

CAS 2024/A/10354 Canadian Olympic Committee (COC) et al. v. International Skating Union (ISU) et al.

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Jordi López Batet, Attorney-at-Law, Barcelona, Spain
Arbitrators: Mr Romano F. Subiotto KC, Solicitor-Advocate in London, United Kingdom,
and Avocat in Brussels, Belgium
Mr Hervé Le Lay, Attorney-at-Law, Paris, France
Ad hoc Clerk: Mr Dennis Koolgaard, Attorney-at-Law, Amsterdam, The Netherlands

in the arbitration between

**Ms Madeline Schizas, Canada
Ms Piper Gilles, Canada
Mr Paul Poirier, Canada
Ms Kirsten Moore-Towers, Canada
Mr Michael Marinaro, Canada
Mr Eric Radford, Canada
Ms Vanessa James, Canada
Mr Roman Sadovsky, Canada**

Joint First Appellants

&

Skate Canada, Ottawa, Ontario, Canada

Second Appellant

&

Canadian Olympic Committee (COC), Toronto, Ontario, Canada

Third Appellant

Jointly represented by Mr Adam Klevinas, Attorney-at-Law, Sportlex Group Inc., Lachine, Quebec, Canada, and Ms Lauren Pagé, Attorney-at-Law, Bird & Bird LLP, London, United Kingdom

and

International Skating Union (ISU), Lausanne, Switzerland

Represented by Dr Fabrice Robert-Tissot and Ms Sumin Jo, Attorneys-at-Law, Bonnard Lawson Geneva Ltd., Geneva, Switzerland

First Respondent

&

Russian Olympic Committee (ROC), Moscow, Russian Federation

Represented by Mr Claude Ramoni and Mr Lucas Nanchen, Attorneys-at-Law, Libra Law SA, Lausanne, Switzerland

Second Respondent

&

Figure Skating Federation of Russia (FSFR), Moscow, Russian Federation

Represented by Mr Robert B. García, Ms Anna V. Kozmenko, Mr Daniil Vlasenko and Mr Robert C. Ruggiero, Attorneys-at-Law, Curtis, Mallet-Prevost, Colt & Mosle LLP, New York United States of America

Third Respondent

&

Mr Aleksandr Galliamov, Russian Federation

Ms Nikita Katsalapov, Russian Federation

Mr Mark Kondratiuk, Russian Federation

Ms Anastasiia Mishina, Russian Federation

Ms Victoria Sinitsina, Russian Federation

Ms Kamila Valieva, Russian Federation

Represented by Mr Andrea Pinna and Ms Olga Cucu, Attorneys-at-Law, Pinna Goldberg, Paris, France

Joint Fourth Respondents

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I. PARTIES

1. Ms Madeline Schizas, Ms Piper Gilles, Mr Paul Poirier, Ms Kirsten Moore-Towers, Mr Michael Marinaro, Mr Eric Radford, Ms Vanessa James, and Mr Roman Sadovsky are Canadian figure skaters (the “Canadian Skaters” or the “Canadian Skating Team”) who represented Canada at the 2022 Beijing Olympic Winter Games.
2. Skate Canada is the national federation for the sport of figure skating in Canada. Skate Canada is a member of the ISU and has its registered office in Ottawa, Ontario, Canada.
3. The Canadian Olympic Committee (the “COC”) is the national Olympic Committee of Canada, a constituent of the Olympic Movement. The COC has its registered office in Toronto, Canada.
4. The International Skating Union (the “ISU”) is the international governing body that globally oversees ice-skating as a sport and is one of the governing bodies of the sports included in the Olympic Winter Games. The ISU has its registered seat in Lausanne, Switzerland.
5. The Russian Olympic Committee (the “ROC”) is the national Olympic Committee of Russia, a constituent of the Olympic Movement. The ROC has its registered seat in Moscow, Russian Federation.
6. The Figure Skating Federation of Russia (the “FSFR”) is the organisation charged with organising the training of Russian figure skaters that perform at Russian and international competitions, such as the Olympic Games. The FSFR has its registered seat in Moscow, Russian Federation.
7. Mr Aleksandr Galliamov, Ms Nikita Katsalapov, Mr Mark Kondratiuk, Ms Anastasiia Mishina, Ms Victoria Sinitsina, and Ms Kamila Valieva are Russian figure skaters (the “Russian Skaters” or the “ROC Skating Team”) who represented the ROC at the 2022 Beijing Olympic Winter Games.
8. The Canadian Skaters, Skate Canada and the COC are hereinafter jointly referred to as the “Appellants”. The ISU, the ROC, the FSFR and the Russian Skaters are hereinafter jointly referred to as the “Respondents” and collectively with the Appellants as the “Parties”.

II. INTRODUCTION

9. The present appeal arbitration proceedings concern a joint appeal lodged by the Appellants against a decision issued by the ISU on 30 January 2024 (the “Appealed Decision”) that re-ranked the first three teams at the 2022 Olympic Figure Skating Team Event (the “Olympic Figure Skating Team Event”) following the imposition of a four-year period of ineligibility on Ms Kamila Valieva resulting from an award issued by the Court of Arbitration for Sport (“CAS”) in the consolidated proceedings CAS 2023/A/9451, CAS 2023/A/9455 and CAS 2023/A/9456 on 29 January 2024 (the “Valieva Award”).

10. The Appealed Decision downgraded the ROC Skating Team, which ranked first, to third place, and upgraded the United States of America (“USA”) team to first place, and the Japanese team to second place. The Canadian team remained ranked fourth.
11. The Appellants request the Appealed Decision to be set aside, and the re-ranking of the results of the Olympic Figure Skating Team Event as follows:
 - 1) United States of America: 67 points;
 - 2) Japan: 65 points;
 - 3) Canada: 55 points;
 - 4) ROC: 54 points; and
 - 5) People’s Republic of China: 53 points.

III. FACTUAL BACKGROUND

12. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties and the evidence examined in the course of the proceedings and at the hearing. This background information is given for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.

A. The doping test of Ms Valieva

13. From 21-26 December 2021, the Russian National Figure Skating Championship took place in Saint Petersburg, Russian Federation. Ms Valieva participated in and won the women’s free skating event on 25 December 2021.
14. On 25 December 2021, Ms Valieva was subject to an in-competition doping control and provided a urine sample. The anti-doping authority that conducted the testing was RUSADA.
15. On 29 December 2021, Ms Valieva’s sample was received by the Stockholm Doping Control Laboratory (the “Stockholm Laboratory”).
16. On 7 February 2022, the Stockholm Laboratory issued an Adverse Analytical Finding (“AAF”) for the presence of the prohibited substance Trimetazidine in Ms Valieva’s urine sample.

B. The Olympic Figure Skating Team Event at the 2022 Beijing Olympic Winter Games

17. On 4 December 2019, the ISU published the document “*Qualification System for XXIV Olympic Winter Games, Beijing 2022*” (the “ISU QS”), which includes an Annex A entitled “*Olympic Figure Skating Team Event*” (the “ISU Team Event Rules”). In accordance with Article 2 of the Team Event Rules, the ROC had to select one man, one woman, one pair and one ice dance pair to take part in the Olympic Figure Skating Team Event. The FSFR then selected – and the ROC entered – *inter alia*, Ms Valieva for the women’s short program.

18. On 13 January 2022, Ms Valieva tested negative in Tallin, Estonia.
19. On 6 February 2022, after the short program of the men's Team Event, rhythm dance program of the Ice Dance Team Event, the short program of the pairs Team Event, and the short program of the women's Team Event (won by Ms Valieva, resulting in 10 points for the ROC Skating Team), the five highest ranked teams were qualified to continue the Olympic Figure Skating Team Event by competing in the Free Skating and Free Dance. The best ranked teams after the short programs / rhythm dance were:
 - 1) ROC, 36 points;
 - 2) USA, 34 points;
 - 3) Japan, 33 points;
 - 4) Canada, 24 points; and
 - 5) China, 22 points.
20. On 7 February 2022, Ms Valieva tested negative during the Olympic Figure Skating Team Event. In fact, all members of the ROC Skating Team tested negative during the 2022 Beijing Olympic Winter Games.
21. On the same date, 7 February 2022, after the free program of the men's Team Event, the free program of the pairs Team Event, the free dance program of the Ice Dance Team Event, and the free skating program of the women's Team Event (won by Ms Valieva, resulting in 10 points for the ROC Skating Team), the result of the Olympic Figure Skating Team Event was as follows:

Team Result*

Rank	Team	Nation	Total Points	Men	Women	Pairs	Ice Dance
1	ROC	 ROC	74	8 9 10 10	9 10	9 9	
2	United States of America	 USA	65	10 8 6 7	8 6	10 10	
3	Japan	 JPN	63	9 10 9 9	7 9	4 6	
4	Canada	 CAN	53	3 6 8 8	6 7	7 8	
5	People's Republic of China	 CHN	50	5 7 1 6	10 8	6 7	
6	Georgia	 GEO	FNR	7 7	5	3	
7	Italy	 ITA	FNR	6 2	4	8	
8	Czech Republic	 CZE	FNR	4 3	3	5	
9	Germany	 GER	FNR	2 5		1	
10	Ukraine	 UKR	FNR	4	2	2	

Note: Results are provisional

C. The Provisional Suspension of Ms Valieva

22. On 7 February 2022, as noted above, the Stockholm Laboratory issued an Adverse Analytical Finding ("AAF") for the presence of the prohibited substance Trimetazidine

in Ms Valieva's urine sample in WADA's Anti-Doping Administration & Management System ("ADAMS") of 25 December 2021.

23. On 8 February 2022, RUSADA informed Ms Valieva of an AAF and imposed a provisional suspension on her. Ms Valieva immediately requested a provisional hearing before RUSADA to rule on the issue of her provisional suspension.
24. On 9 February 2022, the RUSADA Disciplinary Committee decided to lift the provisional suspension imposed on Ms Valieva.
25. On 11 and 12 February 2022, the International Olympic Committee (the "IOC"), the World Anti-Doping Agency ("WADA") and the ISU filed their respective applications with the CAS Ad Hoc Division against the RUSADA Disciplinary Committee decision of 9 February 2022, requesting it to be set aside.
26. On 14 February 2022, the CAS Ad Hoc Division dismissed the respective applications of the IOC, WADA and the ISU.

D. The Medal Ceremony of the Olympic Figure Skating Team Event

27. On 14 February 2022, the IOC issued a press release indicating, *inter alia*, that following the decision of the CAS Ad Hoc Division of the same day, Ms Valieva was allowed to compete in the women's Single Skating competition on 15 February 2022 and, if qualified, on 17 February 2022. The IOC furthermore stated that, given the "*inconclusive situation*", it would not hold a medal ceremony for the Olympic Figure Skating Team Event.
28. On 15 and 17 February 2022, Ms Valieva participated in the individual woman figure skating event at the 2022 Beijing Olympic Winter Games and finished in fourth place.
29. On 17 February 2022, Ms Valieva tested negative at the 2022 Beijing Olympic Winter Games.
30. On the same date, 17 February 2022, counsel for the ROC informed the ISU, *inter alia*, as follows:

"[...] [I]t is crystal clear that neither the Russian Anti-Doping Rules, nor the ISU antidoping rules (the 'ISU ADR'), nor the Anti-Doping Rules for the Olympic Winter Games Beijing 2022 (the 'IOC ADR'), provides for a cancellation of the result of a team in the event that the individual results of a member of such team are cancelled as per article 10.10 World Anti-Doping Code (and the equivalent in the applicable regulations).

[...] In view of the foregoing, I would be extremely grateful if the ISU could confirm to the IOC that, in accordance with the ISU ADR, the outcome of the pending RUSADA proceedings cannot have any impact on the result of the figure skating team events."

31. On 18 February 2022, the ISU responded to the ROC, indicating, *inter alia*, as follows:

“The ISU, indeed, has communicated to the IOC that it confirms that ‘the outcome of the pending RUSADA proceedings can have an impact on both the Team Event in Figure Skating and the Women Figure Skating at the XXIV Beijing Olympic Winter Games 2022 and that such outcome is not predictable as of today.

It is for RUSADA or CAS at the end to decide and then we will know the impact.”

32. On the same date, 18 February 2022, the United States Figure Skating Team sent a letter to the IOC, requesting it to reconsider its decision and decide to award the silver medal for the Olympic Figure Skating Team Event to the United States team in a public medal ceremony prior to the Closing Ceremony of the 2022 Beijing Olympic Winter Games.

33. On the same date, 18 February 2022, the members of the United States Figure Skating Team filed an application with the CAS Ad Hoc Division against the IOC, with the following request for relief:

“[...] Applicants request that the IOC be ordered to present to them the silver medals that they earned in the Olympic Figure Skating Team Event in a public medal ceremony to be held prior to the close of the XXIV Winter Olympic Games.”

34. On 19 February 2022, the CAS Ad Hoc Division dismissed the application of the members of the United States Figure Skating Team.

E. The anti-doping proceedings concerning Ms Valieva

35. On 24 January 2023, the RUSADA Disciplinary Committee rendered its decision (the “RUSADA Decision”), determining that Ms Valieva bore no fault, that Ms Valieva’s results of the Russian National Championships should be disqualified but not her results at the 2022 Beijing Olympic Winter Games and that no period of ineligibility was to be imposed on Ms Valieva.

36. Appeals were filed with CAS against the RUSADA Decision by RUSADA on 14 February 2023, by the ISU on 20 February 2023, and by WADA on 21 February 2023.

37. On 29 January 2024, CAS issued the Valieva Award, imposing a period of ineligibility of four years on Ms Valieva, starting on 25 December 2021. Regarding the disqualification of Ms Valieva, the CAS panel referred to Articles 11.1, 12.1 and 12.10 of the Russian Anti-Doping Rules (the “RADR”). Para. 7 of the operative part of the Valieva Award provides as follows:

“All competitive results of Ms Kamila Valieva from 25 December 2021 are disqualified, with all the resulting consequences (including forfeiture of any titles, awards, medals, profits, prizes, and appearance money).”

38. On the same date, 29 January 2024, a media release issued by CAS (the “CAS Media Release”) provided, *inter alia*, as follows:

“The consequences linked to the retroactive disqualification of Ms Valieva from past events, including from the Olympic Winter Games Beijing 2022, were not within the scope of this arbitration procedure and will have to be examined by the sports organisations concerned.”

F. The Appealed Decision

39. On 30 January 2024, the ISU issued the Appealed Decision, which provides as follows:

“The [CAS] Panel in charge of the case between [RUSADA], the [ISU], [WADA] and the Russian figure skater Kamila Valieva rendered its verdict on January 29, 2024.

Kamila Valieva (ROC) is found to have committed an Anti-Doping Rule Violation (ADRV) under Clause 4.1 of the [RADR] of 24 June 2021 [...] and the CAS imposed a period of four (4) years of ineligibility December 25, 2021 [sic].

As a result and according to art. 10.10 [ISU ADR] [...] and 12.10 of the [RADR], Ms. Valieva will be disqualified from all competitions which took place during the period of ineligibility, this includes the ISU European Figure Skating Championships 2022. She will also be disqualified from the Beijing 2022 Olympic Winter Games Women’s single competition and all her individual results and points in the Short Program and the Free Skating competitions will be dismissed leading to a re-ranking of the Team event results as follows:

Rank	Team	Nation	Total Team Points	Men SP	Men FS	Women SP	Women FS	Pairs SP	Pairs FS	Ice Dance RD	Ice Dance FD	Q
1	United States of America	USA	65	10	8	6	7	8	6	10	10	Q
2	Japan	JPN	63	9	10	9	9	7	9	4	6	Q
3	ROC	ROC	54	8	9	DSQ	DSQ*	9	10	9	9	Q
4	Canada	CAN	53	3	6	8	8	6	7	7	8	Q
5	People's Republic of China	CHN	50	5	7	1	6	10	8	6	7	Q
6	Georgia	GEO	FNR*	7		7		5		3		
7	Italy	ITA	FNR*	6		2		4		8		
8	Czech Republic	CZE	FNR*	4		3		3		5		
9	Germany	GER	FNR*	2		5				1		
10	Ukraine	UKR	FNR*			4		2		2		

SP=Short Program FS=Free Skating RD=Rhythm Dance FD=Free Dance Q=Top 5 teams qualified for the Free Skating/Free Dance

*DSQ=Disqualified

*FNR= Final not Reached

[...] the ISU is in close contact with the [IOC] and the relevant ISU Member Federations in regard to the implementation of this decision.”

40. On 30 January 2024, the IOC published its intention to “award the medals in accordance with the ranking, which has to be established by the [ISU]”.
41. On 31 January 2024, Skate Canada sent a letter to the ISU, informing it as follows:

“Further to the brief conversation between President Kim and Mrs. Butcher of yesterday, Skate Canada is writing to formally advise you that we disagree with the [ISU] decision with respect to the awarding of medals for the Team Figure Skating event from the 2022 Beijing Winter Olympic Games (2022 OWG) following the disqualification of Kamilla Valieva (ROC).

Prior to exercising our right to appeal this decision, we would like to have an opportunity to further discuss the rationale behind the ISU’s decision with you. We support the conclusion that rule 10.10 of the Anti-Doping Code confirms Ms. Valieva is disqualified due to an Anti-Doping Rule Violation as set out in the decision of the Court of Arbitration for Sport dated January 29, 2024. We disagree with the ISU’s assessment of the impact of her disqualification on the Total Team Points awarded to all competitors.

ISU Rule 353 4 a) Publication of Results provides:

‘Disqualified Competitors will lose their placements and be officially noted in the intermediate and final results as disqualified (DSQ). Competitors having finished the competition and who initially placed lower than the disqualified Competitor(s) will move up accordingly in their placement(s).’

