

VI. Appeals

Legitimated parties have the right to appeal decisions of the Single Judges. Decisions in tariff proceedings (Processes I and II) can be appealed with an opposition to another Single Judge and decisions in ordinary proceedings (Processes III and IV) with an appeal to the SIHF tribunal.

Legitimated party, according to the JR, is anyone who is directly, adversely affected by the contested decision (e.g. an injured player or the Officiating department in decision regarding referees). In disciplinary matters, the club of the injured/fouled player is also entitled to bring an opposition or appeal.

Content:

- A. Opposition to the Single Judge
- B. Appeal to the SIHF Sports Tribunal
- C. Nullity appeal to the SIHF Sports Tribunal

A. Opposition to the Single Judge

An opposition can be brought against decisions in Processes I and II (tariff proceedings). It is heard by the (other) Single Judge Safety. He has the same limited cognition as the Single Judge in the first-instance proceedings. Against opposition decisions of the Single Judges, the JR provides that a nullity appeal may be submitted to the SIHF Sports Tribunal.

The opposition does not have suspensive effect (Exception: In the National League, suspensive effect can be granted on special request.).

The first-instance Single Judge in tariff proceedings never decides on an appeal in the same matter.

1. Deadlines

An opposition against a decision in tariff proceedings generally has to be submitted to the Single Judge Safety within five days of delivery of the decision (e.g. [Sebastian Schilt - 23/12/18](#)).

During the Playoffs, Playouts and the League Qualification in the NL and SL, a shortened deadline applies for proceedings in Process II, which must be contested by noon on the following day.

Any opposition against a decision in tariff proceedings regarding Upgrades to a match penalty or automatic suspensions due to the 2nd or 3rd game misconduct penalty of the season must be made by noon on the following game day at the latest, in order for the player to be able to play should the appeal be approved. The Single Judge will then decide on the opposition by 2 p.m. on the same day.

2. Cognition (examination competence)

The same cognition applies to opposition proceedings (as well as the later nullity appeals before the SIHF Sports Tribunal) as in tariff proceedings. Accordingly, the Single Judge and Tribunal also have limited cognition as in the first instance tariff proceedings. They will therefore only act if a decision was

wrong in a qualified manner (e.g. [Joel Vermin - 05/10/19](#) N 5.2; earlier: change to ordinary proceedings and full cognition in opposition/appeal proceedings, e.g. [Daniel Vukovic - 10/03/17](#) N 4).

In cases of oppositions against decisions in tariff proceedings according to Process II (Player Safety), for which no PSO recommendation or Club Request has been received, no additional suspensions can be imposed in the appeal.

The opposition does not change the subject-matter of the proceedings. Therefore, only the facts mentioned in the original request are to be assessed (principle of indictment). If the accused player mentions actions in his opposition, which, for example, took place after the relevant scene, such as revenge actions by the victim, these will not be heard. In opposition proceedings, it can only be decided if the accused player was rightly suspended for the offence determined in the original request and decision or not (e.g. [Denis Hollenstein - 29/03/18](#) N 5.1, [Daniel Vukovic - 10/03/17](#) N 4).

REFERENCES

Used regulations

Article 51; Articles 67ff. JR.
Article 20a; Article 20b (2); Article 20c (1); Article 24 (1)-(7); Article 24a OrgR ES.

Quoted decisions

- Sebastian Schilt - 23/12/18: Opposition decision Single Judge from 23.12.2018 (Sebastian Schilt HCFG, 2nd game misconduct penalty, rejected, 1-game suspension)
- Joel Vermin - 05/10/19: Opposition decision Single Judge from 05.10.2019 (Joel Vermin LHC, IIHF Rule 151, rejected, 1-game suspension, [video](#)).
- Daniel Vukovic - 10/03/17: Opposition decision Single Judge from 10.03.2017 (Daniel Vukovic GSHC, IIHF Rule 159, approved, 3-game suspension, [video](#)).
- Denis Hollenstein - 29/03/18: Opposition decision Single Judge from 29.03.2018 (Denis Hollenstein EHCK, IIHF Rule 159, rejected, 1-game suspension, [video](#)).

Documents:

Practice Guidelines (4).

B. Appeal to the SIHF Sports Tribunal

Against first-instance decisions in ordinary proceedings (Processes III and IV) as well as non-entry notices, an appeal can be filed with the SIHF Sports Tribunal. The Tribunal decides with full cognition. The decisions of the Sports Tribunal are final within the SIHF. An appeal to the Court of Arbitration for Sport (CAS), however, is usually possible.

