CAS 2025/A/11161 Antani Ivanov v. World Aquatics

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President:	Mr Mario Vigna, Attorney-at-Law in Rome, Italy
Arbitrators:	Mr Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-Law in Hamburg, Germany
	Mr Markus Bösiger, Attorney-at-Law in Zurich, Switzerland

in the arbitration between

Antani Ivanov, Bulgaria

Represented by Mr Georgi Gradev and Mr Marton Kiss, Attorneys-at-Law at SILA International Lawyers, Sofia, Bulgaria

Appellant

and

World Aquatics, Switzerland

Represented by Mr Emanuel Cortada and Mr Jonáš Gürtler, Attorneys-at-law at Bär & Karrer AG, Zurich, Switzerland

Respondent

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I. PARTIES

1. Mr Antani Ivanov ("Mr Ivanov", the "Athlete" or the "Appellant") is a professional swimmer of Bulgarian nationality.

2. World Aquatics (the "WA" or the "Respondent") is an international federation recognised by the International Olympic Committee as the world governing body for aquatic sports.

3. The Appellant and the Respondent are hereinafter jointly referred to as the "Parties".

II. FACTUAL BACKGROUND

4. The following is a summary of the relevant facts and allegations derived from the Parties' written submissions and supporting documentation. Additional facts and allegations found in the Parties' written submissions and evidence may be set out, where appropriate, in connection with the legal discussion that follows. While the Panel has carefully reviewed all factual, legal and evidentiary submissions, it refers in its Award only to those it considers necessary to its reasoning.

5. On 30 January 2024, the Disciplinary Commission of the Bulgarian Swimming Federation (the "BSF DC") issued a decision imposing a two year suspension and a fine of BGN 1,000 on Mr Ivanov for violations of Article 26(1) and (3) of the BSF Disciplinary Rules ("*Actions or omissions that constitute indecent behaviour or an offence of an official or an athlete*") and Article 31(1) and (3) of the BSF Disciplinary Rules ("*Media appearances* [...] *during which unreasonably disrespectful attitude to the activity and the contribution of the [BSF] is demonstrated, and generally the [BSF] is ignored or its reputation is infringed*" (the "BSF DC Decision").

6. On 29 February 2024, Mr Ivanov lodged an appeal against the BSF DC Decision before the Appeal Committee of the BSF (the "BSF AC").

7. On 14 March 2024, the BSF AC dismissed the appeal and upheld the BSF DC Decision.

8. On 18 April 2024, the BSF DC Decision was transmitted to the World Aquatics Integrity Unit (the "AQIU"), the body responsible for handling all integrity-related matters on behalf of WA.

9. On 23 May 2024, the AQIU issued a "Recognition of Decision" pursuant to Article 36.2 of the World Aquatics Integrity Code (the "Integrity Code"), according to which WA "[...] *shall recognise and take all necessary and reasonable steps within their powers to enforce and give effect to all decisions taken under the regulations of a Continental Organisation or World Aquatics Member*" (the "Appealed Decision").

10. The Appealed Decision states as follows:

> "*(i) The Decision and the consequent sanction imposed by the [DC] is recognised and extended worldwide to all competitions and activities organised by [WA].*

(ii) During the suspension which runs from 14 March 2024 until 14 March 2026, Mr. Ivanov is not allowed to take part in any Aquatic-related activities or events on behalf of [WA] or any other [WA] Continental Organisation, Member Federation and recognised body.

(iii) This decision is rendered without costs."

11. On 24 May 2024, Mr Ivanov sent an email to the AQIU requesting that the Appealed Decision be annulled and inviting the AQIU to clarify whether he had the right to appeal to CAS.

12. On 27 May 2024, the AQIU replied to Mr Ivanov, stating that it would "*contact the* [BSF] *for further clarifications*".

13. On the same day, Mr Ivanov sent a follow-up email to the AQIU, reiterating his request for confirmation of the right to appeal before the CAS.

14. On 5 June 2024, Mr Ivanov once again inquired about his right to appeal against the Appealed Decision before the CAS as per Article 35 of the Integrity Code. He added: "*Should I not hear from you, I will assume in good faith that Mr. Ivanov is entitled to appeal to CAS, and I will proceed to file an appeal next week*".