Skate Canada does not understand why the ISU has not applied the rules in place throughout the Team Figure Skating competition at the 2022 OWG to a disqualification of a competitor. The publication of results provided in your statement does not recalculate the impact the disqualification has on points awarded for the Women’s event, which directly impacts the Total Team points for all Teams. This results in an increase in points awarded to each of Teams USA (67), Japan (65), Canada (55) and China (52). Team ROC’s points are reduced to 54. If you are interested in reviewing Skate Canada’s analysis, we would be pleased to provide it.

We would appreciate understanding the position the ISU has taken prior to Skate Canada taking further action on this matter. With respect, the rationale set out in your statement is flawed.

We are in Shanghai, China until February 5, 2024 attending the ISU Four Continents Figure Skating Championship. We appreciate there are time zones to manage but, outside of the time of competition, we will make ourselves available to discuss this with you further.

Please let us know when you are available.”

42. On 1 February 2024, the ISU informed Skate Canada, *inter alia*, as follows:

“We would be happy to arrange a call between us in order to discuss this matter and explain the ISU’s position. In order to facilitate the discussion, we would very much appreciate receiving beforehand the analysis referred to in your letter and any further details relating to your understanding of the matter.”

43. On 4 February 2024, Skate Canada provided the ISU with its analysis as to what, in its opinion, the ISU should have decided. Essentially, Skate Canada argued that Ms Valieva’s results in the Olympic Figure Skating Team Event were correctly disqualified, but that, based on Article 353(4) of the ISU Special Regulations, the competitors in the women’s Short Program and in the women’s Free Program should be allocated an additional point in both disciplines, because they should move up in the ranking following Ms Valieva’s disqualification. With those two additional points, the Canadian Skating Team ranked third, as follows:

Rank	Team/Nation	Total Team Points	MEN		WOMEN		PAIR		ICE DANCE		Q
			SP	FS	SP	FS	SP	FS	RD	FD	
1	USA	67	10	8	7	8	8	6	10	10	Q
2	JPN	65	9	10	10	10	7	9	4	6	Q
3	CAN	55	3	6	9	9	6	7	7	8	Q
4	ROC	54	8	9	DSQ	DSQ	9	10	9	9	Q
5	CHN	52	5	7	2	7	10	8	6	7	Q
6	GEO	FNR	7		8		5		3		
7	ITA	FNR	6		3		4		8		
8	CZE	FNR	4		4		3		5		
9	GER	FNR	2		6				1		
10	UKR	FNR			5		2		2		

SP=Short Program FS=Free Skating RD=Rhythm Dance FD=Free Dance Q=Top 5 teams qualified for the Free Skating/Free Dance *DSQ=Disqualified *FNR= Final not Reached

44. On 9 February 2024, the ISU published a press release that, *inter alia*, provides as follows:

“Further to the [ISU’s] Statement of January 30, 2024 [...] regarding Ms Kamila Valieva (ROC), the ISU takes the discussions within the Figure Skating community and the media with regard to the re-ranking of teams for the Olympic Winter Games (OWG) Beijing 2022 Team event very seriously.

The ISU wishes to express its understanding and appreciation for the patience of the Skaters and ISU Member Federations involved in the Team event, together with their families, friends and fans. They have already waited two years for certainty over the final results and medal distribution.

The opportunity to be awarded the correct medals within the special environment of an Olympic Winter Games was lost due to an Anti-Doping Rule Violation (ADRV). While all involved are determined to ensure proper

recognition for the rightful medallists, we regret that moment in Beijing cannot be replicated.

The [CAS] decision announced on January 29 that the retroactive application of Kamila Valieva's disqualification is the responsibility of the sports organization concerned, notably the ISU. The ISU has remained resolved to ensure that the applicable rules and principles as well as the CAS decision are correctly followed, and that any changes to the results were applied accordingly.

The decision of the ISU Council with regard to the consequences to the official results of the Team event of Beijing 2022, clearly expressed in the ISU Statement of January 30, 2024 [...], was based on a comprehensive evaluation from legal experts. This evaluation was, in turn, founded on the applicable rules and principles that are specific to this OWG Team event and is, therefore, the only decision that complies with the [Valieva Award]. For the sake of clarity, Rule 353 para 4 in the ISU Special Regulations is not applicable in this case.

In any complex and extraordinary situation like this, the reallocation of points could negatively affect the relative team ranking, adversely impacting teams that had nothing to do with the incident in question. Therefore, we have to abide by the rules and principles. In light of this case, we will further clarify the rules and principles moving forward to ensure any such cases are dealt with more efficiently in the future. [...]"

45. On the same date, 9 February 2024, the ISU responded to Skate Canada's analysis dated 4 February 2024, by providing Skate Canada with a confidential memorandum (the "Confidential Memo") stating, besides considerations concerning the disqualification of Ms Valieva's individual results in the Olympic Figure Skating Team Event, as follows:

"Rules Applicable to the Implementation of the [Valieva Award]:

The [Valieva Award] itself does not express how rule Nr. 7 is to be implemented because this question is not part of the anti-doping rules. In most instances, a competition is a simple event where the first obtains the gold, the second silver etc. Usually in sports, when a party is disqualified, its medal is then attributed to the next in line.

The situation is not much more complex in most figure skating competitions despite the fact that a scoring system is established which takes many variables into consideration.

The scoring system applicable to ISU figure skating events is described in Rules 352 and 353 of the [ISU Special Regulations]. As already comes out from the title of this document and except for article 354 which covers something totally

different¹, there is in principle no provision in that document explicitly addressing the scoring of the [Olympic Figure Skating Team Event]. As we will see this is confirmed by our analysis.

The Rules applicable to the OWG Team Event:

The [Olympic Figure Skating Team Event] is an event that the ISU organizes only as part of its events during the Olympic Games. Unlike the other figure skating events at the Olympics (Men Single, Skating Women, Single Skating Pair Skating, Ice Dance) the [Olympic Figure Skating Team Event] is not contemplated by the ISU Special Regulations. The ISU has set out the format of the [Olympic Figure Skating Team Event] in the [ISU QS].

The [Olympic Figure Skating Team Event] is a unique event specially created for the OWG. It is a collection of individual, Pair and Ice Dance programs that are combined together, with respect to the unique competition structure and unique scoring for the [Olympic Figure Skating Team Event].

The competition structure of the [Olympic Figure Skating Team Event] consists of a short program subdivided into a ‘Men Single Skating Short Program’, a ‘Women Single Skating Short Program, an ‘Ice Dance Rhythm Dance’ and a ‘Pair Skating Short Program’. In addition, there is a free skating program subdivided into a ‘Men Single Skating Free Skating’, a ‘Pair Skating Free Skating’, an ‘Ice Dance Free Dance’ and a ‘Women Single Skating Free Skating’.

With respect to the scoring of the various events of the [Olympic Figure Skating Team Event], the ISU QS provides that the scoring of each individual skater’s performance of each of these programs will take place according to ‘the ISU Judging System as described in the 2020 [ISU Special Regulations]’, in other words by the ISU Technical Panel Officials and Judges in accordance with the rules set forth in Rule 353 of the ISU Special Regulations.

However, in terms of ‘result determination’ the ISU QS provides a number of ‘Team points’ ranging from 10 to 1 based on each team’s representative in each discipline and segment:

‘For each discipline and segment Team Points will be awarded as follows:

1st 10 placement points

2nd 9 placement points

3rd 8 placement points

¹ “For the sake of completeness, Rule 354 bearing the title ‘Team Results by ISU Member’ is totally irrelevant here as this rule pertains to a ranking of the ISU Members.”

...²

It also provides that only ‘The highest five (5) ranked Teams based on the number of aggregate Team points in the Short Program/Rhythm Dance shall continue the [Olympic Figure Skating Team Event] by competing in the Free Skating/Free Dance [...] The Team having earned the highest number of aggregate Team points in the Short Program/Rhythm Dance and the Free Skating/Free Dance is the winner, the Team having earned the second highest number of Team points is ranked second and so on.’³

Therefore, both the method of qualification to the Free Skating program of the [Olympic Figure Skating Team Event] and the awarding of Team Points for placements depart from the provisions of Art. 353 para 2 et seq. which require the calculation at all times of both segments for each skater/pair team/ice dance couple, i.e. the short and the free, which are added. The [Olympic Figure Skating Team Event] here departs from the necessary two competition segments defined in Rule 335 A constituting International Competitions by its elimination of half of the teams from the free skating competition program⁴.

In the ISU Special Regulations, Rule 353 para 4a) 2nd subparagraph deals with Disqualified Competitors as follows:

‘Disqualified Competitors will lose their placements and be officially noted in the intermediate and final results as disqualified (DSQ). Competitors having finished the competition and who initially placed lower than the disqualified Competitor(s) will move up accordingly in their placement(s)’.

Because of the [Olympic Figure Skating Team Event] rule eliminating 5 of the 10 teams from continuing in the [Olympic Figure Skating Team Event] to the second part of the competition program, Rule 353 4a)2nd subparagraph cannot be applicable.

Whether the ROC Team Points Earned by Valieva Can be Reassigned among the other Teams:

First, there is no rule in the ISU Special Regulations or in the ISU QS that stipulates that the Team points earned by a disqualified Skater during the [Olympic Figure Skating Team Event] can be reallocated among the other Teams. So, the claim that the ROC Team points Ms. Valieva earned in the course of the Women’s Short Program and the Free Skating program can be reallocated to the other Teams is devoid of any legal basis.

² “ISU QS p. 11/12”

³ “ISU QS p. 11/12, rule in case of a tie omitted.”

⁴ No footnote is provided in the Confidential Memo.

Second, as mentioned above, the final ranking of the [Olympic Figure Skating Team Event] is based solely on the total number of aggregate Team points 'earned' by the Team.

The determination of the final rankings of the [Olympic Figure Skating Team Event] in the ISU QS is incompatible with any reassignment or redistribution of the Team points earned by a disqualified Skater to the other four teams.

Further, had the disqualification of the Skater happened earlier on in the sequence of events, one cannot exclude that another team would have been allowed to participate in the Free Skating program, thereby potentially changing the final Team rankings based on total number of aggregate Team points earned. Had the disqualification of Ms. Valieva happened earlier on, the ROC could also have substituted another Skater in place of Ms. Valieva.

Last, a reallocation of the disqualified Team points earned by Ms. Valieva to the other four teams would depart from the principle set forth in ISU QS which uses the total number of aggregate Team points 'earned' as the sole basis for determining the final results of the [Olympic Figure Skating Team Event].

Practical Example Illustrating that the equal treatment is not provided in case of a Reallocation:

Besides all above legal arguments, an example can demonstrate that a solution inspired from the reranking taking place in ISU Events followed by a reallocation of the points earned by the disqualified athlete is not acceptable/feasible.

The example is based on the following assumptions before disqualification of the athlete:

- *The athlete (Ms. Valieva) did not finish first in the short and free segments of the programs but third.*
- *the classification of the teams in both the short program and the free skating is the same, as follows:*

1. USA points earned 10
2. CAN points earned 9
3. ROC points earned 8
4. JPN points earned 7
5. Etc.

- *The resulting ranking between the teams is as follows:*

1. USA 65 points
2. CAN 64 points
3. JPN 63 points
- etc.

Ms. Valieva is then disqualified.

Not only does she appear at the bottom of the ranking in the Short Program and Free Skating but the points she earned are re-allocated. That re-ranking and re-allocation according to the idea based on ISU Events, only affects positively the teams ending after the ROC Team but negatively the higher ranked ones. As a result, the teams placed in front of the ROC team would not obtain any point, i.e. the points earned by USA and Canada would not change. The Japanese team which competitors were ranked lower than USA and Canada, however, would receive one additional point in each of the Short Program and the Free Skating as follows:

- 1. USA points earned 10*
- 2. CAN pointes earned 9*
- 3. JPN points 8 (earned 7 plus reallocated 1)*
- 4. Etc.*

The final results for the teams after that reallocation would then be as follows:

- 1. USA points earned 65 (no extra points)*
- 2. JPN points 65 (earned 63 plus reallocated 2)*
- 3. CAN points earned 64 (no extra points)*
- 4. Etc.*

In the end, the Japanese team who earned less points than USA and Canada in the segments where disqualifications were present would place in front of Canada and is tied with the US team. Therefore, this re-ranking applicable for ISU Events goes against fairness and equal treatment in the OWG Team Event.

Conclusion:

The ISU's decision to only disqualify the sanctioned athlete and the results she achieved, including the ROC points she earned in the OWG Team Event, is the only decision that complies with the Panel's award and is supported by the rules applicable to the 2022 OWG Team Event.

Rule 353/4 ISU Special Regulations Single & Pair Skating is not applicable here.” (emphasis in original)

46. On 14 February 2024, Skate Canada informed the ISU that it disagreed with the content of the Confidential Memo and that it would submit an appeal with CAS for an independent examination.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

47. On 16 February 2024, the Appellants filed a joint Statement of Appeal with CAS, challenging the Appealed Decision in accordance with Articles R47 and R48 of the 2023 edition of the CAS Code of Sports-related Arbitration (the “CAS Code”). In this

submission, the Appellants nominated Prof. Dr Ulrich Haas as arbitrator. The Appellants named the ISU, the IOC, the ROC, the FSFR and the Russian Skaters as respondents.

48. On 26 February 2024, the CAS Court Office acknowledged receipt of the joint Statement of Appeal filed, referencing the proceedings as CAS 2024/A/10354. The Parties were invited to inform the CAS Court Office whether they agreed to consolidate these proceedings with CAS 2024/A/10355 *Russian Olympic Committee (ROC) v. International Skating Union (ISU)*, CAS 2024/A/10356 *Aleksandr Galliamov et al. v. International Skating Union (ISU)* and CAS 2024/A/10360 *Figure Skating Federation of Russia v. International Skating Union (ISU)*.
49. Also on 26 February 2024, the Appellants requested to be provided with the Statements of Appeal filed in CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360 to determine whether a consolidation would be appropriate. The Appellants further filed the following document production request:

“In order for the Appellants to understand the basis of the [Appealed Decision] in full and to address the reasons in their appeal brief, the Appellants hereby request the production of the ‘comprehensive evaluation from legal experts’ obtained by the ISU as support for its decision.”
50. On 28 February 2024, the CAS Court Office invited the Appellants in CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360 to indicate whether they consented to disclosing their Statements of Appeal to the Appellants in this case.
51. On 1 March 2024, the ISU requested Prof. Dr Haas to decline his nomination as arbitrator *“in view of his prior involvement in this case on behalf of the ISU”*.
52. On the same date, 1 March 2024, the CAS Court Office informed the ISU that Prof. Dr Haas had not yet been informed about his nomination.
53. On the same date, 1 March 2024, the IOC indicated that it would *“award the medals of the figure skating Team Event at the 2022 Olympic Winter Games in accordance with the ranking determined by the final CAS award”*. The IOC urged the Parties to consolidate the four proceedings and that a single award be rendered. Furthermore, the IOC indicated that it would not make any substantive submission in the present arbitration and requested to be excluded as a party. Finally, the IOC indicated that the prayers for relief related to the awarding of medals were inadmissible, as it considered that such prayers for relief went beyond the scope of the Appealed Decision. The IOC invited the Appellants to withdraw such prayers for relief at the latest with the Appeal Brief (which the Appellants indeed did).
54. On 4 March 2024, the FSFR objected to disclosing its Statement of Appeal filed in CAS 2024/A/10360 to the Appellants and to the consolidation of the proceedings.

55. On the same date, 4 March 2024, the ISU objected to the Appellants' document production request, arguing that it was "*privileged and used for internal purposes on legal issues*".
56. On the same date, 4 March 2024, the CAS Court Office, *inter alia*, informed the Parties that, in accordance with Article R44.3 CAS Code, it would be for the Panel to decide on the Appellants' document production request, once constituted.
57. On the same date, 4 March 2024, the ISU filed a petition for challenge of Prof. Dr Haas.
58. On the same date, 4 March 2024, the ROC objected to disclosing its Statement of Appeal filed in CAS 2024/A/10355 to the Appellants and indicated that it intended to object to the consolidation of its appeal with CAS 2024/A/10354 within the time limit granted.
59. On the same date, 4 March 2024, counsel for the Russian Skaters indicated that he could not respond regarding CAS 2024/A/10354, because the power of attorney granted to him by the Russian Skaters did not cover proceedings initiated against the Russian Skaters.
60. On the same date, 4 March 2024, the Appellants informed the CAS Court Office that the IOC could be excluded from the present proceedings and that they agreed to consolidate the present proceedings with CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360.
61. On 5 March 2024, the CAS Court Office confirmed that the IOC was no longer a party to this procedure.
62. On the same date, 5 March 2024, the CAS Court Office informed the Parties that, since the Appellants provided their position on the issue of consolidation, it was understood that their request to be provided with the Statements of Appeal in CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360 was moot.
63. On 7 March 2024, the ISU agreed to the consolidation of the present proceedings with CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360.
64. On the same date, 7 March 2024, the FSFR objected to the consolidation of the present proceedings with CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360.
65. On 8 March 2024, the FSFR joined the ISU's challenge of Prof. Dr Haas.
66. On the same date, 8 March 2024, the ROC assumed that Prof. Dr Haas would not accept his nomination, but challenged his appointment in case he did. The ROC also objected to the consolidation of the present proceedings with CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360, *inter alia*, because it considered that CAS 2024/A/10355 was a disciplinary matter, whereas the present proceedings are clearly not of disciplinary nature.

