quo, then it may declare the withdrawal to be a frivolous and vexatious action subject to sanctions as prescribed in the Disciplinary Code. Once the Board has initiated deliberations on a case, the appeal cannot be withdrawn.

TOR-32 APPEALS

- i. Appeals must be in writing and are to be submitted to the General Secretary.
- ii. Lodging of an Appeal
 - Appeals by an individual or entity found guilty of an offence must be lodged by the President or Secretary of the entity to whom the subject/s of the reports appertain.
 - Appeals by the individual or entity who lodged the original report must be lodged by the same individual who lodged the report.
 - Appeals by the Executive Committee must be lodged by the President or the General Secretary of the ASA.
- iii. Appeals by the Executive Committee must be lodged within 7 days from the date when the decision being appealed was communicated. Other appeals must be lodged within 18 hours from the time when the decision being appealed was communicated. Provided that appeals on

decisions involving suspensions of athletes or coaches (as distinct from other team officials) shall be lodged in such time that the appeal can be heard and decided before the next scheduled match or event in which the said athlete or coach is reasonably expected to participate. In these cases, the time limit will be set on a case-by-case basis by the General Secretary.

- iv. The entity lodging the appeal binds itself to pay an administrative fee of €200 to the ASA.
- v. The appeal must clearly indicate whether the entire decision or specific parts of the decision are being appealed. In the latter case, the parts being appealed must be stated.
- vi. The appeal must specify one or more of the reasons that render the decision eligible for appeal as listed in TOR-25(ix). Provided that decisions on uncontested Match Card reports cannot be appealed on the grounds of guilt or innocence of the appellant.
- vii. The General Secretary shall, as expeditiously as possible, send a copy of the appeal to the President or Secretary of the other (non-appealing) party in the decision being appealed. Failure to abide by this article shall not necessarily invalidate the appeal.

TOR-33 HEARINGS OF THE BOARD OF APPEALS

i. Date, Time, and Venue of Hearings

- a. The date, time, and venue of a hearing will be set by the General Secretary, and no requests for postponements will be considered. At the discretion of the Board, hearings may be conducted online.
- b. Hearings should be held without undue delay, however, in cases involving athletes or coaches (as distinct from other team officials), where suspension is a potential consequence, the date and time should be set so as to ensure that a final decision can be reached before the next scheduled match or event in which the said athlete or coach is reasonably expected to participate. The General Secretary may choose not to apply this provision if it is not possible to organise the hearing within these constraints.
- c. The General Secretary shall communicate the date, time, and venue of the hearing to
 - The members of the Board assigned to hear the appeal;
 - The secretary to the Board;
 - The Disciplinary Officer, if appointed and when the decision being appealed relates to a report submitted by an ASA entity;
 - The individual or the representative of the entity that lodged the appeal;
 - The President or Secretary of the other (non-appealing) party in the decision being appealed.
- d. The General Secretary may also communicate the date, time, and venue of a hearing to members of the ASA Executive Committee.

ii. Attendance during Hearings

- a. The individuals listed below have the right to be present as participants during hearings:
 - The members of the Board;
 - The secretary to the Board;

- The individual or the representative of the entity that lodged the appeal;
 - The Disciplinary Officer;
 - The individual or representative of the other (non-appealing) party in the decision being appealed;
- b. The Board may proceed with the hearing in the case of absence of any of the above individuals.
- c. Members of the ASA Executive Committee may be present as observers during hearings.
- d. During the hearing, the Chairperson of the Board has the right to exclude any attendee without giving a reason.

iii. Procedure

Procedure shall be as defined in TOR-14(i).

iv. Witnesses and Evidence

The rules for witnesses and evidence shall be as defined in TOR-14(ii).

v. Deliberations by the Board of Appeal

The procedure for deliberations following the conclusion of a hearing shall be as defined in TOR-14(iii).

TOR-34 DECISIONS OF THE BOARD OF APPEALS

- i. The Board shall expeditiously decide on the appeal and submit a written and signed decision to the General Secretary. In exceptional circumstances the Board may postpone its deliberation and/or decision. The decision must be signed by the Chairman. The other members of the Board may also sign the decision. A decision documented within an email unmistakably sent by the Chairman is considered to bear the Chairman's signature.
- ii. Decisions that involve suspension of athletes or coaches (as distinct from other team officials) should be submitted by the Board to the General Secretary before the next match/event in which such athlete or coach is reasonably expected to participate. In default, the decision shall not necessarily be invalidated and the term of the suspension shall be adjusted as required.
- iii. While deliberating on the appeal, the Board may consider as mitigating circumstances situations where the offence was instigated by provocation or incitement, or where there are special circumstances surrounding the case.
- iv. The Board shall only decide upon the grievance/s raised in the appeal.
- v. The Board's decision shall be to
 - a. reject the appeal and confirm the decision under appeal, or
 - b. uphold the appeal and annul the decision under appeal, or
 - c. modify the decision under appeal by reducing, increasing, suspending, or otherwise changing the sanction/s imposed within the framework of the Disciplinary Code or other Statutes of the ASA.
- vi. The Board is not allowed to send a case back to the original adjudicator or to order a re-hearing by the Disciplinary Commissioner.

- vii. The Board's decision may incorporate any recommendations it deems appropriate for the Executive Committee's consideration. These recommendations may include requests for the General Secretary to initiate disciplinary proceedings regarding offences that surfaced during the hearing.
- viii. The Board has the discretion to refund all, or part, of any administrative fees paid in connection with an appeal, or to declare that an administrative fee payable in accordance with this terms of reference document is not due.
- ix. Communication of the Decision
- a. The General Secretary shall expeditiously forward a copy of the decision to the President or Secretary of the Club that lodged the appeal. The individual subject/s of the appeal including the Club itself, its players, team officials, club officials, members, supporters (identified or unidentified) and any other individuals associated with the Club, are deemed to have been informed about the decision once the General Secretary has forwarded a copy of it to the President or Secretary of the Club.
- b. The General Secretary may also forward reports to:
- The non-appealing party to the appeal;
 - The members of the ASA Executive Committee;
 - The members of the ASA Council;
 - All Clubs and Affiliated Bodies;
 - Any other individuals or entities at the General Secretary's discretion.
- c. The General Secretary may publish any decision, including its associated appeal, on the ASA of Malta website, with the option to redact content at their discretion. Furthermore, the General Secretary may opt to upload a summarized version instead of the complete document.
- x. It is incumbent upon all relevant parties to enquire with the General Secretary about the outcome of the appeal. In the absence of such enquiries, they shall be considered to have received notification along with a copy of the decision.
- xi. Decisions taken by the Board of Appeals are definitive and final. There are no additional channels available for further appeal or recourse, including, but not limited, to any pardons requested from the ASA Executive.