15. On 6 June 2024, the AQIU sent a letter to Mr Ivanov on behalf of the Chair of the Adjudicatory Body of the AQIU, which, *inter alia*, stated the following:

"[…] *we would like to refer to Article 36.2 of the [Integrity Code] which states that '[WA], all Continental Organisations and all [WA] Members shall recognise and take all necessary and reasonable steps within their powers to enforce and give effect to all decisions taken under the regulations of a Continental Organisation or [WA] Member adopted in accordance with Article 3. [WA] may decide not to recognise such a decision if it violates the [WA] Constitution or important principles of law'. In this respect, please note that the recognition of the decision merely extends worldwide the effects of the decision issued by a [WA] Member - in this case by the bodies of the [BSF].*

Furthermore, please note that as per Article 35.2 of the Integrity Code: 'Only final decisions of the Adjudicatory Body determining that an Integrity Code Violation has been committed may be appealed by any Party to the proceedings in question. Any such appeal shall be filed exclusively to the CAS'.

Having clarified this, we would like to confirm that the necessary process has been undertaken prior to extending worldwide the effects of the aforementioned decision. Be it as it may, the considerations you mentioned in your email dated 24 May 2024 appear to primarily refer to the decision(s) passed at national level and thus should be, or should have been discussed in the context of the appropriate national appeal avenue, if any."

16. On the same date, Mr Ivanov responded, stating that he "… *will proceed to submit the matter to the Swiss civil courts, as such a gross violation of due process is truly remarkable and must be remedied*".

17. On 24 June 2024, Mr Ivanov filed an application for provisional measures with the Lausanne District Court.

18. On the same day, Mr Ivanov filed a request for conciliation (or "*requête de conciliation*") before the Lausanne District Court.

19. On 19 August 2024, the Lausanne District Court issued the operative part of its decision on provisional measures, rejecting the Appellant's request.

20. On 27 August 2024, the Appellant requested the grounds of such decision.

21. On 4 December 2024, a conciliation hearing was held before the competent authority, which proved to be unsuccessful.

22. On 11 December 2024, the Lausanne District Court issued the authorisation to proceed ("*Klagebewilligung*" or "*autorisation de procéder*") pursuant to Article 209 of the Swiss Code of Civil Procedure (the "CPC"), which was notified to the Appellant on 12 December 2024.

23. On 21 January 2025, the Lausanne District Court issued the reasoned decision on provisional measures, citing, *inter alia*, the following reasons for dismissing the Appellant's request (written in French and reported in this award on the basis of the English translation provided by the Appellant):

> "[…]
>
> *that in accordance with the Constitution of [WA], the [CAS], headquartered in Lausanne, is recognised as the exclusive authority to resolve any type of dispute between [WA], its members, continental organisations, national bodies, athletes, officials and any person or organisation subject to this Constitution and/or any [WA] rules (art. 31.1 of the [WA] Constitution),*
>
> *that an appeal to the ordinary national courts is moreover expressly prohibited (art. 31.5 of the [WA] Constitution),*
>
> *that the Integrity Code confirms the above in the sense that the final decisions of the AQIU Adjudicatory Body may be appealed, which must be lodged exclusively with the CAS,*
>
> *it should therefore be noted that the rules of [WA] are clear with regard to dispute resolution, which is the exclusive competence of the CAS,*
>
> *that this regulation applies when the parties have agreed to submit a sports-related dispute to the CAS,*

this submission being possible as a result of an arbitration clause appearing in a contract or regulation (art. R27 of the CAS Rules of Procedure),

that this is indeed the case here, that it appears in particular from the aforementioned regulation that the parties who have a dispute falling within the jurisdiction of the CAS waive the right to request provisional and conservatory measures from state authorities or courts (art. R37 of the CAS Rules of Procedure),

that, consequently, it is clear that this authority does not have jurisdiction to hear the present dispute, which falls within the exclusive jurisdiction of the CAS,

[…]

that in view of the above, his request of June 24, 2024, must be declared inadmissible".