67. On 11 March 2024, the CAS Court Office informed the Parties that Prof. Dr Haas had not yet been informed about his nomination as arbitrator.
68. On 14 March 2024, the ROC requested that the Respondents' deadline to jointly nominate an arbitrator be set aside and that a new deadline be fixed once the name of the arbitrator to be appointed by the Appellants was communicated to the Parties.
69. On the same date, 14 March 2024, the CAS Court Office informed the Parties that Prof. Dr Haas had not accepted or declined his nomination yet and that this was also irrelevant for the Respondents' deadline pursuant to Article R53 CAS Code, as a consequence of which the ROC's request for a new deadline to nominate an arbitrator was denied.
70. On 20 March 2024, the CAS Court Office informed the Parties on behalf of the President of the CAS Appeals Arbitration Division that the present proceedings would not be consolidated with CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360 but reserved the possibility to appoint the same President of the arbitral tribunals in all four cases.
71. On 21 March 2024, the Appellants filed a joint Appeal Brief in accordance with Article R51 CAS Code. The Appellants filed the following document production requests in the Appeal Brief:
- “121.1 Copies of any meeting minutes or other documents recording the decision and reasoning of the ISU Council in relation to the re-ranking of the [Olympic Figure Skating Team Event].*
- [...]
- 121.2 Copies of the ‘evaluation from legal experts’ on which the [Appealed Decision] was apparently based.*
- [...]
- 121.3 Copies of all communications sent or received by the ISU (including any of its employees, agents, officers, directors, representatives, consultants, affiliates, members, and attorneys) regarding the re-ranking of the [Olympic Figure Skating Team Event], up until 16 February 2024 (i.e., the date the Appellants filed their Statement of Appeal).”*
72. On 22 March 2024 respectively, the ROC, the ISU, and the FSFR jointly nominated Mr Hervé Le Lay, Attorney-at-Law in Paris, France, as arbitrator, to which also the Russian Skaters consented on 26 March 2024.
73. On 27 March 2024, the CAS Court Office informed the Parties that Prof. Dr Haas had declined his nomination as arbitrator in the present procedure on the ground that he was previously consulted by the ISU on the matter in dispute and provided a report.

74. On 1 April 2024, with reference to the CAS Court Office letter dated 20 March 2024, the FSFR objected to the possibility of appointing the same President of the arbitral tribunals in all four cases.
75. On the same date, 1 April 2024, the Appellants expanded their document production requests set forth in the Appeal Brief by indicating that it had now become clear that Prof. Dr Haas was one of the legal experts who provided a report on which the Appealed Decision was apparently based, to specifically include Prof. Dr Haas' report. The Appellants further nominated Mr Romano F. Subiotto KC as arbitrator.
76. On 4 April 2024, the CAS Court Office informed the Parties that the content of the CAS Court Office's letter dated 26 March 2024 was entirely confirmed, including the President of the Appeals Arbitration Division's authority to appoint the same President, as allowed under Article R50(3) CAS Code.
77. On 12 April 2024, the FSFR made certain inquiries to Mr Subiotto, which inquiries were answered by Mr Subiotto, following which no challenge was filed.
78. On 17 April 2024, the CAS Court Office informed the Parties that, pursuant to Article R54 CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, an arbitral tribunal of three arbitrators had been appointed.
79. On 23 April 2024, the CAS Court Office informed the Parties that Mr Dennis Koolaard, Attorney-at-Law in Amsterdam, The Netherlands, had been appointed as *Ad hoc* Clerk.
80. On 24 April 2024, the FSFR challenged the appointment of the President of the Panel appointed at that time, which challenge was supported by the ROC and the Russian Skaters.
81. On 26 April 2024, the CAS Court Office informed the Parties that such President of the Panel had decided to resign "*in order to ease the arbitration process and not due to the merits of the challenge*".
82. On the same date, 26 April 2024, the ROC filed a request for bifurcation with the following prayers for relief:

"I. The proceedings CAS 2024/A/10354 are bifurcated in order for the Panel to issue a preliminary award addressing the issues of the Appellants' standing to appeal and of the admissibility of the appeal, and ruling as follows:

a) The appeal of [the Appellants] is inadmissible.

In the alternative

The request for relief 125.3 of the appeal of [the Appellants] is inadmissible.

b) The appeal of [the Appellants] is dismissed.

II. [The Appellants] *shall bear all the arbitration costs and shall be ordered to compensate the [ROC] for its legal and other costs incurred in connection with these proceedings, in an amount to be determined on the basis of submissions on costs upon request of the Panel or, in the alternative, at the discretion of the Panel.*”

83. On 30 April 2024, the CAS Court Office informed the Parties of the appointment of a second President of the Panel.
84. On the same date, 30 April 2024, the Russian Skaters and the FSFR expressed their support for the ROC’s request for bifurcation.
85. On 6 May 2024, the FSFR challenged the appointment of the second President of the Panel, which challenge was supported by the ROC and the Russian Skaters.
86. On 7 May 2024, the Appellants and the ISU objected to the ROC’s request for bifurcation.
87. On 8 May 2024, the CAS Court Office informed the Parties that the second President of the Panel had decided to resign “*so as to facilitate the swift progress of the arbitration for the benefit of all parties involved*” and that it would be for the Panel, once constituted, to rule on the ROC’s request for bifurcation.
88. On 10 May 2024, the CAS Court Office informed the Parties of the appointment of a third President of the Panel, Mr Jordi López Batet, Attorney-at-Law in Barcelona, Spain. Accordingly, pursuant to Article R54 CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, the arbitral tribunal appointed to decide these proceedings was constituted as follows:
- President: Mr Jordi López Batet, Attorney-at-Law, Barcelona, Spain
Arbitrators: Mr Romano F. Subiotto KC, Solicitor-Advocate in London, United Kingdom, and Avocat in Brussels, Belgium
Mr Hervé Le Lay, Attorney-at-Law, Paris, France
89. On 29 May 2024, the CAS Court Office, *inter alia*, informed the Parties as follows:
- “On behalf of the Panel, the Parties are advised as follows:*
- The ROC’s request for bifurcation is denied. The reasons for the Panel’s decision will be provided in the final Award.”* (emphasis in original)
90. On 30 May 2024, the ISU informed the CAS Court Office that confidential information provided in the present proceedings was disclosed in CAS 2024/A/10355, CAS 2024/A/10356 and CAS 2024/A/10360, indicating that it reserved all its rights to protect its interests and respectfully requested the Panel to order appropriate measures in this respect.
91. On 3 June 2024, on behalf of the Panel, the CAS Court Office reminded the Parties that, pursuant to R59 CAS Code, the case record shall remain confidential.

92. On 10 June 2024, the Appellants requested, if the hearing were held on 17 or 23 July 2024, that an operative part of the Award be rendered no later than 26 July 2024 to ensure that the outcome of the proceedings were known prior to the commencement of the 2024 Paris Olympic Games.
93. On 11 June 2024, the ROC objected to the Appellants' suggestion that the operative part of the Award be issued very shortly after the hearing and argued that the Panel should issue a reasoned Award. The ROC added that there was no need to have a final decision before the 2024 Paris Olympic Games.
94. On 14 June 2024, the ISU, the ROC, the FSFR and the Russian Skaters each filed their own Answer in accordance with Article R55 CAS Code, in which they expressed their respective positions on the case and made the requests for relief listed below. With regard to the requests for production of documents made in the proceedings, the Respondents addressed them as follows:
- a) The ISU responded to the Appellants' document production requests, arguing, as to the first category of documents, that the meeting minutes requested were available on the ISU website. The ISU objected to the disclosure of all other documents requested to be produced.
 - b) The ROC responded to the Appellants' document production request, arguing that such documents belonged to or were in the possession of the ISU and that it agreed that the ISU should be required to produce them. In addition, the ROC requested the ISU to produce the following documents:
 - “1. Documents relating to the ISU’s assertion in its press release of 9 February 2024 that [the Appealed Decision] to re-rank the results at the 2022 Olympic Figure Skating Team Event was based on a ‘comprehensive evaluation from legal experts,’ including without limitation a copy of the evaluation itself.*
 - 2. Documents relating to any opinion or report regarding the ISU’s decision to re-rank the results at the 2022 Olympic Figure Skating Team Event, including without limitation the report provided by Prof. Ulrich Haas regarding the matter in dispute here.*
 - 3. Communications between the ISU and any other organization or third party (including, without limitation, the [IOC], the USOPC, the JOC, the USFSA, the [COC], and Skate Canada) regarding the [Appealed Decision] to re-rank the results at the 2022 Olympic Figure Skating Team Event, including without limitation any document explaining the basis for the [Appealed Decision].*
 - 4. Documents relating to conversations between Mr. Jae-Youl Kim (President of the ISU) and Ms. Karen Butcher (President of Skate Canada) regarding the [Appealed Decision], including without limitation documents relating to the conversation between Mr. Kim*

and Ms. Butcher of 30 January 2024 as noted in Skate Canada's letter of 31 January 2024 [...]."

- c) The FSFR responded to the Appellants' document production request, arguing that it agreed that the ISU should be required to produce the documents requested. In addition, the FSFR requested the ISU to produce the following documents:

"(1) Documents relating to the ISU's assertion in its press release of February 9, 2024 that [the Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event] of the 2022 Winter Olympics was based on a 'comprehensive evaluation from legal experts,' including without limitation a copy of the evaluation itself.

(2) Documents relating to any opinion or report regarding the [Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event] of the 2022 Winter Olympics, including without limitation the report provided by Prof. Ulrich Haas regarding the matter in dispute here.

(3) Communications between the ISU and any other organization or third party (including, without limitation, the [IOC], the USOPC, the JOC, the USFSA, the [COC], and Skate Canada) regarding the [Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event] of the 2022 Winter Olympics, including without limitation any document explaining the basis for the [Appealed Decision].

(4) Documents relating to conversations between Mr. Jae-Youl Kim (President of the ISU) and Ms. Karen Butcher (President of Skate Canada) regarding the [Appealed Decision], including without limitation documents relating to the conversation between Mr. Kim and Ms. Butcher of January 30, 2024 as noted in Skate Canada's letter of January 31, 2024."

- d) The Russian Skaters responded to the Appellants' document production request, arguing that, in the event that the Panel would determine that the Appellants had standing to be sued, they seconded the Appellants' request.

95. On 24 June 2024, the ISU objected to the ROC's and the FSFR's document production requests.
96. On 25 June 2024, following consultation of the Parties, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing on 22 July 2024 and a case management conference.
97. On 27 June 2024, the CAS Court Office, *inter alia*, informed the Parties as follows:

“Pursuant to Article R44.3 [CAS Code], the requests for production filed by the Appellants of (a) ‘Copies of any meeting minutes or other documents recording the decision and reasoning of the ISU Council in relation to the re-ranking of the [Olympic Figure Skating Team Event]’; (b) ‘Copies of the ‘evaluation from legal experts’ on which the [Appealed Decision] was apparently based’ (including Prof. Ulrich Haas report as per the Appellants’ letter of 1 April); and (c) ‘Copies of all communications sent or received by the ISU [...] regarding the re-ranking of the [Olympic Figure Skating Team Event], up until 16 February 2024’ are dismissed.

Pursuant to Article R44.3 [CAS Code], the requests for production filed by ROC and FSFR of (a) ‘Documents relating to the ISU’s assertion in its press release of 9 February 2024 that [the Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event] was based on a ‘comprehensive evaluation from legal experts, ‘including without limitation a copy of the evaluation itself’; (b) ‘Documents relating to any opinion or report regarding the [Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event], including without limitation the report provided by Prof. Ulrich Haas regarding the matter in dispute here’; (c) ‘Communications between the ISU and any other organization or third party [...] regarding the [Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event], including without limitation any documents explaining the basis for the [Appealed Decision]’; and (d) ‘Documents relating to conversations between Mr Jae-Youl Kim (President of the ISU) and Ms. Karen Butcher (President of Skate Canada) regarding the [Appealed Decision], including without limitation documents relating to the conversation between Mr. Kim and Ms. Butcher of 30 January 2024 as noted in Skate Canada’s letter of 31 January 2024’ are dismissed.

The reasons for the Panel’s above-mentioned decisions will be provided in the final Award.”

98. On 1, 2, 3 and 5 July 2024 respectively, the ISU, the Appellants, the Russian Skaters, the ROC, and the FSFR, returned duly signed copies of the Order of Procedure to the CAS Court Office, provided to them on 28 June 2024. The Russian Skaters, the ROC and the FSFR indicated on the Order of Procedure that they considered that the proceedings should be free of charge pursuant to Article R65 CAS Code.
99. On 15 July 2024, a case management conference was held virtually. In addition to the members of the Panel, Ms Delphine Deschenaux-Rochat, CAS Counsel, and Mr Dennis Koolaard, *Ad hoc* Clerk, the following persons attended the case management conference:
 - a) For the Appellants:
 - 1) Mr Adam Klevinas, Counsel; and
 - 2) Ms Lauren Pagé, Counsel.

- b) For the ROC:
 - 1) Mr Claude Ramoni, Counsel.
 - c) For the ISU:
 - 1) Dr Fabrice Robert-Tissot, Counsel; and
 - 2) Ms Sumin Jo, Counsel.
 - d) For the Russian Skaters:
 - 1) Mr Andrea Pinna, Counsel; and
 - 2) Ms Olga Cucu, Counsel.
 - e) For the FSFR:
 - 1) Mr Robert B. García, Counsel;
 - 2) Ms Anna V. Kozmenko, Counsel; and
 - 3) Mr Daniil Vlasenko, Counsel.
100. During the case management conference, the schedule and organisation of the hearing were discussed, in particular, i) the FSFR's request to hear evidence from Mr Valery Artyukhov, Head Coach of the ROC Skating Team, proposed as a witness by the FSFR; ii) the Russian Skaters' request to be granted the opportunity to make a statement at the end of the hearing; iii) the time to be allocated for the pleadings of the Parties; iv) the Appellants' request to issue an operative part of the Award before the grounds; v) the Appellants' request that such operative be notified by 26 July 2024; and vi) the Appellants' request for an embargo between notification of the Award and the issuance of a press release by the CAS Court Office.
101. On 16 July 2024 and in light of the Parties' impossibility to agree on a hearing schedule in this case, the CAS Court Office provided the Parties with a hearing schedule prepared by the Panel and informed the Parties as follows:
- “On behalf of the Panel, the Parties are advised that (i) the examination of the witness Mr Artyukhov is accepted; (ii) one of the Russian Skaters on behalf of all of them will be entitled to make a final declaration at the end of the hearing; and (iii) the 10-minute slot allocated to such declaration includes the time of interpreter potentially needed by the skater making the declaration.”*
102. On 21 July 2024, the Appellants provided the CAS Court Office with additional authorities that they argued were either publicly available or based on documents that were already on file.
103. On the same date, 21 July 2024, the ROC objected to the new documents produced by the Appellants on the basis of Article R56 CAS Code, arguing that they did not only include legal authorities such as CAS Awards and reference to Swiss law provisions, but also other documentary evidence such as regulations from other sports or competitions.

104. On 22 July 2024, a hearing was held in Lausanne, Switzerland. At the outset of the hearing, the Parties confirmed that they had no objection to the constitution and composition of the Panel.
105. The hearing was attended in person, unless indicated otherwise. In addition to the members of the Panel, Ms Delphine Deschenaux-Rochat, CAS Counsel, and Mr Dennis Koolaard, *Ad hoc* Clerk, the following persons attended the hearing:
- a) For the Appellants:
 - 1) Ms Karen Butcher, President of Skate Canada;
 - 2) Ms Debra Armstrong, CEO of Skate Canada;
 - 3) Ms Marianne Bolhuis, COC General Counsel and Corporate Secretary (remotely);
 - 4) Mr Jerome McEniry, COC Legal Counsel, Sport (remotely);
 - 5) Mr Adam Klevinas, Counsel; and
 - 6) Ms Lauren Pagé, Counsel.
 - b) For the ISU:
 - 1) Dr Fabrice Robert-Tissot, Counsel; and
 - 2) Ms Sumin Jo, Counsel.
 - c) For the ROC:
 - 1) Mr Victor Berezov, ROC Deputy Secretary General (remotely);
 - 2) Mr Claude Ramoni, Counsel; and
 - 3) Mr Lucas Nanchen, Counsel.
 - d) For the Russian Skaters⁵:
 - 1) Ms Victoria Sinitsina, one of the Russian Skaters (remotely);
 - 2) Mr Nikita Katsalapov, one of the Russian Skaters (remotely);
 - 3) Ms Anastasiia Mishina, one of the Russian Skaters (remotely);
 - 4) Mr Aleksandr Galliamov, one of the Russian Skaters (remotely);
 - 5) Mr Mark Kondratiuk, one of the Russian Skaters (remotely);
 - 6) Ms Kamila Valieva, one of the Russian Skaters (remotely);
 - 7) Mr Andrea Pinna, Counsel; and
 - 8) Ms Olga Cucu, Counsel.
 - e) For the FSFR:
 - 1) Mr Alexander Kogan, FSFR Director General (remotely);
 - 2) Mr Robert B. García, Counsel;
 - 3) Ms Anna V. Kozmenko, Counsel;
 - 4) Mr Robert C. Ruggiero, Counsel (remotely);

⁵ The spelling of the names of the Russian Skaters in Latin script differed in the various communications of the Russian Skaters. The Panel applied the spelling of the names as indicated in their joint Answer.

- 5) Mr Daniil Vlasenko, Counsel (remotely); and
- 6) Ms Margarita Larshina, Interpreter (remotely).

