



21 February 2022

DECISION OF THE IPC LEGAL AND ETHICS COMMITTEE

Complaint concerning alleged breaches of the IPC Code of Ethics

International Paralympic Committee

Complainant

and

Mr. Thiago Paulino Dos Santos

Respondent

IPC Legal and Ethics Committee Hearing Panel:

Mark Copeland, Committee Chair

Helene Raynsford, Committee Member

Tiago Carvalho, Committee Member

Assistants:

Louis Muncey, Clerk

Esther Thomas, Clerk

Leen Coudenys, IPC Executive Assistant

Complainant:

International Paralympic Committee, represented by Elizabeth Riley, General Counsel, and Adam Thew, Legal Counsel

Respondent:

Mr. Thiago Paulino Dos Santos

National Paralympic Committee:

the Brazilian Paralympic Committee ('**CPB**')



1. Introduction

- 1.1 This is the reasoned decision of the IPC Legal and Ethics Committee Hearing Panel (**'Hearing Panel'**) in relation to a complaint brought by the Complainant against the Respondent (**'Complaint'**) in respect of alleged breaches of the 'IPC Handbook, Section 2, Chapter 1.1. IPC Code of Ethics April 2021' (**'Code'**) and the 'Supplementary Regulations (Paralympic Games Tokyo 2020 Demonstrations)' (**'Demonstration Regulations'**).
- 1.2 The Complainant is the International Paralympic Committee.
- 1.3 The Respondent is Mr. Thiago Paulino Dos Santos, a Brazilian athlete who competed at the Tokyo 2020 Paralympic Games in Para athletics.

2. Jurisdiction and Proceedings

- 2.1 The Demonstration Regulations were approved by the IPC Governing Board on 21 July 2021 and adopted as the supplementary regulations referred to in Article 2.2.2 of the Paralympic Games Principles, located at section 1, chapter 3 of the IPC Handbook.
- 2.2 The Demonstration Regulations apply during the "Games Period" meaning the period which commenced on 14 August 2021 (which was ten days before the opening ceremony of the Paralympic Games Tokyo 2020) and which ended at midnight on 5 September 2021 (the day of the closing ceremony of the Paralympic Games Tokyo 2020) (see Article 1.3 of the Demonstration Regulations).
- 2.3 Pursuant to Article 1.4 of the Demonstration Regulations, each "Participant", meaning a *"person participating in the Paralympic Games in any capacity, including (without limitation) each athlete..."* (as defined in Clause 2.1 of the Paralympic Games Principles), is bound by and required to comply with the Demonstration Regulations as a condition of participation with the Paralympic Games.
- 2.4 The Respondent competed at the Paralympic Games, within the "Games Period", as an athlete, and therefore is a "Participant" for the purposes of the Demonstration Regulations and is accordingly bound by and required to comply with the Demonstration Regulations.
- 2.5 The Respondent is also subject to the Code which states in the "Scope" section that it shall apply to the Paralympic Games and to any member of the Paralympic Family, which includes athletes.
- 2.6 Clause 1.1 of Appendix A of the Code, the 'IPC Regulations Governing the Procedures for Dealing with Complaints Regarding Alleged Breaches of the IPC Code of Ethics' (the **'Ethics Regulations'**) grants exclusive authority to deal with complaints brought under the Ethics Regulations to the IPC Legal and Ethics Committee (the **'Committee'**).
- 2.7 Clause 1.2 of the Ethics Regulations permits any person or body that falls within the scope of the Code to bring a complaint to the Committee that some other person or body (also falling within the Code) has breached the Code. Article 3.1 of the Demonstration Regulations requires that any complaint be heard and determined by the Committee and governed by the Ethics Regulations.



- 2.8 Clause 8.1 of the Ethics Regulations details that the Chairperson of the Committee shall form a hearing panel of three people to hear the Complaint. Article 3.1(c) of the Demonstration Regulations requires the Hearing Panel to include at least one Paralympian who has competed in at least one of the previous three editions of the summer or winter Paralympic Games at the time of appointment (such Paralympian may be a member of the Committee or co-opted ad hoc to sit on the Hearing Panel). The appointment of Helene Raynsford satisfies this requirement.
- 2.9 The Hearing Panel was therefore formed in accordance with Article 3.1(c) of the Demonstration Regulations and Clause 8.1 of the Ethics Regulations, and has jurisdiction to hear the Complaint.
- 2.10 The Complainant consented to the Hearing Panel to determine the Complaint on the papers, without an oral hearing. In accordance with Clause 7.5 of the Ethics Regulations, the Committee decided it appropriate to deal with the Complaint on the papers.