The appeal has no suspensive effect. This means that until the decision on the appeal has been issued by the SIHF Sports Tribunal, a player remains in any case suspended according to the decision of the Single Judge. (Exception: In the National League, the President of the Sports Tribunal may, upon special request, grant suspensive effect).

1. Deadlines

An appeal against decisions made in ordinary proceedings has to be filed with the SIHF Sports Tribunal within five days of notification of the decision.

A stricter deadline is applied for decisions made in Process III, if a request is made for the player to be eligible to play on the next game day. In such instances, decisions must be appealed by noon on the next day. During the Playoffs, Playouts and League Qualification in the NL and SL, this shortened deadline applies in all cases in Process III.

2. Legitimation non-entry notices

As of the 2019/20 season, the Single Judges issue decisions not to open any ordinary proceedings after a PSO request in an appealable non-entry notice. These notices can be appealed by the affected club regardless of whether they had submitted a Club Request or not (cf. [Joel Vermin - 05/10/19](#) N 9).

Before this change, a challenge of a non-entry notice for ordinary proceedings was not possible if the club had not submitted a Club Request in advance to receive party status (see [Jordan Gähler - 20/12/18](#)).

3. Cognition (examination competence)

The SIHF Sports Tribunal can freely and comprehensively review all questions of facts and “law” in connection with the decision under appeal (full cognition). New allegations and evidence, however, are only admissible if it is shown credibly that they could not be submitted previously through no fault of the party concerned (see [Kevin Klein - 07/04/18](#) N 6).

The SIHF Sports Tribunal is not bound by the requests of the parties. An increase in punishment is also permissible without a corresponding request.

On the other hand, the Sports Tribunal in appeal proceedings - like the Single Judges in opposition proceedings (see above) - is in general bound by the subject-matter of the proceedings (principle of indictment).

In the case [Daniel Vukovic - 27/03/17](#), the SIHF Sports Tribunal confirmed the principle in general but made an exception from it and increased the suspension imposed by the Single Judge from 3 to 5 games, including not only the first slash punished by the PSO and Single Judge, but also the subsequent second slash. The Sports Tribunal justified this exception on the grounds that the two slashes made up one single game situation and that the intent covered the entire action (NN 29).

The situation is different in the case of appeals in Process IV. If during ongoing proceedings in Process IV offences other than those in the alleged facts become known, the findings may be used against the accused if ordinary proceedings could have been ordered to prosecute these violations.

REFERENCES

Used regulations

Article 51; Article 60; Articles 62 – 65 JR.
Art. 12 (7); Article 17 (3); Article 20a; Article 26a (1); Article 27 OrgR ES.

Quoted decisions

- Kevin Klein - 07/04/18: Appeal decision SIHF Sports Tribunal from 07.04.2018 (Kevin Klein, IIHF Rule 124, approved, 1-game suspension, [video](#)).
- Joel Vermin - 05/10/19: Opposition decision Single Judge from 05.10.2019 (Joel Vermin LHC, IIHF Rule 151, rejected, 1-game suspension, [video](#)).
- Daniel Vukovic - 27/03/17: Appeal decision SIHF sports tribunal from 27.03.2017 (Daniel Vukovic GSHC, IIHF Rule 159, approved, 5-game suspension, [video](#)).
- Jordan Gähler - 20/12/18: Appeal decision SIHF sports tribunal from 20.12.2018 (Jordan Gähler SCRJ, rejected, no suspension).

C. Nullity appeal to the SIHF Sports Tribunal

Opposition decisions by the Single Judges can be further challenged with a nullity appeal before the SIHF Sports Tribunal. The Tribunal has limited cognition as in the tariff and opposition proceedings. The decision of the Sports Tribunal is final within the SIHF.

The nullity appeal has no suspensive effect. (Exception: In the National League, the President of the Sports Tribunal may, upon special request, grant suspensive effect).

1. Deadline

A nullity appeal has to be filed with the SIHF Sports Tribunal within 5 days of notification of the opposition decision of the Single Judge.

2. Cognition (examination competence)

The SIHF Sports Tribunal only reviews the asserted grounds for nullity/invalidity (limited cognition).

As grounds for nullity/invalidity it may be brought forward that the contested decision

- infringes an essential procedural principle,
- includes an assumption that is arbitrary or contrary to the record,
- violates clear, substantive law (statutes, regulations, rules).

If the nullity appeal is substantiated, the SIHF Sports Tribunal rescinds the contested decision and makes a new decision itself or returns the case to the previous instance for reassessment.

REFERENCES

Used regulations

Article 67; Articles 70-73 JR.