- 106. At the outset of the hearing, the admissibility of the documents produced by the Appellants on 21 July 2024 was discussed. After having heard the views of the Parties and after having shortly adjourned the hearing to deliberate, the Panel informed the Parties that (i) the documents that already formed part of the case file were admitted, (ii) the CAS jurisprudence cited was admitted, and (iii) the rules and regulations provided were admitted, but that the Panel would take into account that these documents were only submitted on short notice and that this would be taken into account in the Panel's overall assessment of the case.
- 107. At the hearing, the Parties made their respective submissions and the Panel heard evidence from Mr Valery Artyukhov, Head Coach of the ROC Skating Team, witness called by the FSFR (remotely). Mr Artyukov was invited by the President of the Panel to tell the truth subject to the sanctions of perjury under Swiss law. The Parties had full opportunity to examine and cross-examine Mr Artyukhov. After Mr Artyukov's testimony, the Parties were given the opportunity for rebuttals and the Russian skater Mr Mark Kondratiuk made a final statement on behalf of the Russian Skaters.
- 108. Prof. Thomas Probst, Professor of Law, University of Fribourg, Switzerland, expert called by the ISU, was not examined during the hearing, but his legal opinion remained part of the case file.
- 109. The Parties were given full opportunity to present their cases, submit their arguments and answer the questions posed by the members of the Panel.
- 110. Before the hearing was concluded, the Appellants, the ISU, the FSFR and the Russian Skaters expressly stated that they had no objection to the procedure conducted by the Panel and that their right to be heard had been respected. The ROC confirmed the same, but reserved its rights with respect to the various document production requests that were dismissed.
- 111. On 23 July 2024, the FSFR filed a copy of the PowerPoint presentation it had used during the hearing with the CAS Court Office.
- 112. On 24 July 2024, the ROC filed a copy of the PowerPoint presentation it had used during the hearing with the CAS Court Office as well as a copy of the World Aquatics Doping Control Rules to which it had also referred during the hearing.
- 113. On 31 July 2024, following receipt of the additional advance of costs, the CAS Court Office informed the Parties that the operative part of the Award would be notified on 2 August 2024.

V. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

- 114. The following summaries of the Parties' positions are illustrative only and do not necessarily comprise every submission advanced. The Panel confirms, however, that it

has carefully considered all the submissions made by the Parties, whether or not there is specific reference to them in the following summaries.

A. The Appellants' Joint Appeal Brief

115. The Appellants' submissions in their Appeal Brief, in essence, may be summarised as follows:

The ISU is required to act in accordance with its rules

- The ISU does not appear to dispute that it is bound by the ISU QS and the ISU Special Regulations, but instead suggests that the relevant provisions in those rules regarding the re-ranking of results following the disqualification of a competitor's results do not apply to the Olympic Figure Skating Team Event, based on its interpretation of the rules.
- However, for the reasons set out below, the ISU's interpretation is inconsistent with the clear meaning of those rules, properly interpreted according to the general principles of interpretation applicable to such rules.

The ISU's interpretation is inconsistent with the clear wording of its rules

- The plain and ordinary meaning of Section 4 of Annex A of the ISU QS and Article 353(4)(a) of the ISU Special Regulations is that, if a competitor is disqualified (as Ms Valieva was), then the competitors who placed lower than her will move up accordingly in their placements. There are no issues of grammar, syntax or punctuation as the wording is clear.
- This interpretation gives effect to (and does not render redundant) the words in the rules and does not alter or supplement the wording of the provisions in any way. By contrast, the ISU's interpretation seeks to impermissibly re-write the rules by adding an exception that Article 353(4)(a) of the ISU Special Regulations does not apply to the Olympic Figure Skating Team Event. While the ISU has applied the first sentence of Article 353(4)(a) second paragraph by disqualifying Ms Valieva's results and officially noting her results in the final standings as "DSQ", the ISU seeks to disapply the second sentence requiring that competitors who placed lower than Ms Valieva be moved up in their placement.
- The literal interpretation is also consistent with the documentary context. The specific rules in the ISU QS about placement points and team eliminations for the Olympic Figure Skating Team Event prevail over the general rules set out in the ISU Special Regulations. However, there is no specific rule on the disqualification of results and the consequent re-ranking of results in the ISU QS that apply to the Olympic Figure Skating Team Event. Had the ISU intended for Article 353(4)(a) of the ISU Special Regulations to be disapplied in the context of the Olympic Figure Skating Team Event, it was required to state that clearly in the rules.

- The literal interpretation is consistent with the ISU regulations, read as a coherent whole. It is also consistent with the wider factual context and the underlying object and purpose of the rules. Further, none of the other explanations provided by the ISU in the Confidential Memo justify the disapplication of Article 353(4)(a) of the ISU Special Regulations.
- As to the ISU's assertion that Article 353(4)(a) of the ISU Special Regulations cannot apply to the Olympic Figure Skating Team Event because half of the participating teams are eliminated before the final free skating program, if the ISU preferred a different outcome for competitions with an elimination format, it was required to legislate clearly for that, which it did not do.
- As to the ISU's assertion that there is no rule stipulating that team points earned by a disqualified skater during the Olympic Figure Skating Team Event can be reallocated among the other teams, this position fails to take into account the clear wording of Article 353(4)(a) of the ISU Special Regulations. The natural consequence of moving a competitor up in their placement following another competitor's disqualification is that they are awarded the points that come with their adjusted placement. As such, there is a legal basis for reallocating points where a competitor's results are disqualified.
- The ISU's position that redistributing points earned by a disqualified competitors is incompatible with the principle that the final ranking is based on the number of aggregate points "earned" is contrary to principles of fairness and common sense as it would allow a team that benefited from a disqualified skater's performance to retain such benefits.
- The timing of when Ms Valieva's AAF was reported and when her results were disqualified cannot be controlled and does not provide any basis to disapply Article 353(4)(a) of the ISU Special Regulations.
- Reallocating Ms Valieva's points to competitors who finished below her (and who therefore earned the points initially taken by Ms Valieva) is entirely consistent with the principle of using the total number of aggregate points earned to determine the results of the Olympic Figure Skating Team Event.
- Finally, as to the ISU's assertion that reallocating Ms Valieva's points would be contrary to the principle of equal treatment because it would benefit only those teams that finished behind the ROC and not those ahead of it, this is simply incorrect. Article 353(4)(a) of the ISU Special Regulations is clear and it applies to all skaters and all teams equally. In such circumstances, the 'chips will lie where they fall', depending on the facts.

Had the ISU applied its rules, properly interpreted, the Canadian Skating Team would have placed third

- The aggregate team scores for the Olympic Figure Skating Team Event would have been as follows had Article 353(4)(a) of the ISU Special Regulations been

properly applied, with Canada earning 55 points and so finishing in third place ahead of the ROC with 54 points in fourth place:

Rank	Team/Nation	Total Team Points	MEN		WOMEN		PAIR		ICE DANCE		Q
			SP	FS	SP	FS	SP	FS	RD	FD	
1	USA	67	10	8	7	8	8	6	10	10	Q
2	JPN	65	9	10	10	10	7	9	4	6	Q
3	CAN	55	3	6	9	9	6	7	7	8	Q
4	ROC	54	8	9	DSQ	DSQ	9	10	9	9	Q
5	CHN	52	5	7	2	7	10	8	6	7	Q
6	GEO	FNR	7		8		5		3		
7	ITA	FNR	6		3		4		8		
8	CZE	FNR	4		4		3		5		
9	GER	FNR	2		6				1		
10	UKR	FNR			5		2		2		

SP=Short Program FS=Free Skating RD=Rhythm Dance FD=Free Dance Q=Top 5 teams qualified for the Free Skating/Free Dance *DSQ=Disqualified *FNR= Final not Reached

The Appealed Decision is contrary to legitimate expectations and rationality

- The ISU cannot exercise its functions as the international governing body for skating sports in a manner that is contrary to the legitimate expectations of its members and stakeholders in an irrational manner.
- Any skater involved in the Olympic Figure Skating Team Event had a legitimate expectation that the ISU would apply Article 353(4)(a) of the ISU Special Regulations in the event that any competitor was disqualified for any reason.
- The ISU was therefore estopped from any other interpretation or application of the ISU Special Regulations and the ISU QS.
- The Appealed Decision also does not pass the test of rationality, particularly since the Appealed Decision falls outside of the range of decisions that were reasonably open to the ISU following the Valieva Award. In light of the facts and the law, there was only one reasonable outcome available to the ISU, and that was to move each of the skaters that finished below Ms Valieva in the short program and free skating segments of the Olympic Figure Skating Team Event up one place, and award them the corresponding points, after Ms Valieva's results were disqualified.

The Appealed Decision does not accord with good faith and fairness

- The ISU's failure to apply Article 353(4)(a) of the ISU Special Regulations, as required by Section 4 of Annex A of the ISU QS, lacked good faith and CAS has jurisdiction to intervene to overrule the Appealed Decision on this ground.
- By interpreting the ISU Special Regulations in a manner that resulted in the removal of Ms Valieva's points from the team total, but not the consequent

adjustment of points for skaters in the same class, the ISU not only undercut the purpose of Article 353(4)(a) of the ISU Special Regulations, it also ignored the apparent rationale for the rule.

- The Appealed Decision also fails to respect basic considerations of fairness, which have been held to constrain the regulatory autonomy of sport organisations and sporting common sense. By failing to adjust competitor placement, no competitor would actually finish in first place in the women single short program and free skating program, effectively meaning that Ms Valieva still holds the place, but without any points. Maintaining the ROC Skating Team in third place also unfairly allows it to enjoy the fruit of a poisonous tree.

116. On this basis, the Appellants submit the following requests for relief in their joint Answer:

“125.1 That the appeal is admissible;

125.2 That the decision of the ISU Council as communicated on 30 January 2024 to award the ROC 54 points and rank them in third position after re-ranking the figure skating Team Event at the 2022 Olympic Games following the order of the CAS to disqualify Ms Valieva’s 6 and 7 February 2022 results is set aside;

125.3 That the ISU is ordered to re-rank the figure skating Team Event at the 2022 Olympic Games in accordance with Rule 353(4)(a) para. 2 of the Special Regulations & Technical Rules – Single & Pair Skating and Ice Dance 2021 as follows:

- 1. United States of America: 67 points;*
- 2. Japan: 65 points;*
- 3. Canada: 55 points;*
- 4. ROC: 54 points;*
- 5. People’s Republic of China: 52 points.*

125.4 An order requiring the ISU to pay all of the arbitration costs and a significant contribution towards the Appellants’ legal fees and other costs incurred in connection with these proceedings; and

125.5 Any other prayer for relief that the CAS Panel deems fit based on the facts and circumstances of this case.”

B. The ISU’s Answer

117. The submissions of the ISU in its Answer, in essence, may be summarised as follows:

The Appealed Decision is not a sanction against the ROC (and/or the Russian Skaters) as a team

- The Appealed Decision does not impose a sanction. It is an administrative measure taken in the context of the Olympic Figure Skating Team Event on the consequences of the disqualification of “[...] *all competitive results* [...]” of Ms Valieva imposed in the Valieva Award.
- The Appealed Decision does not impose “*Consequences to Teams*” as per the ISU ADR and the RADR. Indeed, it does not impose a disqualification of the ROC Skating Team.
- In any event, in order for a measure to qualify as a sanction, it must have inflicted the adverse effects in response to a (purported) violation of the rules or some form of misconduct of the addressee. This is not the case here.

The Appealed Decision implements the consequences of the Valieva Award

- As per Article 15.1.1 of the ISU ADR, the ISU must implement the Valieva Award. The implementation of the disqualification of “*all competitive results*” of Ms Valieva in the context of the Olympic Figure Skating Team Event leads to the overall re-ranking set out in the Appealed Decision.
- Since the Appealed Decision implements the consequences of the Valieva Award, Article 353(4)(a) of the ISU Special Regulations is not applicable in this case. Therefore, the Appellants cannot rely on this provision to obtain a “re-allocation of points” in favour of Canada.


Alternative reasoning based on Article 353(4) of the ISU Special Regulations

- Contrary to what the Appellants contend, Canada could not have placed third even if one were to apply Article 353(4)(a) of the ISU Special Regulations.
- As per Article 353(4)(a) second paragraph first sentence of the ISU Special Regulations, Ms Valieva would have lost her placement as a disqualified competitor and, accordingly would have been officially noted in the intermediate and final results as disqualified (DSQ), which would have resulted in the subtraction of the 20 points earned by Ms Valieva.
- The literal application of Article 353(4)(a) second paragraph second sentence of the ISU Special Regulations is exclusive to the final results (2nd phase).
- Contrary to what Skate Canada contends, there is no reference to a reallocation of points. It is only the consequence of the first sentence: because of the disqualification of the competitor, the competitors having finished the competition and who initially placed lower than the disqualified competitor will move up accordingly. Nor does Article 353(4)(a) second paragraph second sentence of the ISU Special Regulations provide that it applies to all phases of the Olympic Figure Skating Team Event, being noted that only the competitors having finished the competition (i.e. those who qualified for the second segment of the competition) will move up accordingly.


- Moreover, the final ranking of the Olympic Figure Skating Team Event is based solely on the total number of aggregate team points “earned” by the team. Skate Canada did not “earn” the points earned by the disqualified skater. An allocation of the disqualified points of Ms Valieva to Canada would not only be devoid of any legal basis, but it would also depart from the principle set forth in the ISU QS which uses the total number of aggregate team points “earned” as the sole basis for determining the final results of the Olympic Figure Skating Team Event.

Granting of one additional point to each team placed lower and tie-breaking rule

- As explained in Prof. Probst’s legal opinion, the application of Article 353(4)(a) of the ISU Special Regulations (*quod non*) would lead to the same ranking as in the Appealed Decision.
- In essence, Article 353(4)(a) of the ISU Special Regulations provides for two principles:
 - Principle 1 (loss of placement): a disqualified skater loses his/her placement in the ranking of the (intermediate and final) results and consequently will be listed as “*disqualified (DSQ)*” (Article 353(4)(a) second paragraph first sentence of the ISU Special Regulations);
 - Principle 2 (reassignment of open placement): the skaters having finished the competition (i.e. those who qualified for and have finished the second segment of the competition) behind the (subsequently) disqualified competitor, will accordingly “*move up*” in their (final) ranking (second paragraph second sentence).
- The 54 total team points for the ROC Skating Team referred to in the Appealed Decision follows the application of Principle 1. Following the application of Principle 2, the segment results of the women Single Skating – Free Skating are the following:




Capital Indoor Stadium
首都体育馆
Palais omnisports de la capitale





BEIJING 2022



MON 7 FEB 2022

Figure Skating
花样滑冰 / Patinage artistique
Team Event
团体赛 / Épreuve par équipes
Women Single Skating - Free Skating
女子单人滑自由滑 / Patinage ind. femmes - programme libre




Segment Results*
单项成绩 / Résultats par segment

Rank	Name	NOC Code	Total Segment Score	Team Points
1	VALIEVA Kamila DSQ	ROC	178.92	10
2	SAKAMOTO Kaori	 JPN	148.66	9 +1=10
3	SCHIZAS Madeline	 CAN	132.04	8 +1=9
4	CHEN Karen	 USA	131.52	7 +1=8
5	ZHU Yi	 CHN	91.41	6 +1=7



ZAYDMAN Albert, ISU
Referee




BIANCHETTI Fabio, ISU
Technical Controller

- The overall results of the Olympic Figure Skating Team Event is therefore as follows:

Results*
成绩 / Résultats

After 4 of 4 Categories

Rank	Team	Men Single Skating		Women Single Skating		Pair Skating		Ice Dance		Total Points
		Qual.	Fin.	Qual.	Fin.	Qual.	Fin.	Qual.	Fin.	
1	ROC - ROC → 3rd rank	8	9	-40-	-40-	9	10	9	9	74 -20= 54
2	USA - United States of America → 1st rank	10	8	6	7 +1	8	6	10	10	65 +1= 66
3	JPN - Japan → 2nd rank	9	10	9	9 +1	7	9	4	6	63 +1= 64
4	CAN - Canada	3	6	8	8 +1	6	7	7	8	53 +1= 54
5	CHN - People's Republic of China	5	7	1	6 +1	10	8	6	7	50 +1= 51
Final Not Reached										
6	GEO - Georgia	7		7		5		3		22
7	ITA - Italy	6		2		4		8		20
8	CZE - Czech Republic	4		3		3		5		15
9	GER - Germany	2		5				1		8 *
10	UKR - Ukraine			4		2		2		8 *


 LAKERNIK Alexander, ISU
 Technical Delegate

Tie break: ☐
 – ROC: 10 + 9 = 19
 – CAN: 8 + 9 = 17

- It follows that there was a tie between the Canadian Skating Team and the ROC Skating Team, in which case the tie breaking procedure set forth in Section 4 of the ISU QS applies, providing as follows:

“The highest aggregate Team points per Team from the two (2) best places in different disciplines will break the tie.”

- It follows that the third rank in the Olympic Figure Skating Team Event belongs to the ROC, as confirmed in the Appealed Decision.

Discretion of the ISU in the implementation of the ISU Regulations

- By virtue of the principle of the autonomy of the association (Article 63(1) of the Swiss Civil Code (the “SCC”)), sports federations may issue sporting regulations which are binding on their members. Sports federations enjoy “broad autonomy” in the exercise of their regulatory functions, as well as when applying their regulations governing the “social life” between the association and its members.
- Therefore, the ISU has a wide discretion in the implementation of the administrative measures and/or consequences of the disqualification of “[...] all competitive results [...]” of Ms Valieva as per the Valieva Award in the context of the Olympic Figure Skating Team Event.
- Although they have the burden of proof (Article 8 SCC), the Appellants have not established the high threshold that the Appealed Decision is arbitrary, discriminatory, that it breaches any mandatory legal principle and/or that there is a “*blatant and manifest breach*” that would “*offend a basic sense of justice*”.

- As a matter of fairness, there is no reason to reallocate the points initially “earned” by the ROC to the other teams, including Canada. In fact, such interpretation goes against fairness and equal treatment.
- Indeed, as stated in the Confidential Memo, if one were to follow the Appellants’ position, the example set out in such Confidential Memo demonstrates that a solution inspired from the re-ranking taking place in Single and Pair Skating ISU Events followed by a reallocation of points earned by the disqualified skater is not acceptable and feasible, as it only affects positively the teams ending after the ROC Skating Team, but negatively the higher ranked ones.