3. Background to the Complaint

- 3.1 The Respondent is an athlete from Brazil who competed at the Tokyo 2020 Paralympic Games in Tokyo.
- 3.2 On 3 September 2021, the Respondent competed in the Men's Shot Put F57 Final of Para athletics (the '**Event**'). Following an appeal by NPC China, the Respondent was demoted from first to third place in the Event, as two of the Respondent's attempts were declared void by the World Para Athletics Jury of Appeal in accordance with the World Para Athletics Rules & Regulations. As a result, the Respondent won the bronze medal in the Event.
- 3.3 During the medal ceremony on 4 September 2021, the Respondent made the following gestures:
- (a) repeatedly shook his head and waved his finger towards the athlete representing NPC China (namely '**Mr Guoshan Wu**');
 - (b) gestured towards himself whilst standing in the bronze medal position, making the 'number one' symbol with his finger;
 - (c) gestured towards the camera when receiving the bronze medal with a wagging finger; and
 - (d) towards the end of the medal ceremony, the Respondent bowed his head, raised his right hand and held a clenched fist above his head.
- (together the '**Demonstration**').
- 3.4 The Demonstration appeared to be a protest or demonstration by the Respondent in relation to the outcome of the Event, in particular the Respondent's belief that he should have been awarded the gold medal.
- 3.5 After the Demonstration, the CPB made a series of Instagram posts on 4 September 2021 incorporating photos of the Demonstration.



4. Alleged Breaches of the IPC Code of Ethics

4.1 The Complainant asserts that the Respondent breached Articles 2.1 and 2.2 of the Demonstration Regulations which state:

"2.1 Any demonstration, protest, statement, comment, gesture, or other conduct that involves any Impermissible Element(s) is strictly prohibited at all times and in all places

2.2 During the Games Period, Participants may not demonstrate, protest, and/or make political statements at any Paralympic venue or other area related to the Paralympic Games (including, without limitation, during Official Ceremonies, on the Field of Play, and/or in the Paralympic Village), save as set out in Article 2.3."

4.2 Article 2.3 of the Demonstration Regulations states:

"As the sole exception to Article 2.2, during the Games Period, Participants may demonstrate, protest, and/or make political statements as follows, provided always that no Impermissible Elements are involved:

(a) in the mixed zones, the International Broadcasting Centre and the Main Media Centre, including when speaking to the media; and/or

(b) during press conferences and media interviews; and/or

(c) during team meetings; and/or

(d) using traditional media and/or digital media and/or social media channels. Such channels may be used at the above times and places and at any other time and place (except only that the Participant may not use these channels to demonstrate, protest, or make any political statement when on the Field of Play or when participating in any Official Ceremonies)."

4.3 Article 1.12 of the Code states:

"Members of the Paralympic Family shall abide by and respect the IPC Code of Ethics at all times and, in particular, adhere to the following ethical standards:

[...]

1.12 Respect the principle of neutrality in sport, including by (without limitation) complying with Article 2.2.2 of the Paralympic Games Principles and any related supplementary regulations issued by the IPC."

4.4 The Complainant submitted that the Respondent breached Article 2.2.2 of the Paralympic Games Principles and Articles 2.1 and 2.2 of the Demonstration Regulations. Article 3.1 of the Demonstration Regulations states that any breach of the Demonstration Regulations "constitutes a breach of the Code of Ethics (including, without limitation, Article 1.12 thereof)" and by virtue of the breach of the Demonstration Regulations, the Complainant submitted the Respondent had thereby breached Article 1.12 of the Code.



5. Burden and Standard of Proof

5.1 As set out in Clause 4.1 of the Ethics Regulations, the Complainant must prove its case on the balance of probabilities.

6. Written Submissions

6.1 On 9 September 2021, the Complainant sent a letter to the CPB explaining that the Complainant was investigating whether the actions of the Respondent on 4 September 2021 had breached the Demonstration Regulations. The Complainant asked that the Respondent be made aware of the letter and provide the Complainant with an explanation of the Demonstration and any further relevant information about the Demonstration.

6.2 On 22 September 2021, the CPB responded to the Complainant noting that:

- (a) the CPB had been informed by the Respondent that there was no political, religious content or intention or any inadmissible element to the Demonstration;
- (b) the Respondent's actions were simply an expression of dissatisfaction with his bronze medal result;
- (c) the CPB did not have any further information to add; and that
- (d) the CPB did not believe that the Demonstration was premeditated or violated any rule.