Reply to the Appellants’ submissions

- Contrary to what the Appellants contend, the Appealed Decision is consistent with the ISU QS and the ISU Special Regulations for the reasons set out above, and the Appellants’ interpretation of Article 353(4)(a) of the ISU Special Regulations is inconsistent with the clear wording of this provision. In particular, there is no legal basis for the reallocation of Ms Valieva’s points in favour of the Canadian Skating Team, as requested by the Appellants. The term “move up” in such article does not mean that the points earned by Ms Valieva should be reallocated in favour of Canada, nor does Article 353(4)(a) second paragraph second sentence of the ISU Special Regulations provide that it applies to all phases of competition. It only refers to the competitors “*having finished the competition*”, i.e. those who qualified for and have finished the second segment of the competition. Therefore, there is no “clear provision” in favour of Canada – let alone for the reallocation of the points earned by Ms Valieva.
- As to the Appellants’ contention that Article 353(4)(a) of the ISU Special Regulations is not controversial and “*applies to many sports*”, the Appellants fail to describe the situation in other sports and is irrelevant, notably in respect of the Olympic Figure Skating Team Event, which presents specific features. In any event, the Appellants do not refer to any rule that would provide for a reallocation of the points related to Ms Valieva’s “competing results”, besides arguing that it would lead to an unreasonable outcome.
- Contrary to what the Appellants contend, the re-allocation of points is devoid of any legal basis. In particular, it is incorrect to state that Article 353(4)(a) second paragraph second sentence of the ISU Special Regulations mandate the “reallocation” of the points related to Ms Valieva’s “competing results” to competitors who placed lower (in the first and the second component of the competition). As stated above, the wording of this provision does not refer to any “reallocation” of points and is applicable exclusively to the final results. The wording “move up” cannot be interpreted as a “reallocation of points”, as wrongly claimed by the Appellants.

- The Appellants cannot invoke any “*legitimate expectations*” since they have no right to request a reallocation of points. One should consider the legitimate expectations of all participating teams – and not only those of Canada. The Appealed Decision also does not breach any fairness requirement.

118. On this basis, the ISU submits the following requests for relief in its Answer:

“On the request for document production:

1. To dismiss the request for document production made by the Appellants.

On the admissibility of the appeal:

2. To leave for the CAS Panel to decide whether the appeal filed by the Appellants is admissible.

On the merits:

3. To dismiss the appeal filed by the Appellants against the decision of the ISU Council, published by press release on 30 January 2024, to award the ROC 54 points and rank them in third position after re-ranking the figure skating Team Event at the 2022 Olympic Games, following the CAS award of 29 January 2024 to disqualify Ms Valieva’s 6 and 7 February 2022 results.
4. To confirm the ISU decision of 30 January 2024 as follows:

Rank	Team	Nation	Total Team Points	Men SP	Men FS	Women SP	Women FS	Pairs SP	Pairs FS	Ice Dance RD	Ice Dance FD	Q
1	United States of America	USA	65	10	8	6	7	8	6	10	10	Q
2	Japan	JPN	63	9	10	9	9	7	9	4	6	Q
3	ROC	ROC	54	8	9	DSQ	DSQ*	9	10	9	9	Q
4	Canada	CAN	53	3	6	8	8	6	7	7	8	Q
5	People's Republic of China	CHN	50	5	7	1	6	10	8	6	7	Q
6	Georgia	GEO	FNR*	7		7		5		3		
7	Italy	ITA	FNR*	6		2		4		8		
8	Czech Republic	CZE	FNR*	4		3		3		5		
9	Germany	GER	FNR*	2		5				1		
10	Ukraine	UKR	FNR*			4		2		2		

SP=Short Program FS=Free Skating RD=Rhythm Dance FD=Free Dance Q=Top 5 teams qualified for the Free Skating/Free Dance

*DSQ=Disqualified

*FNR= Final not Reached

5. To grant to First Respondent an award against the Appellants for its legal costs and other expenses pertaining to these appeal proceedings before the Court of Arbitration for Sport.

6. *To order the Appellants to bear the costs of these proceedings before the Court of Arbitration for Sport and to reimburse the First Respondent's share of the advance of costs accordingly."*

C. The ROC's Answer

119. The ROC's submissions in its Answer, in essence, may be summarised as follows:

The Appellants lack standing to appeal and the appeal is inadmissible

- According to well-established CAS jurisprudence, third parties (other than those to whom the decision was addressed) may exceptionally have standing to appeal a decision provided that they are directly affected by the measure taken by the association. Being indirectly affected is not sufficient to have standing to appeal before CAS.
- The Appellants *in casu* are undoubtedly not directly affected by the Appealed Decision. They are not the addressees of the Appealed Decision. Their legal and factual situation did not change further to the issuance of the Appealed Decision. Prior to the Appealed Decision, they were ranked fourth in the Olympic Figure Skating Team Event. The Appealed Decision did not amend the ranking of the Canadian Skating Team, as they remained ranked in fourth place.
- The comment to Article 13 of the World Anti-Doping Code (the "WADC") confirms that the definition of interested persons and organisations with a right to appeal does not include athletes or their national federations. This approach is also confirmed by CAS jurisprudence.
- The Appellants have no legal interest because the Appellants' legal and factual situation remained unchanged before and after the Appealed Decision. Consequently, the present appeal must be declared inadmissible.

The Appellants' requests for relief are outside the scope of the Appealed Decision

- Even if the appeal were not declared inadmissible or dismissed because of lack of standing to appeal, the Appellants' requests for relief must be integrally dismissed / declared inadmissible as they are outside the scope of the Appealed Decision.
- The scope of the Appealed Decision is exclusively and exhaustively the implementation of the Valieva Award and the consequences of the disqualification of Ms Valieva's individual results during her period of ineligibility. The scope of the Appealed Decision was not about a possible promotion of the Canadian Skating Team from the fourth to the third place.

The merits of the case

- If the Panel were to decide that the Appellants have standing to appeal and a legal interest in the appeal, or that the Appellants' requests for relief are within the scope of the Appealed Decision, the appeal must nevertheless be rejected.

No re-ranking shall take place

- Article 353(4)(a) of the ISU Special Regulations is obviously not a valid legal basis for imposing a sanction on the ROC Skating Team by cancelling points obtained by such team at the women segments of the Olympic Figure Skating Team Event. The Appellants focus on one single provision of the ISU regulatory framework, but fail to address the appropriate rules that govern the implementation of the Valieva Award.
- Any measure or decision to be taken by the ISU in order to implement the Valieva Award must be primarily governed by the ISU ADR. A distinction must be made between sanctions or consequences imposed on individual athletes and consequences on teams. The Olympic Figure Skating Team Event is a “Team Sport”. Neither the ROC, nor the FSFR, nor the Russian Skaters (except for Ms Valieva) were parties to the proceedings that resulted in the Valieva Award. They can therefore not be directly affected by such Award. Pursuant to Article 11(2) of the ISU ADR, it appears that a team can be imposed a sanction (such as disqualification, loss of points or other), only if an ADRV is committed by a member of a team, including substitutes, during or in connection with an “Event” or a “Competition”. Since Ms Valieva’s ADRV was committed on 25 December 2021, Article 11 of the ISU ADR does not grant the ISU the authority to impose any consequences on the ROC Skating Team.
- The Appellants’ consideration that Article 353(4)(a) of the ISU Special Regulations should have been the legal basis on which the ISU could have re-ranked the results of the Olympic Figure Skating Team Event is wrong. This provision does not address the relevant matter in this case, as it does not deal with the possible consequences for a team of the disqualification of one of its members.
- Furthermore, the circumstances that led to the adoption of this rule, its *ratio legis*, confirm that it aims at regulating disqualifications during a competition. It cannot apply to the *a posteriori* disqualification of a skater for an ADRV. In addition, it deals with the results of “competitors”, not with the results of teams.
- While it is true that the Team Event Rules contain a reference to the ISU Special Regulations, they also depart from said rules on multiple aspects.
- The ROC respectfully refers to the Confidential Memo and concurs with the ISU’s analysis that the ISU Special Regulations do not apply to this case. There is also no other provision providing for a cancellation of the points earned by the ROC.
- Naturally, there is also no legal basis allowing for the “promotion” of the Canadian Skating Team to the third place as there is no legal basis to deduct points and amend the classification of the Olympic Figure Skating Team Event.

Article 353(4)(a) second paragraph of the ISU Special Regulations does not allow any redistribution of points

- The Appellants are wrong to claim that Article 353(4)(a) of the ISU Special Regulations must be interpreted as providing for a redistribution of the points withdrawn from the ROC Skating Team to other teams, even if the ISU had the power to re-rank the results of the Olympic Figure Skating Team Event.
- Nothing in the ISU Special Regulations provides that the ISU has the power to redistribute points amongst teams which took part in the competition or to change the points of the teams in the competition. This is confirmed in the Confidential Memo. Article 353(4)(a) of the ISU Special Regulations only deals with the hypothesis of the disqualification of an individual skater and the change in the placements further to such disqualification. Nothing in this rule provides for the reallocation of the points earned by a skater to other skaters.
- The Appellants' reasoning fails to take into account that, in the ISU Special Regulations, the points depend on each skater's individual performance and are not based on their placement. Actually, Rule 353(3)(a) of the ISU Special Regulations explains that:

“The Total Segment Score of the Short Program/Rhythm Dance or Pattern Dance(s) and Free Skating/Free Dance are added and the result constitutes the Final Score or a Skater/Pair/Couple in a competition. The Skater/Pair/Couple with the highest Final Score is first etc.”

- This confirms that Article 353(4)(a) of the ISU Special Regulations cannot reasonably be interpreted as allowing a reallocation of points, as any change in the placement of competitors in competitions governed by the ISU Special Regulations does not change the points earned by each competitor.
- In other words, the points awarded to competitors under the ISU Special Regulations do not depend on their placement in the ranking, but on their performance on the ice; by contrast, the points granted to teams in the Team Event Rules do not depend on the performance of the skaters, but on the ranking of the teams. The Appellants cannot reasonably pretend that the ISU rules shall be interpreted as allowing to cherry-pick some aspects of the ISU Special Regulations and mix them with some elements of the Team Event Rules.

Even assuming that Article 353(4)(a) of the ISU Special Regulations would allow any redistribution of points, the ROC would still be third

- In accordance with the Team Event Rules, the team ranking on the last position of the ranking of the Olympic Figure Skating Team Event does not obtain zero points. Actually, the minimum number of points in the qualifying round is 1 (for the team last) and 6 in the second round (as there are only five teams and the last team is ranked on the fifth position).

- Accordingly, if (*quod non*) Article 353(4)(a) of the ISU Special Regulations were to apply and lead to changing the placement of the women segments of the Olympic Figure Skating Team Event, the results would have been as follows:

Rank	Team	Nation	Total Team Points	Men SP	Men FS	Women SP	Women FS	Pair SP	Pair FS	Ice Dance RD	Ice Dance FD	Q
1	USA	USA	67	10	8	7	8	8	6	10	10	Q
2	Japan	JPN	65	9	10	10	10	7	9	4	6	Q
3	ROC	ROC	61	8	9	1	6	9	10	9	9	Q
4	Canada	CAN	55	3	6	9	9	6	7	7	8	Q
5	China	CHN	52	5	7	2	7	10	8	6	7	Q
6	Georgia	GEO	FNR	7		8		5		3		
7	Italy	ITA	FNR	6		3		4		8		
8	Czech Republic	CZE	FNR	4		4		3		5		
9	Germany	GER	FNR	2		6				1		
10	Ukraine	UKR	FNR			5		2		2		

The redistribution of the ROC's points would be unfair

- As a last argument, the Appellants contend that the Appealed Decision would go against the principles of legitimate expectations, rationality and good faith. This is plainly wrong.
- No Canadian skater achieved a better position than a 3rd place, and one skater (men segments) finished last and second to last, with the pair also finishing second to last at the free program.
- To be fair, and to comply with legitimate expectations, any sporting regulation must result in the ranking of a competition reflecting what happened on the field of play. By contrast, it would be completely unfair that the Canadian Skaters be awarded an Olympic medal they do not deserve; it would also be unfair that the Russian Skaters, who were all infinitely better than the Canadian Skaters, would drop from first to fourth rank, and be ranked after the Canadian Skating Team.
- As mentioned in the Confidential Memo, a reallocation of points would also be unfair. For example, if Ms Valieva had not finished first in both segments, but third, only the teams which finished fourth and following would have been moved up. This would have affected negatively the higher ranked teams because they could have been overtaken by teams that were initially ranked behind them.
- A redistribution of points at both the qualifying round and the final rounds would also be unfair. If the points obtained at the qualifying round are redistributed, this is likely to change one of the five teams that is qualified for the final round. Such re-ranking and reattribution of points would be unfair and impossible to implement, as a team would be unduly excluded from the final round and deprived from the possibility to earn more points during the free programs, and to possibly get an Olympic medal.

- Substitutions of competitors were allowed in the Olympic Figure Skating Team Event. The ROC would have replaced Ms Valieva with another female skater if the Stockholm Laboratory had released the results of the test performed on Ms Valieva in accordance with the applicable regulations. Undoubtedly, the ROC Skating Team's results would have been the same as with Ms Valieva, as both other Russian female skaters present at the 2022 Beijing Olympic Winter Games finished first and second in the individual program. The ROC would have ranked first.

120. On this basis, the ROC submits the following requests for relief in its Answer:

- "I. The appeal of Madeline Schizas, Piper Gilles, Paul Poirier, Kirsten Moore-Towers, Michael Marinaro, Eric Radford, Vanessa James and Roman Sadovsky, of Skate Canada and of the Canadian Olympic Committee is inadmissible.*

In the alternative

The request for relief 125.3 of the appeal of Madeline Schizas, Piper Gilles, Paul Poirier, Kirsten Moore-Towers, Michael Marinaro, Eric Radford, Vanessa James and Roman Sadovsky, of Skate Canada and of the Canadian Olympic Committee is inadmissible.

- II. The appeal of Madeline Schizas, Piper Gilles, Paul Poirier, Kirsten Moore-Towers, Michael Marinaro, Eric Radford, Vanessa James and Roman Sadovsky, of Skate Canada and of the Canadian Olympic Committee is dismissed.*
- III. Madeline Schizas, Piper Gilles, Paul Poirier, Kirsten Moore-Towers, Michael Marinaro, Eric Radford, Vanessa James and Roman Sadovsky, of Skate Canada and of the Canadian Olympic Committee shall bear all the arbitration costs and shall be ordered to compensate the Russian Olympic Committee for its legal and other costs incurred in connection with these proceedings, in an amount to be determined on the basis of submissions on costs upon request of the Panel or, in the alternative, at the discretion of the Panel."*

D. The FSFR's Answer

121. The FSFR's submissions in its Answer, in essence, may be summarised as follows:

The appeal is inadmissible for lack of standing

- It is well-established CAS jurisprudence that a party must establish that it was directly affected by the decision for that party to have standing to appeal a decision that was not directed at it.

- The Appealed Decision did not dispose of any right of the Appellants. Indeed, the ISU took no measure or action against the Appellants. Before the Appealed Decision, the Canadian Skating Team placed fourth with 53 points. After the Appealed Decision, the Canadian Skating Team remained in the same position with the same amount of points.
- The Appellants have failed to satisfy their burden of establishing their standing to challenge the Appealed Decision. Therefore, the Panel should find that their appeal is inadmissible for lack of standing.

The merits of the case

- The Appellants are correct that the Appealed Decision should be set aside because it is “*devoid of any legal basis*” and “*does not accord with the principles of good faith and fairness*”. However, the Appellants have no basis to request that the ISU conduct another re-ranking.

The ISU has no authority to re-rank the results of the Olympic Figure Skating Team Event

- The Appellants’ Appeal Brief assumes incorrectly that the ISU has the authority to re-rank the results at the Olympic Figure Skating Team Event, while remaining silent on this issue. Neither the Valieva Award, Article 10.10 of the ISU ADR or Article 12.10 of the RADR provide the ISU with the power to re-rank the results. The Valieva Award imposes no consequences on the ROC Skating Team. Indeed, the Russian Skating Team was not even a party to that proceeding. The Valieva Award can only apply to Ms Valieva individually, not to the ROC Skating Team. This is confirmed in the Confidential Memo.
- One must look at Article 11(2) of the ISU ADR in order to determine the potential consequences on a skater’s team, but none of the criteria set out therein are met, meaning that no consequences may be imposed on the ROC Skating Team based on Ms Valieva’s ADRV.

The ISU has no authority to award the Canadian Skating Team points that were earned by the ROC Skating Team

- The Appellants’ request for a re-ranking of the Olympic Figure Skating Team Event is premised on the erroneous assertion that the ISU has the authority to redistribute the ROC Skating Team’s points to the Canadian Skating Team.
- The Appellants argue that Article 353 of the ISU Special Regulations applies without any exceptions. They ignore that, according to the plain language of that provision, only “*the ISU Judging System*” is to apply. They also ignore other provisions in the Team Event Rules which depart from the ISU Special Regulations, including provisions in Article 353 of the ISU Special Regulations.

Except for the judgment system, the ISU Special Regulations do not apply to the Olympic Figure Skating Team Event.

- But nothing in the ISU Special Regulations, the ISU QS, the ISU ADR, or any other applicable rules provides that the ISU has the power to distribute the ROC Skating Team's points to other teams, even on the assumption that the ISU Special Regulations were to apply entirely and that the ISU has the authority to re-rank the results (*quod non*). This is confirmed in the Confidential Memo.
- Furthermore, the Appellants' assertion that the Canadian Skating Team should be awarded points earned by the ROC Skating Team departs from the basic principle that points are to be earned through competition, not awarded or distributed by the ISU. This was also reflected in the Confidential Memo.
- The erroneous nature of the Appellants' interpretation is also highlighted by the fact that it would penalize any team that scored more than the disqualified member's team by rewarding only the teams that scored lower than the disqualified member's team with additional points and thus enabling those teams to surpass the teams that scored higher than the disqualified member's team, as explained in the Confidential Memo. The Appellants' response that "*in such circumstances the 'chips will lie where they fall'*" disregards the principles of fairness and equal treatment.

The ISU should not have re-ranked the results of the Olympic Figure Skating Team Event as a matter of fairness

- Both Article 10.10 of the ISU ADR as well as Article 12.10 of the RADR permit the disqualification of an individual's results only if it is fair. The ISU is not permitted to disqualify an individual's results if fairness requires otherwise. Indeed, as a general principle, any decision that is unfair would violate the fundamental principle of proportionality.
- The unjustified delay in reporting Ms Valieva's AAF by the Stockholm Laboratory in breach of the applicable regulations militate in favour of a finding that, as a matter of fairness, the ISU should not have disqualified Ms Valieva's results at the Olympic Figure Skating Team Event. This delay clearly prejudiced the ROC Skating Team. Ms Valieva could have been replaced with another skater if the results had been reported in a timely manner. This would have prevented the loss of all the points by Ms Valieva.
- Mr Valery Artyukhov, Head Coach of the ROC Skating Team, affirms in his witness statement that Russian skating has a rich pool of talented female skaters that could have easily replaced Ms Valieva. In particular, in addition to Ms Valieva, it included Ms Scherbakova and Ms Trusova, who had been the favorites at international competitions and who ultimately won the gold and silver medals at the individual competition of the 2022 Beijing Olympic Winter Games, respectively. Moreover, the ROC Skating Team did not need significantly more points to finish first at the Olympic Figure Skating Team Event. All it needed was

11 more points. The ROC Skating Team could have obtained 12 points by just finishing in fifth place in Ms Valieva's segments – a relatively easy feat for Ms Valieva's substitute.

- It was also grossly unfair because the ROC Skating Team's performance at the 2022 Beijing Olympic Winter Games had not been enhanced or affected by the use of any prohibited substances. On the contrary, the evidence reflects that no member of the ROC Skating Team was under the influence of any prohibited substances.
- In the Valieva Award, the starting date of Ms Valieva's period of ineligibility was backdated, because the CAS panel found that it would be unfair to punish Ms Valieva for the anti-doping authorities' inexcusable delay in reporting the AAF. The same reasoning applies here with even more force. It would be even more unfair to punish the other members of the ROC Skating Team if it was unfair to punish Ms Valieva for such delay. Under those circumstances, any punishment of the ROC Skating Team is wholly unwarranted and therefore an egregious violation of the principle of proportionality.
- Under these circumstances, the Appellants cannot seriously argue that it would be fair to further demote the ROC Skating Team to fourth place and promote the Canadian Skating Team to third.

122. On this basis, the FSFR submits the following requests for relief in its Answer:

“Russian Skating requests that the Tribunal issue an award dismissing the Canadian Parties’ appeal for lack of standing. In the alternative, if the Tribunal determines that the Canadian Parties have standing to assert their appeal, Russian Skating requests that the Tribunal issue an award:

- (a) Granting the Canadian Parties’ request to set aside the ISU decision of January 30 and thus reinstating the original results at the Team Event of the 2022 Winter Olympics reflecting that the ROC finished in first place, the U.S.A. in second, Japan in third, and Canada in fourth;*
- (b) Dismissing all other requests by the Canadian Parties, including their requested re-ranking of the results at the Team Event of the 2022 Winter Olympics;*
- (c) Ordering the reimbursement of all of Russian Skating’s expenses and other costs incurred in connection with this Arbitration, including attorney’s fees and Russian Skating’s internal costs; and*
- (d) Granting such other relief as the Tribunal deems just and proper.”*

E. The Russian Skaters’ Joint Answer

123. The Russian Skaters’ submissions in their joint Answer, in essence, may be summarised as follows:

The Appellants lack standing to sue

- Under Swiss law, standing to sue is a question of substantive law. In this regard, standing to sue (or to appeal) is attributed to a party that can validly invoke the rights it puts forward because it has a legally protectable and tangible interest at stake in the litigation. The existence of an interest is required for the exercise of any legal remedy.
- The Appellants lack standing to sue because they are not “directly affected” third parties by the Appealed Decision. The notion of “directly affected” when applied to third parties, who are not the addressee of a measure, must be interpreted in a restrictive manner.
- In these proceedings, the parties affected by the Appealed Decision are the skaters representing the ROC, the USA and Japan. The Appealed Decision did not affect in any way the position of the Canadian Skating Team: they were placed fourth at the Olympic Figures Skating Team Event before, as well as after the ISU issued the Appealed Decision.
- Also, the applicable regulations do not confer the right to the Appellants to challenge the Appealed Decision.

The merits of the case

- It should be noted that the Russian Skaters do not intend to challenge the Appealed Decision in these proceedings, but instead limit their arguments solely to demonstrating why the Appellants’ appeal cannot succeed.

The re-ranking and reallocation of points have no legal basis

- The Appellants have wrongly assumed that the ISU had the authority to re-rank the ROC Skating Team.
- First of all, a re-ranking and reallocation of points would only be possible when a specific provision allows it, in accordance with the principle of legality. Second, none of the rules applicable provide for the re-ranking or for the reallocation of points.
- The principle of legality, a well-established principle of the *lex sportiva*, requires that offences and sanctions must be clearly and previously defined by law, precluding the “adjustment” of existing rules to apply them to situations or behaviours that the legislator did not intend to penalize. CAS jurisprudence has consistently held that sports organisations cannot impose sanctions without a proper legal or regulatory basis for them and such sanctions must also be predictable. The inconsistency in the rules of a federation must be construed against the federation (*contra proferentem*).

- As a matter of principle, a rule applicable to individual competitors cannot be extended to teams. This was confirmed in the *Jerome Young* and *Marion Jones* cases (the “Relay Cases”).
- In the *Jerome Young* case, there was no express rule providing for the nullity of the results obtained by the team, one of whose members was later banned from the competition. The arbitrators finally ruled that the principle of legality prohibited them from annulling the results of the USA team, in the absence of rules to this effect. The USA relay team kept therefore its gold medal.
- In the *Marion Jones* case, the CAS panel held, *inter alia*, that “[t]his Panel does not accept, as the IOC would have it, to impose a sanction on the basis of inexistent or unclear rules or on the basis of logic or of an inexistent general principle. The panel acknowledges that the outcome of this case may be unfair to the other relay teams that competed with no doped athletes helping their performance; however, such outcome exclusively depends on the rules enacted by the IOC and the IAAF at the time of the Sydney Olympic Games.” (CAS 2008/A/1545)

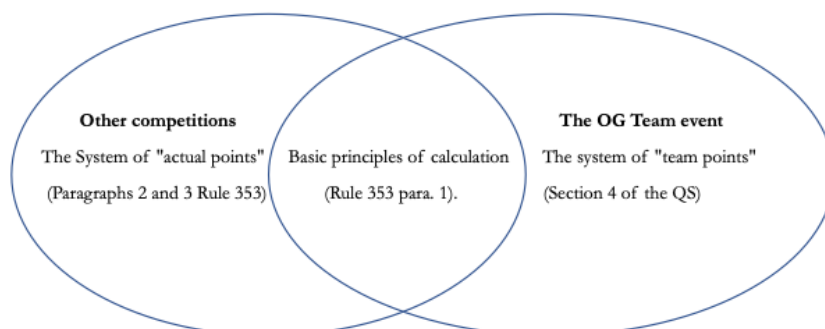
The ISU ADR and the RADR do not provide a legal basis for the re-ranking

- In the Appealed Decision, the only rules mentioned by the ISU were Articles 10.10 of the ISU ADR and Article 12.10 of the RADR. Also, the 9 February 2024 press release did not provide for any legal basis for the re-ranking.
- It follows from the scope of Article 10.10 of the ISU ADR, that only the individual competitive results of a skater are to be disqualified. This provision does not concern the competitive results obtained by a skater in a team event and for the team. A skater does not compete individually when competing in the Olympic Figure Skating Team Event, but rather as a member of a team. Contrary to the ISU’s erroneous statement, Ms Valieva’s 20 points were not “*individual results and points in the Short and Free Skating competitions*”, but rather “*team results and points*”. And as such, these points should not have been disqualified from the ROC Skating Team results, which should have retained all 74 points.
- Similarly, Article 12.10 of the RADR does not provide a legal basis for the re-ranking of the teams. For the sake of completeness and comprehensiveness, the Russian Skaters note that Article 11.2 of the RADR – the only provision related to the team results which specifically refers to “*Consequences for Teams*” – does not provide for the re-ranking of the teams.
- Ms Valieva’s ADRV occurred on 25 December 2021. It goes without saying that such a violation cannot be considered “*in connection with*” the 2022 Beijing Olympic Winter Games. In addition, Ms Valieva was tested twice during the 2022 Beijing Olympic Winter Games, on 7 February 2022 and on 17 February 2022, and both tests were negative. It is therefore clear that Article 11.2 of the ISU ADR is not applicable.

- To the knowledge of the Russian Skaters, no other provision exists providing for a re-ranking in the present context, and notably the specific IOC ADR has a limited scope and applies only to situations where a member of the team is found to have committed an ADRV “*during the Period of the Olympic Games Beijing 2022*”.

Article 353 of the ISU Special Regulations cannot serve as a legal basis for the re-ranking

- A re-ranking should not be made in application of the reallocation of points advocated by the Appellants even if the re-ranking were possible (*quod non*). Consequently, the Canadian Skating Team should remain fourth in the Olympic Figure Skating Team Event. The Appellants’ interpretation of the rules is misconceived. First, Article 353 of the ISU Special Regulations does not apply.
- The legal framework applicable to the Olympic Figure Skating Team Event is principally composed of two sets of rules: Section 4 of Annex A to the Team Event Rules and the ISU Judging System as described in Articles 352 and 353 of the ISU Special Regulations. Regarding the interplay between the two sets of rules, Section 4 incorporates some elements of the existing ISU Judging System as it provides that: “*the ISU Judging System as described in the 2020 ISU Special Regulations Single and Pair Skating/Ice Dance shall apply, in particular but not limited to Rules 352 and Rules 353*”. However, Section 4 also establishes a methodology that is specific to the Olympic Figure Skating Team Event, which departs from paragraphs 2, 3 and 4 of Article 353 of the ISU Special Regulations.
- This is justified by the unique characteristics of the Olympic Figure Skating Team Event. Unlike other competitions, the applicable methodology for the determination of results relies not on the actual points scored by the skaters, but on the system of aggregate team points. Second, unlike other competitions, half of the participating teams are eliminated after the qualification phase and do not compete in the finals. The determination of results based on the “*actual points*” is provided for in Article 353(2) and (3) of the ISU Special Regulations, whereas the system of “*Team points*” is set out in Section 4. Only the latter applies in the present case. These methodologies have only one common denominator: they are both based on the “*basic principles of calculation*” as described in Article 353(1) of the ISU Special Regulations:



- Article 353 of the ISU Special Regulations is not aimed to address a team's collective results, but rather the individual result and scoring of a skater/couple. This interpretation is confirmed by the ISU itself in the Confidential Memo where it noted that: *“the OWG Team event is not contemplated by the ISU Special regulations. The ISU has set out the format of the OWG Team Event in the [ISU QS]”*.
- Article 353(4) of the ISU Special Regulations concerns the simple situation where, due to the disqualification of a skater or couple during a competition, competitors with a lower score (determined in accordance with paragraphs 2 and 3) and who were initially ranked lower, will move up and take the place of the disqualified competitor.
- Article 353(4)(a) of the ISU Special Regulations was adopted by the ISU Council on 13 November 2009. As this makes clear, this provision was adopted to cover only the hypothesis of disqualification during a competition, and more specifically disqualifications in between segments. This is clearly not the case here.

Article 353(4)(a) of the ISU Special Regulations does not provide for the reallocation of points

- Article 353(4) of the ISU Special Regulations deals with only the hypothesis of disqualification of a skater and the redistribution of placement if the disqualification occurred in between segments during a competition. It does not provide for the reallocation of points earned by a skater for the team and their consequent redistribution to skaters, who initially placed lower than the disqualified competitor. This was confirmed also in the Confidential Memo.

Article 353 of the ISU Special Regulations was never applied in its entirety to the Olympic Figure Skating Team Event

- Article 353 of the ISU Special Regulations has never been applied in its entirety to the Olympic Figure Skating Team Event, even absent any disqualification.
- Based on Section 4 of Annex A to the Team Event Rules and the methodology of “aggregate points”, the five teams who qualified for the Free Skating were ROC, USA, Japan, China and Canada.
- The ranking would have been as follows: ROC, Japan, USA, Canada, China, if the ranking had been based on “actual points scored”.
- The results obtained would therefore have been different, which demonstrates that Article 353 of the ISU Special Regulations did not apply in its entirety to the Olympic Figure Skating Team Event. Based on the same principle, it cannot be assumed that Article 353(4) of the ISU Special Regulations applies to the Olympic Figure Skating Team Event by extension.

The ISU's past practice in similar situations confirm the impossibility of re-ranking and reallocation of points

- It is important to note that the ISU's own past practice during the 2020 Youth Olympics shows that the applicable rules do not provide for the re-ranking and reallocation of points (the "Nesterova Case"). Ukrainian pair skater Ms Sofia Nesterova tested positive at the Youth Olympic Games. She was part of Team Vision, composed by skaters from the Russian Federation, Hungary, Ukraine and Canada. Team Vision won the bronze medal with 18 points, from which two points were earned by Ms Nesterova and her partner. After Ms Nesterova tested positive, she and her partner were disqualified from the Pair Skating Event. However, the pair was not disqualified from the Team Event, and Team Vision was allowed to keep the two points earned by Ms Nesterova.
- Equally, in the present case, a re-ranking and a reallocation of points is not possible, and the ISU's past practice confirms that the points earned by a skater for the team are not disqualified and, by definition, should not be reallocated.

The principle of fairness confirms that the Russian Skaters should maintain their initial ranking

- Article 10.10 of the ISU ADR provides that "[...] *all other competitive results of the Skater obtained from the date a positive sample was collected [...] shall, unless fairness requires otherwise, be disqualified with all of the resulting consequences [...]*".
- Article 10.10 of the ISU ADR cannot serve as a basis for disqualifying the ROC Skating Team results. However, in the alternative, the Appealed Decision must be set aside because it is contrary to the principle of fairness. Factors that may be taken into account are, for example, the delays in result management, as well as the impact of the violation on the subsequent results.
- Ms Valieva's ADRV dates back to 25 December 2021, i.e. more than 40 days before the 2022 Beijing Olympic Winter Games. Ms Valieva's subsequent tests were negative: 13 January 2022 in Tallin, Estonia, and 7 and 17 February 2022 at the 2022 Beijing Olympic Winter Games. All Russian Skaters were clean skaters during the Olympic Games. Ms Valieva's positive doping sample collected in December 2021 had no impact whatsoever on the ROC Team's results at the Olympic Games and had not affected the results of the Olympic Figure Skating Team Event.
- The retroactive re-ranking of the Teams would deprive all Russian Skaters, including Ms Valieva, of their fairly earned first place and would have significant negative competitive consequences on them. This would grossly violate the principle of fairness.
- In this respect, it must also be considered that some of the Russian Skaters are already retired athletes. It would be all the more unfair to deprive these skaters

of their fairly won first place as they will never again be able to compete at the Olympic Games.

124. On this basis, the Russian Skaters submit the following requests for relief in their joint Answer:

“Dismiss the Appellants’ appeal on the ground that they lack standing to sue;

Subsidiarily, dismiss the Appellants’ appeal, including their request to re-rank the results of the Team Event and to reallocate the points of the ROC Team;

Order the reimbursement of the Russian Skaters’ legal costs and other expenses.”

VI. JURISDICTION

125. Article R47 CAS Code provides, *inter alia*, as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”

126. Rule 61(2) of the 15 October 2023 Olympic Charter provides as follows:

“Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport, in accordance with the Code of Sports-Related Arbitration.”

127. The Canadian Skaters rely on Article 6 of the Conditions of Participation for NOC Delegation Members Olympic Winter Games Beijing 2022 (the “Entry Form”) that they were required to sign in order to participate in the 2022 Beijing Olympic Winter Games. Article 6 of the Entry Form provides as follows:

“Unless otherwise agreed in writing by the IOC, any dispute or claim arising in connection with my participation at the Games, not resolved after exhaustion of the legal remedies established by my NOC, the International Federation governing my sport, Beijing 2022 and the IOC, shall be submitted exclusively to the Court of Arbitration for Sport (‘CAS’) for final and binding arbitration in accordance with the Arbitration Rules for the Olympic Games, and the Code of Sports-related Arbitration. The seat of arbitration shall be in Lausanne, Switzerland and the language of the procedure English. The decisions of the CAS shall be final, binding and non-appealable, subject to the appeal to the Swiss Federal Court.”

128. The Appellants submit that the Appealed Decision concerns a dispute that arose in

connection with the Olympic Games.

129. The Appellants further submit that they recognise that Article 26(2) of the ISU Constitution and General Regulations (edition 2022) seeks to limit the jurisdiction of CAS in relation to specific decisions made by the ISU Council. However, in accordance with CAS jurisprudence, such provision cannot be enforced to exclude the jurisdiction of CAS, because Rule 61(2) of the Olympic Charter sets a principle which cannot be derogated from by an international federation.
130. The ISU confirms the submissions of the Appellants with respect to jurisdiction and explicitly accepts that CAS has exclusive jurisdiction to hear this appeal.
131. The ISU submits that, pursuant to Article 26(1) and (2) of the June 2021 edition of the ISU Constitution (the “ISU Constitution”), CAS has jurisdiction only in relation with specific decisions made by the ISU Disciplinary Committee or the ISU Council. However, the ISU explicitly confirms that it “*is nonetheless willing to have the present dispute being directly resolved by the CAS*” and that “*the ISU hereby recognises the CAS’s jurisdiction over the present dispute (‘Einlassung’), without prejudice to the validity of the above-mentioned limitations provided for in the ISU Constitution*”.
132. The ROC, the FSFR and the Russian Skaters do not address and certainly do not specifically object to the jurisdiction of CAS in the matter at hand.
133. The jurisdiction of CAS is confirmed by the Order of Procedure duly signed by the Parties, including by the ROC, the FSFR and the Russian Skaters.
134. It follows that CAS has jurisdiction to adjudicate and decide on the present dispute.