6.3 The Complainant subsequently provided written submissions in a Statement of Case on 7 October 2021 to the Hearing Panel in relation to the Complaint.

6.3.1 The Complainant detailed the applicability of the Demonstration Regulations and the Code to the Athlete. The Complainant specifically noted that:

- (a) Applicability of the Demonstration Regulations and Code: As a participant of the Paralympic Games, the Respondent is subject to the Demonstration Regulations.
- (b) Jurisdiction: Pursuant to Clauses 1.1 and 1.2 of Appendix A of the Code and Article 3.1 of the Demonstration Regulations, the Committee has exclusive authority to deal with the Complaint.

6.3.2 The Complainant submitted that the Respondent had breached Article 2.1 of the Demonstration Regulations since

- (a) the Respondent was a Participant in the Games;
- (b) the Respondent's conduct amounted to a demonstration;
- (c) the Respondent's conduct occurred on 4 September 2021, within the "Games Period"; and



- (d) the Respondent's conduct contained Impermissible Elements, namely that the Demonstration:
 - (i) was contrary to the Paralympic vision and mission of the IPC (as set out at chapter 1.1. of the IPC Handbook) or the Paralympic ethos and ideals (as set out in the IPC Code of Ethics);
 - (ii) disrupted an Official Ceremony; and
 - (iii) disrupted another athlete's national anthem, introduction, or medal ceremony.

6.3.3 The Complainant submitted that the Respondent had breached Article 2.2 of the Demonstration Regulations since:

- (a) the Respondent was a Participant in the Games;
- (b) the Respondent's conduct amounted to a demonstration;
- (c) the Respondent's conduct occurred on 4 September 2021, within the "Games Period", and during a podium ceremony at a Paralympic venue; and
- (d) the Respondent's conduct does not fall within any of the exemptions detailed in Article 2.3 of the Demonstration Regulations.

6.3.4 In the Statement of Case, when considering the breach of Article 2.1 and 2.2 of the Demonstration Regulations, the Complainant stated that:

- (a) the Demonstration was a clear example of bad sportsmanship at the outcome of the Event. It was not made in the context of any greater cause but was instead a reflection of the Respondent's dissatisfaction with the outcome of the Event and his belief that he should have been awarded the gold medal;
- (b) the Demonstration stood in direct contrast to the values of sportsmanship and fair play espoused in the IPC Handbook and the Paralympic Mission;
- (c) the Demonstration was picked up by international media and had a potentially negative impact on the public perception of the Event and the Paralympic Games; and
- (d) the Demonstration detracted from the sporting performance of the other athletes on the podium and in particular Mr Guoshan Wu who noticed the Demonstration and was visibly agitated by the Respondent's behaviour.

6.4 The Complainant noted in their Statement of Case that, while indicating sanctions were a matter for the Hearing Panel and would be dependent in part on the response of the Respondent, the following combination of sanctions would be appropriate and proportionate:

- (a) a public written warning (pursuant to Article 4.1(b) of the Demonstration Regulations);



- (b) a requirement to issue a private apology to Mr Guoshan Wu (Article 4.1(d)); and
- (c) a fine (Article 4.1(e)).

6.5 On 11 November 2021, in response to the Complainant's Statement of Case, the CBP, on behalf of the Respondent, sent an email to the Complainant and the Hearing Panel. The CBP attached the following documents:

- (a) the translation of a Portuguese Instagram post made by the Respondent on 10 November 2021, in which the Respondent publicly apologises for his behaviour; and
- (b) a letter from the Respondent addressed to Mr Guoshan Wu.

The CBP noted that the Respondent's letter contained a private apology by the Respondent for his behaviour towards Mr Guoshan Wu and an acceptance that his behaviour was inappropriate.

6.6 In light of the Respondent's private apology to Mr Guoshan Wu, the Complainant outlined in a letter to the Hearing Panel on 25 November 2021 that the appropriate sanctions would now be the following:

- (a) a public written warning (pursuant to Article 4.1(b) of the Demonstration Regulations); and
- (b) a fine (Article 4.1(e)).

7. Decisions and Reasons

The Hearing Panel finds that the Complaint has been proven on the balance of probabilities.