VII. ADMISSIBILITY

135. Article R49 CAS Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.”

136. The Appellants maintain that they have exhausted all available legal remedies before challenging the Appealed Decision before CAS and that, pursuant to Rule 61(2) of the Olympic Charter, they are exclusively required to bring any disputes arising on the occasion of, or in connection with, the Olympic Games, to CAS. The Appellants submit that they received notice of the Appealed Decision by means of the statement published on the ISU website on 30 January 2024 and that the Statement of Appeal was filed within the applicable deadline of 21 days.
137. The ISU maintains that Article 17(2)(a) of the ISU Constitution grants the ISU Congress the “*superior decision-making power*” in the following terms:

“Decisions taken by the Council in the exercise of its functions and powers shall be final and shall not be subject to appeal except as explicitly set forth in other provisions of the ISU Statutes. All final decisions of the Council are subject to the exercise of the superior decision-making power of the Congress at the next following Ordinary or Extraordinary Congress. See Article 30, paragraph 21.”

138. The ISU nonetheless “recognises the CAS’s jurisdiction (respectively, does not challenge the admissibility of the appeals) in the present dispute, without prejudice to the validity of the above-mentioned requirements regarding the exhaustion of internal remedies”.
139. The Appealed Decision was published on the ISU’s website on 30 January 2024. The appeal was filed within the applicable 21-day deadline, given that it was filed on 16 February 2024.
140. Furthermore, the Panel finds that the issue of the alleged lack of standing and legal interest of the Appellants raised by the ROC, the FSFR and the Russian Skaters is not a matter of admissibility of the appeal, but rather a substantive issue that is to be assessed with the merits of the appeal. This is confirmed in CAS jurisprudence, *inter alia*:

“The Panel recalls the established CAS jurisprudence that the issue of standing to sue is a matter of substantive law, and is treated as an issue of merits and not as a question relating to the admissibility of an appeal (CAS 2016/A/4787, para 106 and ATF 126 III 59, I(a)).” (CAS 2022/A/8865, 8866, 8867 & 8868, para. 74)

141. Therefore, these matters that in accordance with the ROC, the FSFR and the Russian Skaters should render the appeal “inadmissible” will be addressed below when dealing with the merits of the case.
142. Furthermore, the Statement of Appeal and the Appeal Brief complied with all the requirements set out in Articles R48 and R51 of the CAS Code.
143. Consequently, the Panel finds that the appeal is admissible.

VIII. APPLICABLE LAW

144. Article R58 CAS Code provides as follows:

“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”

145. The Appealed Decision specifies that the re-ranking of the Olympic Figure Skating Team Event was decided pursuant to Article 10.10 of the ISU ADR and Article 12.10 of the RADR (which do not materially differ with respect to the issues to be decided in this case) further to the issuance of the Valieva Award. In the Appealed Decision, the re-ranking of results by the ISU was not based on Article 11 of the ISU ADR (entitled “*consequences on teams*”) or Article 13 of the RADR (entitled “*Consequences for Teams*”). The results of the ROC Skating Team in the Olympic Figure Skating Team Event were not disqualified (indeed, based on the Appealed Decision the ROC was ranked third, normally entitling it to a bronze medal).
146. The Appellants maintain that the applicable regulations in this appeal are the ISU QS, the ISU Special Regulations, the ISU Constitution and the Olympic Charter.
147. As to the applicability of the ISU Special Regulations, the Appellants argue that Section 4 of Annex A of the ISU QS (the ISU Team Event Rules), which they submit apply to the Olympic Figure Skating Team Event, stipulates that “[t]he ISU Judging System as described in the 2020 [ISU Special Regulations] shall apply, in particular but not limited to Rule 352 and Rule 353”.
148. Furthermore, the Appellants submit that, since the Olympic Figure Skating Team Event took place from 4-7 February 2022, the version of the ISU Special Regulations in force as of June 2021 apply to this appeal. However, Section 4 of the ISU Team Event Rules refers to the “2020 ISU Special Regulations [...]” and a 2020 version of this document does not appear to exist. Instead, a 2018 version of the ISU Special Regulations exists, which appears to have been in force until the 2021 version of the ISU Special Regulations came into effect. That said, the Appellants argue that, for the purposes of this appeal, Article 353(4)(a)(2) of the ISU Special Regulations is identical in the 2018, 2021 and 2022 versions.
149. The ISU maintains that the applicable ISU regulations are the following: i) the ISU Constitution (edition of June 2021); ii) the ISU General Regulations (edition of June 2021); iii) the ISU Special Regulations (edition June 2021); iv) and the ISU QS. On the merits, the ISU submits that the question of the possible consequences of the Valieva Award on the Olympic Figure Skating Team Event should be decided on the basis of the ISU ADR, but not in accordance with the ISU Special Regulations. In the alternative, the ISU submits that the Canadian Skating Team could still not have placed third even if Rule 353(4)(a)(2) of the ISU Special Regulations were held to apply. The ISU further argues that the following anti-doping regulations should be examined where applicable: i) the ISU ADR; ii) the RADR; and iii) the WADC (edition 2021). Finally, the ISU submits that Swiss law may also apply subsidiarily, since the ISU has its seat in Lausanne, Switzerland.
150. The ROC submits that Article 10.10 of the ISU ADR and Article 12.10 of the RADR, the ISU ADR and the RADR apply, since the Appealed Decision specifies that the re-ranking of the Olympic Figure Skating Team Event is based on the Valieva Award. Furthermore, according to the ROC, the Team Event Rules may also apply. As to the ISU Special Regulations, the ROC maintains that the ISU explained both in a press release dated 9 February 2024 as well as in the Confidential Memo why the ISU Special

Regulations, and in particular Rule 353(4), are not applicable, which is in line with ISU Communication 1596 of 13 November 2009, which explains that this Rule was adopted to rule on a disqualification of a skater “*during a competition*”, i.e., “*in between segments*” of that competition. The ROC agrees with the ISU that, on the merits, the question of the possible consequences of the Valieva Award on the Olympic Figure Skating Team Event should be decided on the basis of the ISU ADR, not in accordance with the ISU Special Regulations.

151. The Russian Skaters do not specifically address the applicable rules and regulations, but they argue that Article 10.10 of the ISU ADR and Article 12.10 of the RADR have no bearing whatsoever on the results of the Olympic Figure Skating Team Event. They also maintain that the ISU Special Regulations do not provide for a legal basis that would justify the re-ranking of the teams and that the IOC ADR cannot possibly serve as a basis for the Appealed Decision.
152. The FSFR also does not specifically address the applicable rules and regulations, but it submits that neither Article 10.10 of the ISU ADR nor Article 12.10 of the RADR provided the ISU with the power to re-rank the results of the Olympic Figure Skating Team Event. As to Rule 353 of the ISU Special Regulations, the FSFR submits that the Appellants ignore other provisions of the Team Event Rules, which depart from the ISU Special Regulations, including provisions in Rule 353 of the ISU Special Regulations, which deal with the determination of the results at a team event. The FSFR argues that, as correctly noted by the ISU in the Confidential Memo, the Team Event Rules provide only that the ISU Special Regulations’ “*Judging System*” is to apply and departs from the ISU Special Regulations regarding the determination of the results at the team event. Specifically, according to the FSFR, the Team Event Rules deviate from the ISU Special Regulations regarding the method for qualifying to the final stage of the event (the free skating segment) and how points are awarded at all times. Thus, according to the FSFR, except for the judgment system in the ISU Special Regulations, the ISU Special Regulations do not apply to the Olympic Figure Skating Team Event.
153. The Panel notes that, in the Appealed Decision, the ISU is implementing the consequences of the disqualification of all competitive results of Ms Valieva as per the Valieva Award. To do so, the ISU takes into account and applies its own regulations (in particular, the ISU ADR). The Appealed Decision also makes reference to the RADR, the set of rules on which the Valieva Award is based.
154. The Panel also considers that this appeal must be decided in accordance with the ISU regulations (as the “*applicable regulations*” in the sense of Article R58 of the CAS Code), including the ISU ADR which is specifically cited in the Appealed Decision.
155. As to the ISU Special Regulations, the views of the Parties differ. Whereas the Appellants argue that the ISU Special Regulations, and in particular Article 353(4), should apply, the Respondents argue that Article 353(4) of the ISU Special Regulations is not applicable.
156. The Panel will address the applicability of Article 353(4) of the ISU Special Regulations in more detail in the merits section of this award, if necessary.

157. The Panel also notes that (i) there is no choice of law by the Parties in the sense of Article R58 CAS Code given the differing approach of the Parties concerning which specific regulations apply, as stated above and (ii) the ISU is domiciled in Switzerland. As a result of this and Article R58 CAS Code, the Panel considers that Swiss Law applies to this case subsidiarily.

IX. PRELIMINARY ISSUES

A. The ROC's Request for a Bifurcation of the Proceedings

158. On 29 May 2024, the CAS Court Office, *inter alia*, informed the Parties as follows:

“On behalf of the Panel, the Parties are advised as follows:

The ROC's request for bifurcation is denied. The reasons for the Panel's decision will be provided in the final Award.” (emphasis in original)

159. The considerations of the Panel for dismissing the ROC's request for a bifurcation of the proceedings (to which the FSFR and the Russian Skaters adhered) are set forth below.
160. The ROC requested a bifurcation of two main issues, i.e. *“the Appellants' standing to appeal and of the admissibility of the appeal”*. The arguments underlying the issues of standing to appeal and the admissibility of the appeal are however premised on the same reasoning, i.e., that the Appellants allegedly lack a legal interest in challenging the Appealed Decision.
161. As set forth above in the context of the admissibility of the appeal, it is consistent CAS jurisprudence that the issue of standing to sue is an issue concerning the merits and not a question relating to the admissibility of the appeal:

“The Panel recalls the established CAS jurisprudence that the issue of standing to sue is a matter of substantive law, and is treated as an issue of merits and not as a question relating to the admissibility of an appeal (CAS 2016/A/4787, para 106 and ATF 126 III 59, 1(a)).” (CAS 2022/A/8865, 8866, 8867 & 8868, para. 74)

162. The Panel considered that the issues related to the Appellant's legal interest and standing to appeal and other issues related to the merits of this case are closely related to each other and cannot be easily disconnected or detached.
163. Furthermore, the Panel notes that the ROC only filed its request for bifurcation on 26 April 2024, very few days before the Respondents were supposed to file their Answers. The Panel considered that a bifurcation would not have efficiency advantages, given that the Respondents must have been far advanced with the preparation of their Answers and that the Appellants had already filed their Appeal Brief (covering the entire scope of the appeal and not only the issues the ROC sought to bifurcate).

164. As a result, the Panel did not consider it appropriate or efficient to bifurcate the proceedings, and therefore dismissed the ROC's request.

B. The Document Production Requests of the Appellants, the ROC and the FSFR

165. On 27 June 2024, the CAS Court Office, *inter alia*, informed the Parties as follows:

“Pursuant to Article R44.3 [CAS Code], the requests for production filed by the Appellants of (a) ‘Copies of any meeting minutes or other documents recording the decision and reasoning of the ISU Council in relation to the re-ranking of the [Olympic Figure Skating Team Event]’; (b) ‘Copies of the ‘evaluation from legal experts’ on which the [Appealed Decision] was apparently based’ (including Prof. Ulrich Haas report as per the Appellants’ letter of 1 April); and (c) ‘Copies of all communications sent or received by the ISU [...] regarding the re-ranking of the [Olympic Figure Skating Team Event], up until 16 February 2024’ are dismissed.

Pursuant to Article R44.3 [CAS Code], the requests for production filed by ROC and FSFR of (a) ‘Documents relating to the ISU’s assertion in its press release of 9 February 2024 that [the Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event] was based on a ‘comprehensive evaluation from legal experts, ‘including without limitation a copy of the evaluation itself’; (b) ‘Documents relating to any opinion or report regarding the [Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event], including without limitation the report provided by Prof. Ulrich Haas regarding the matter in dispute here’; (c) ‘Communications between the ISU and any other organization or third party [...] regarding the [Appealed Decision] to re-rank the results at the [Olympic Figure Skating Team Event], including without limitation any documents explaining the basis for the [Appealed Decision]’; and (d) ‘Documents relating to conversations between Mr Jae-Youl Kim (President of the ISU) and Ms. Karen Butcher (President of Skate Canada) regarding the [Appealed Decision], including without limitation documents relating to the conversation between Mr. Kim and Ms. Butcher of 30 January 2024 as noted in Skate Canada’s letter of 31 January 2024’ are dismissed.

The reasons for the Panel’s above-mentioned decisions will be provided in the final Award.”

166. Article R44.3 of the CAS Code stipulates that “a party may request the Panel to order the other party to produce documents in its custody or under its control. The party seeking such production shall demonstrate that such documents are likely to exist and to be relevant”.
167. The considerations of the Panel for dismissing the document production requests for the Appellants, the ROC and the FSFR are set forth below.

Copies of any meeting minutes or other documents recording the decision and reasoning of the ISU Council in relation to the re-ranking of the [Olympic Figure Skating Team Event]

168. First of all, as to the Appellants' request for the ISU to produce "*Copies of any meeting minutes or other documents recording the decision and reasoning of the ISU Council in relation to the re-ranking of the [Olympic Figure Skating Team Event]*", the Panel noted the ISU's explanation that such documents are publicly available on its website, which was not contested by the Appellants. The Panel thus considered that such request for production of documents was moot.

Copies of the 'evaluation from legal experts' on which the [Appealed Decision] was apparently based (including Prof. Ulrich Haas report as per the Appellants' letter of 1 April 2024)

169. The Panel observed that the Appealed Decision as well as the press release issued by the ISU on 9 February 2024 contained the legal basis invoked and the grounds relied upon by the ISU to justify the Appealed Decision.
170. The Panel also notes that in this press release, the ISU expressly mentioned that "*The decision of the ISU Council with regard to the consequences to the official results of the Team event of Beijing 2022, clearly expressed in the ISU Statement of January 30, 2024 [...], was based on a comprehensive evaluation from legal experts*", and that in its Answer to the Appeal Brief it admitted that "*the evaluation from legal experts, to which the ISU's press release [...] referred to, was provided by registered attorneys*".
171. Therefore, the Panel has no doubt that said "*evaluation from legal experts*" exists.
172. This being said, the Panel is of the view that the evaluations or opinions received by the ISU in the lead-up to issuing the Appealed Decision are an internal matter for the ISU. Such evaluation or opinions may have been received from persons within and outside the ISU, but what matters is what is indicated in the Appealed Decision and in the subsequent explanation by means of the press release dated 9 February 2024.
173. Insofar as the evaluations relied upon derived from persons inside the ISU, the Panel finds that such views do not have to be disclosed, just like an arbitral tribunal or another decision-making body is not required to disclose notes of the deliberations and the decision-making process.
174. Insofar as the evaluations relied upon derived from persons outside the ISU, the Panel finds that these should be in principle covered by legal privilege between the ISU as the client and the legal service provider.
175. Notwithstanding all the above, the Panel finds that such expert opinions could not be taken to represent the view of the ISU, but only the view of the person(s) consulted, even if the legal expert opinions obtained by the ISU contradicted the reasoning set forth in the Appealed Decision and in the press release of 9 February 2024. The ISU may have formed a view based on the expert opinions obtained, but the Appealed

Decision is solely based on the reasoning the ISU publicly communicated by means of the Appealed Decision as well as the press release of 9 February 2024.

176. Finally, and in any event, the Panel (composed of three legal experts) finds that it is capable of forming a view on the regulatory framework applicable in the matter at hand and on how it must be applied based on the submissions of the Parties and the evidence taken in these proceedings, without the views of the legal experts apparently consulted by the ISU. The Panel considered that having such views on file would be unnecessary and irrelevant.

Copies of all communications sent or received by the ISU (including any of its employees, agents, officers, directors, representatives, consultants, affiliates, members, and attorneys) regarding the re-ranking of the [Olympic Figure Skating Team Event], up until 16 February 2024

177. The Panel has little doubt that some communications of that kind may have existed.

178. However, the Panel is of the view that:

- The ISU's opinion about the impact of the Valieva Award on the present case has already been expressed by the ISU in the Confidential Memo, in the Appealed Decision, in the ISU's press release dated 9 February 2024 and in the submissions made in these proceedings, and
- Whatever third parties that have sent communications to the ISU on this matter may think or may have thought on the impact of the Valieva Award and whatever they may have discussed in their exchange of communications with the ISU is simply the opinion of such third parties, which the Panel of course respects but does not find relevant to the case.

179. As mentioned above, the Panel has sufficient elements to decide the case based on the Parties' submissions, the very abundant evidence brought to the proceedings and the applicable regulations. The Panel heard all the Parties' positions and opinions on the various controversial issues of the case, including the ISU's position that is sufficiently known by the Appellants, who had several opportunities to comment on and rebut the ISU's position in these proceedings. The Parties' positions are those that matter and are relevant, and not those of third parties expressed in formal or informal correspondence exchanged with the ISU.

Documents relating to conversations between Mr Jae-Youl Kim (President of the ISU) and Ms. Karen Butcher (President of Skate Canada) regarding the [Appealed Decision], including without limitation documents relating to the conversation between Mr. Kim and Ms. Butcher of 30 January 2024 as noted in Skate Canada's letter of 31 January 2024

180. For the same reasons as set forth above with respect to the 'evaluation from legal experts' and communications sent or received by the ISU with respect to the re-ranking of the Olympic Figure Skating Team Event, the Panel sees no relevance in what was

discussed between representatives of the ISU and Skate Canada or what documents stated with respect to such conversations.

181. Consequently, the Panel dismissed the document production requests of the Appellants, the ROC and the FSFR.

X. MERITS

182. In accordance with the submissions made by the Parties in these proceedings, the dispute to be resolved by the Panel may be briefly summarized as follows:

- The Appellants claim that the Appealed Decision should be set aside and that the ISU be ordered to re-rank the Olympic Figure Skating Team Event by ranking Canada 3rd and ROC 4th, in accordance with article 353(4)(a) second paragraph of the ISU Special Regulations;
- The ISU requests that the appeal be dismissed and the Appealed Decision be confirmed, which would imply that the ROC remained 3rd and Canada remained 4th in the Olympic Figure Skating Team Event;
- The ROC and the Russian Skaters claim in their respective requests for relief that the appeal is inadmissible as in their view, the Appellants lack standing to appeal and legal interest, and in case the appeal is admissible, both of them claim that it should be dismissed;
- The FSFR also holds that the appeal should be dismissed due to the Appellant's lack of standing to appeal, and should the appeal be admissible, it requests that the Panel issue an award (i) granting the Appellants' request to set aside the Appealed Decision and thus reinstating the original results at the Olympic Figure Skating Team Event reflecting that the ROC finished in 1st place, the USA in 2nd, Japan in 3rd, and Canada in 4th and (ii) dismissing all the Appellants' requests, including their requested re-ranking of the results of the Olympic Figure Skating Team Event.

183. The Panel addresses first the contentions of lack of standing to appeal and legal interest raised by the ROC, the FSFR and the Russian Skaters.

A. Do the Appellants have standing to challenge the Appealed Decision?

184. The Panel first notes that the ISU, in the Appealed Decision, is implementing the Valieva Award, in accordance with the mandate arising from Article 15.1 ISU ADR.
185. In accordance with the Appealed Decision, not only are Ms Valieva's results in the single competition at the 2022 Beijing Olympic Winter Games disqualified, but also *"all her individual results and points in the Short Program and the Free Skating competitions will be dismissed leading to a re-ranking of the Team event results"*.
186. The Panel also stresses that when the ISU engaged into a discussion with Skate Canada on the implementation of the Valieva Award, and when it published the press release

dated 9 February 2024, it made clear that the ISU Council considered the applicability of Article 353(4) of the ISU Special Regulations, but decided against it:

“[...] For the sake of clarity, Rule 353 para 4 in the ISU Special Regulations is not applicable in this case. [...]”

187. The Panel finds that the Appellants had no legal interest with respect to whether Ms Valieva committed an ADRV. However, the Panel finds that the Appellants had a legal interest in the correct implementation by the ISU of the consequences of the Valieva Award, once Ms Valieva's results were disqualified by means of the Valieva Award.
 188. The Panel finds that the Appellants have a legal interest in challenging the decision if, as the Appellants argue, a provision required the ISU to redistribute the disqualified points of Ms Valieva to other competitors but the ISU illegitimately failed to apply such provision (as the Appellants contend), particularly when it became clear from *ex post* communications that the applicability of Article 353(4) of the ISU Special Regulations was indeed one of the issues the Appealed Decision considered and decided.
 189. The Appellants indeed have a specific legal interest in the application of Article 353(4) of the ISU Special Regulations, considering that this would, according to the Appellants, result in the third place of the Olympic Figure Skating Team Event being reallocated to the Canadian Skating Team.
 190. Consequently, the Panel finds that the Appellants have standing to challenge the Appealed Decision and that the ROC, the FSFR and the Russian Skaters' contentions that the appeal is inadmissible based on an alleged lack of standing to appeal and legal interest are dismissed.
- B. Did the ISU correctly re-rank the results of the Olympic Figure Skating Team Event as regards the Valieva Award, or should the ISU have proceeded as requested by the Appellants?**
191. Having established that the Appellants have standing to appeal, the Panel addresses their petitions.
 192. At the outset, it is to be noted that this appeal basically consists of determining whether Ms Valieva's disqualification as per the Valieva Award means that the Canadian Skating Team should have been awarded two additional points in the Olympic Figure Skating Team Event pursuant to Article 353(4) of the ISU Special Regulations, based on which it should be ranked third instead of fourth.
 193. The Respondents contest the Appellants' application and interpretation of Article 353(4) of the ISU Special Regulations and claim that the Appellants' request consisting of being placed 3rd in the Olympic Figure Skating Team Event must be dismissed. However, the ROC, the FSFR and the Russian Skaters, in their respective Answers, go even further: they argue in these proceedings that the ISU illegitimately disqualified Ms Valieva's results from the Olympic Figure Skating Team Event and that the ROC

should be ranked 1st in such event. In fact, the FSFR expressly includes in its Answer's request for relief the following (emphasis added):

“Granting the Canadian Parties’ request to set aside the ISU’s decision of January 30, 2024 and thus reinstating the original results at the Team Event of the 2022 Winter Olympics reflecting that the ROC finished in first place, the U.S.A. in second, Japan in third, and Canada in fourth.”

194. The Panel finds that the ROC, the FSFR and the Russian Skaters’ understanding and *desideratum* that the ROC should be ranked 1st in the Olympic Figure Skating Team Event is of course legitimate, but it is not to be entertained in these proceedings. In fact, as it is of public domain, the ROC, the FSFR, and the Russian Skaters have already raised this petition to be ranked 1st in the Olympic Figure Skating Team Event in separate appeal proceedings concerning the Appealed Decision in which they act as appellants.
195. The Panel considers that the arguments raised in this respect by the ROC, the FSFR and the Russian Skaters in these proceedings are part of their defence against the Appellants’ contentions, in the sense that should these arguments be upheld, the prayer for relief of the Appellants for the Canadian Skating Team to be ranked 3rd in the Olympic Figure Skating Team Event would necessarily have to be dismissed. However, the ROC, the FSFR and the Russian Skaters, which are respondents in these proceedings, cannot claim here that a ruling be issued ranking the ROC as 1st in the Olympic Figure Skating Team Event, as it would constitute an inadmissible counterclaim.
196. This being clarified, the Panel finds that the ISU has no discretion, but is instead bound to implement the Valieva Award, regardless of whether it agreed with the Valieva Award.
197. This follows from Article 15 of the ISU ADR (entitled “*IMPLEMENTATION OF DECISIONS*”), and more specifically from Articles 15.1.1, 15.1.1.4 and 15.1.2, which provide, respectively, as follows:

“15.1.1 A decision of an anti-doping rule violation made by a Signatory Anti-Doping Organization, an appellate body (Article 13.2.2 of the Code) or CAS shall, after the parties to the proceeding are notified, automatically be binding beyond the parties to the proceeding upon the ISU and its Members, as well as every Signatory in every sport with the effects described below:

[...]

15.1.1.4 A decision by any of the above-described bodies to Disqualify results under Article 10.10 for a specified period automatically Disqualifies all results obtained within the authority of any Signatory during the specified period.

15.1.2 The ISU and its Members shall recognize and implement a decision and its effects as required by Article 15.1.1, without any further action required, on the earlier of the date the ISU receives actual notice of the decision or the date the decision is placed into ADAMS.”

198. The Panel therefore finds that the Appealed Decision does not amount to a disciplinary decision. The ISU did not exercise any disciplinary power with the issuance of the Appealed Decision, but rather, merely took the administrative measures required to implement the Valieva Award. The mere fact that the disqualification of Ms Valieva’s results in the Olympic Figure Skating Team Event have an impact on the result of the ROC Skating Team in the Olympic Figure Skating Team Event does not mean that a sanction is imposed on the ROC Skating Team. Rather, the disqualification of Ms Valieva’s results in such competition is merely a consequence of the ADRV committed by Ms Valieva.
199. The Panel notes that the ISU, aiming at complying with its duty of implementing the Valieva Award, proceeded as follows (see pertinent part of the Appealed Decision):

“As a result and according to art. 10.10 [ISU ADR] [...] and 12.10 of the [RADR], Ms. Valieva will be disqualified from all competitions which took place during the period of ineligibility, this includes the ISU European Figure Skating Championships 2022. She will also be disqualified from the Beijing 2022 Olympic Winter Games Women’s single competition and all her individual results and points in the Short Program and the Free Skating competitions will be dismissed leading to a re-ranking of the Team event results as follows:

Rank	Team	Nation	Total Team Points	Men SP	Men FS	Women SP	Women FS	Pairs SP	Pairs FS	Ice Dance RD	Ice Dance FD	Q
1	United States of America	USA	65	10	8	6	7	8	6	10	10	Q
2	Japan	JPN	63	9	10	9	9	7	9	4	6	Q
3	ROC	ROC	54	8	9	DSQ	DSQ*	9	10	9	9	Q
4	Canada	CAN	53	3	6	8	8	6	7	7	8	Q
5	People’s Republic of China	CHN	50	5	7	1	6	10	8	6	7	Q
6	Georgia	GEO	FNR*	7		7		5		3		
7	Italy	ITA	FNR*	6		2		4		8		
8	Czech Republic	CZE	FNR*	4		3		3		5		
9	Germany	GER	FNR*	2		5				1		
10	Ukraine	UKR	FNR*			4		2		2		

SP=Short Program

FS=Free Skating

RD=Rhythm Dance

FD=Free Dance

Q=Top 5 teams qualified for the

Free Skating/Free Dance

*DSQ=Disqualified

*FNR= Final not Reached ”

200. In a nutshell, the ISU disqualified the results of Ms Valieva in the Olympic Figure Skating Team Event by deducting 20 points (Ms Valieva had ended first both in the short program and in free skating) from the total number of points achieved by the ROC in the Olympic Figure Skating Team Event (74). This implied that the ROC was

awarded 54 points as a result of which the ROC was re-ranked from the 1st to the 3rd position in such event, as set out in the chart above.

201. The Appellants do not agree with the ISU's re-ranking of the results based on the Valieva Award and consider in essence that the ISU should have applied Article 353(4)(a) of the ISU Special Regulations, which would have placed the Canadian Skating Team 3rd in the Olympic Figure Skating Team Event and the ROC, 4th.
202. The Respondents contest the Appellants' reasoning by basically stating that Article 353(4)(a) of the ISU Special Regulations does not apply to this case, does not provide a legal basis for the redistribution of points as requested by the Appellants, and that even if it were to apply, the Canadian Skating Team should be ranked 4th in the Olympic Figure Skating Team Event in any event.
203. Before addressing the aforementioned issues and in particular whether Article 353(4)(a) of the ISU Special Regulations provides a legal basis to redistribute points in the Olympic Figure Skating Team Event as requested by the Appellants, the Panel addresses the argument of the ROC, the FSFR and the Russian Skaters that there is no legal basis that justifies the re-ranking of the teams in the Olympic Figure Skating Team Event as a result of the Valieva Award.
204. This contention, in the Panel's view, is incorrect and must be dismissed. Article 15.1.1.4 of the ISU ADR provides for the automatic disqualification of the results obtained by Ms Valieva as per the Valieva Award and the relevant ISU ADR provisions, thus requiring a re-ranking of the results of the Olympic Figure Skating Team Event. The fact that the ISU, in its press release of 9 February 2024, mentioned that it will "*clarify the rules and principles*" does not distort the aforementioned understanding. No legal basis was required beyond the Valieva Award and Article 10.10 of the ISU ADR to deduct the points obtained by Ms Valieva from the total number of points obtained by the ROC Skating Team. Disqualifying results would be meaningless if it would not have any impact on the results of the competition concerned.
205. This being clarified, a different issue is whether there is *in casu* a legal basis for redistributing points as requested by the Appellants, as will be explained below.
206. The Panel notes that Article 353(4)(a) second paragraph of the ISU Special Regulations, on which the Appellants ground their claims for redistribution of points, provides as follows:

"Disqualified Competitors will lose their placements and be officially noted in the intermediate and final results as disqualified (DSQ). Competitors having finished the competition and who initially placed lower than the disqualified Competitor(s) will move up accordingly in their placement(s)."
207. Crucially, the Panel finds that Article 353(4)(a) of the ISU Special Regulations does not provide a legal basis to redistribute points from a disqualified competitor to other competitors, even if it were to conclude that it is applicable to this case.

208. Article 353(4)(a) second paragraph of the ISU Special Regulations clearly refers to “*placement*”, not to “*points*”. As argued by the Respondents and as set forth by the ISU in the Confidential Memo, the Panel finds that such provision simply does not provide the ISU with the authority to redistribute points to competitors of Ms Valieva after her disqualification from the Olympic Figure Skating Team Event.
209. What is more, the Panel observes that the ISU Council implemented Article 353(4)(a) of the ISU Special Regulations on 13 November 2009. At that time, the ISU explained the implementation as follows:

“4. Figure Skating and Speed Skating – withdrawals and/or disqualification in between segments

The current rules in Figure Skating do not fully cover the issues relating to withdrawals and/or disqualification during a competition. In order to avoid any controversy and inconvenience already for the ongoing Olympic season, the Council decided to use its extraordinary powers under Art. 17.1.q) i) and enforces the following Rule changes:

*‘Single & Pair Skating & Ice Dance Special Regulations
Rule 353, paragraph 4 and Rule 579, paragraph 7 (Publication of Results)*

Amend and move existing Rule 579, paragraph 7 to Rule 353 by adding new paragraph 4.a) and renumber the following paragraphs

Rule 353, paragraph 4. Publication of Results

a) In the publication of the overall results of an event, the eliminated Competitors (Competitors who do not qualify for the next segment either due to the insufficient scores or due to withdrawal) shall be listed following the Competitors who have successfully finished the competition and such eliminated Competitors will be listed in order of their placement after their last completed segment.

Disqualified Competitors will lose their placements and be officially noted in the intermediate and final results as disqualified (DSQ). Competitors having finished the competition and who initially placed lower than the disqualified Competitor(s) will move up accordingly in their placement(s).

Reason: To clarify the placements and publication of results in case of withdrawals and disqualification in between segments.”

210. In particular, the Panel considers it relevant that Article 353(4)(a) of the ISU Special Regulations aims at clarifying the situation in case of disqualification “*in between segments*”. There is no evidence on file suggesting that this specific provision also aims at addressing the situation of a retrospective disqualification, such as in the case of Ms Valieva.

211. As set forth in the Appealed Decision and above, the ISU's disqualification of Ms Valieva and the re-ranking of the results of the Olympic Figure Skating Team Event was a direct consequence of the Valieva Award, Article 10.10 of the ISU ADR and Article 12.10 of the RADR. The Panel finds that it follows from Article 15 of the ISU ADR that the ISU has not discretion, but that it is simply bound by the Valieva Award and had to give effect to it, regardless of whether it agreed with what was decided in the Valieva Award.
212. However, this is different from a redistribution of disqualified points. The Panel finds that a legal basis is required to redistribute the disqualified points acquired by Ms Valieva among other competitors, because this was not covered by the Valieva Award.
213. Rather, in this respect, the ISU was required to exercise its own authority in accordance with its own rules and the Panel finds that these rules (including Article 353(4)(a) of the ISU Special Regulations) do not provide the ISU Council with a mandate to redistribute points of a disqualified competitor. The Panel simply does not share the Appellants' interpretation of these rules.
214. As a result, the Panel finds that the ISU, by refusing to award two additional points to the Canadian Skating Team as requested by the Appellants, (i) did not act contrary to the legitimate expectations of the Appellants or to the applicable rules and regulations, (ii) did not act in an irrational manner, (iii) did not lack good faith, and (iv) did not infringe principles of fairness. The Panel finds that the 20 points earned by Ms Valieva in the Olympic Figure Skating Team Event were correctly deducted from the score of the ROC Skating Team, resulting in the re-ranking of the Olympic Figure Skating Team Event as established in the Appealed Decision, with which the Panel concurs.
215. The Appellants and the Respondents have addressed various other aspects in their respective submissions, but the Panel finds that it is not necessary to address them in light of the conclusion that there is no legal basis for the ISU to redistribute the disqualified points of Ms Valieva to the Canadian Skating Team.
216. To conclude, the Panel holds that the Appellants have standing to challenge the Appealed Decision and that the appeal is admissible, but that the redistribution of points and re-ranking claimed by the Appellants is to be dismissed, and the Appealed Decision is to be confirmed.
217. All other and further motions or prayers for relief are dismissed.

XI. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 16 February 2024 by the Canadian Skaters (Ms Madeline Schizas, Ms Piper Gilles, Mr Paul Poirier, Ms Kirsten Moore-Towers, Mr Michael Marinaro, Mr Eric Radford, Ms Vanessa James, and Mr Roman Sadovsky), Skate Canada and the Canadian Olympic Committee against the decision issued on 30 January 2024 by the International Skating Union is admissible.
2. The appeal filed on 16 February 2024 by the Canadian Skaters (Ms Madeline Schizas, Ms Piper Gilles, Mr Paul Poirier, Ms Kirsten Moore-Towers, Mr Michael Marinaro, Mr Eric Radford, Ms Vanessa James, and Mr Roman Sadovsky), Skate Canada and the Canadian Olympic Committee against the decision issued on 30 January 2024 by the International Skating Union is dismissed.
3. The decision issued on 30 January 2024 by the International Skating Union is confirmed.
4. (...).
5. (...).
6. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 8 May 2025

(Operative part of the award notified on 2 August 2024)

THE COURT OF ARBITRATION FOR SPORT

Jordi López Batet
President of the Panel

Romano F. Subiotto
Arbitrator

Hervé Le Lay
Arbitrator

Dennis Koolgaard
Ad hoc Clerk