7.1 The Hearing Panel is satisfied that the Respondent's conduct constitutes a breach of Articles 2.1 and 2.2 of the Demonstration Regulations as:

7.1.1 pursuant to Article 1.4 of the Demonstration Regulations, the Respondent is bound and required to comply with the Demonstration Regulations as a "Participant" in the Paralympic Games;

7.1.2 the Code applies to the Respondent as an athlete participating in the Paralympic Games and as a member of the Paralympic Family;

7.1.3 the Respondent's conduct, which included him repeatedly shaking his head, waving his finger towards Mr Guoshan Wu, gesturing towards himself whilst standing in the bronze medal position whilst making a 'number one symbol', gesturing towards the camera when receiving the bronze medal with a wagging finger and raising of his right hand in a clenched fist above his head, contained Impermissible Elements pursuant to Article 2.1 of the Demonstration Regulations, as it:

- (a) was contrary to the Paralympic vision and mission of the IPC (as set out in Chapter 1.1 of the IPC Handbook) or the Paralympic ethos and ideals (as set out in the IPC Code of Ethics);



- (b) disrupted an Official Ceremony; and
- (c) disrupted Mr Guoshan Wu's medal ceremony.

7.1.4 the Respondent's conduct, as detailed at 7.1.3 above, was a demonstration pursuant to Article 2.2 of the Demonstration Regulations which did not fall within any of the exemptions detailed in Article 2.3 of the Demonstration Regulations (set out at paragraph 4.2 above) as:

- (a) the Respondent was a Participant in the Paralympic Games;
- (b) a Demonstration occurred on 4 September 2021 within the "*Games Period*"; and
- (c) the Demonstration took place during a podium/medal presentation/victory ceremony i.e. an "*Official Ceremony*" which took place at a Paralympic venue.

8. Sanctions

8.1 As the Hearing Panel has found that a breach of the Code has occurred, the matter of sanctions arises.

8.2 The possible sanctions for breaches of the Demonstration Regulations are set out in Article 4.1 of the Demonstration Regulations.

8.3 Pursuant to Article 4.3 of the Demonstration Regulations, the Hearing Panel assess proportionality to determine the appropriate sanction. Specifically, The Hearing Panel acknowledged that:

- (a) the Demonstration was carried out by the Respondent and was therefore the fault of the Respondent, however, it was noted that premeditation could not be assessed in this case (Article 4.3(a));
- (b) the Demonstration was undertaken at the Respondent's own instigation and not under the pressure of others (Articles 4.3(c));
- (c) the Demonstration caused other athletes to be visibly agitated (Article 4.3(d));
- (d) the Demonstration did take place during an Official Ceremony, therein causing disruption (Article 4.3(f));
- (e) this would constitute a first offence by the Respondent (Article 4.3(i)); and
- (f) the Respondent has issued a private apology to Mr Guoshan Wu and has issued a public apology, in Portuguese, through means of an Instagram post (Article 4.3(j)).

8.4 The Hearing Panel were conscious of the Complainant's request that a fine be imposed as a suitable sanction pursuant to Article 4.1(e) of the Demonstration Regulations. Whilst the Hearing Panel acknowledged there had been a breach of Articles 2.1 and 2.2 of the Demonstration Regulations, they considered that a fine would be inappropriate in the circumstances, noting:



- (a) the Respondent had admitted that his conduct was inappropriate;
- (b) the Respondent had apologised publicly, in Portuguese, and privately to Mr Guoshan Wu;
- (c) whilst the Respondent's conduct disrupted an Official Ceremony and another athlete's medal ceremony, it did not involve other Impermissible Elements such as any violence or risk of physical harm to another person nor cause any damage to property; and
- (d) that other means of sanction would be more appropriate, namely the requirement to undergo an education or training programme pursuant to Article 4.1(c) of the Demonstration Regulations.

8.5 Considering all the circumstances, the Hearing Panel finds, having regard to all the relevant circumstances, that the appropriate sanction is the:

- (a) issuance of a public written warning in accordance with Article 4.1(b) of the Demonstration Regulations;
- (b) requirement to undergo an education or training programme in accordance with Article 4.1(c) of the Demonstration Regulations; and the
- (c) issuance of a public apology by the Respondent in English, being the official language of the Complainant, in accordance with Article 4.1(d) of the Demonstration Regulations

8.6 The Decision of the Hearing Panel will be made publically available on the website of the Complainant pursuant to Clause 2.1 of the Ethics Regulations.

Mark J Copeland
IPC Legal and Ethics Committee Chairperson