24. On 28 March 2025, the Appellant filed a claim based on Article 75 of the Swiss Civil Code (the "CC"). In the brief submitted to the Lausanne District Court, the Appellant stated as follows:

"*This action is based on Article 75 of the CC, which provides as follows … For actions based on Art. 75 CC, the action must be brought before the court with jurisdiction over the registered office of the defendant association* […]"

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

25. On 2 February 2025, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS") against the Respondent pursuant to Article 35.1 of the Integrity Code and Article R47 of the Code of Sports-Related Arbitration (the "CAS Code") in respect of the Appealed Decision. Together with the Statement of Appeal, the Appellant included a Request for Provisional Measures (the "First RPM"), in accordance with Article R37 of the CAS Code.

26. On 7 February 2025, the Respondent requested the CAS to "*terminate the procedure without delay because of the late Statement of Appeal and to remove the present proceedings from the CAS roll*".

27. On 11 February 2025, the Appellant filed his comments in response to the Respondent's request to terminate the proceedings (the "Brief on Admissibility").

28. On 12 February 2025, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division (the "Deputy President") "*has decided to leave it to the Panel, once constituted, to rule on the timeliness of the appeal*".

29. On 24 February 2025, the Respondent filed its Answer to the Appellant's First RPM, in accordance with Article R37 of the CAS Code.

30. On 3 March 2025, the Deputy President issued an Order on Provisional Measures (the "First OPM"), in which she denied the Appellant's First RPM.

31. On 4 March 2025, the Appellant filed his Appeal Brief pursuant to Article R51 of the CAS Code.

32. On 7 March 2025, the Respondent requested the bifurcation of the present procedure "*so that the Panel first considers the (lack of) timeliness of the appeal*".

33. On 10 March 2025, the Appellant filed a second Request for Provisional Measures (the "Second RPM"), in accordance with Article R37 of the CAS Code.

34. On 19 March 2025, the Respondent submitted its comments in response to the Second RPM, in accordance with Article R37 of the CAS Code.

35. On 20 March 2025, the Appellant sent an email to the CAS Court Office stating *inter alia* the following: "*In the current procedure, our position is that the Appealed Decision is null and void, implying no time limit for appeal. Consequently, the Panel, once constituted, would need to consider the merits to determine admissibility. Therefore, bifurcation is not appropriate*".

36. On 24 March 2025, the CAS Court Office informed the Parties that "[*i*]*t will be for the Panel, once constituted, to rule on the request for bifurcation upon receipt of the Respondent's position on the admissibility of the appeal and the Appellant's comments*".

37. On 25 March 2025, the Respondent filed its submissions on the (lack of) timeliness of the Appeal.

38. On 26 March 2025, the Appellant informed the CAS Court Office that he had set out his position on the admissibility of the appeal in his Statement of Appeal, Brief on Admissibility and the Appeal Brief and "*therefore does not consider it necessary to file any further arguments or submissions at this stage and will rely on those already submitted to CAS*".

39. On 1 April 2025, the CAS Court Office informed the Parties that the Panel appointed to adjudicate the matter would consist of Mr Mario Vigna as President, Mr Ulrich Haas, nominated by the Appellant, and Mr Markus Bösiger, nominated by the Respondent.

40. On 7 April 2025, the CAS Court Office informed the Parties that it will be for the Panel to rule on the Appellant's Second RPM and that "*[t]he Panel has decided to bifurcate the proceedings to address the admissibility of the appeal*" (the "Bifurcated Issue"). Accordingly, the CAS Court Office invited the Parties to indicate their preference as to "*whether they prefer a hearing to be held on the [Bifurcated Issue] or for the Panel to issue a (preliminary) award based solely on the Parties' written submissions*".

41. On 8 April 2025, the Appellant informed the CAS Court Office of his preference for the Panel to issue an award on the Bifurcated Issue based solely on the Parties' written submissions.

42. On 1 May 2025, the CAS Court Office informed the Parties that after considering the Parties' positions with respect to a hearing and pursuant to Article R57 of the CAS Code, the "… *Panel deems itself sufficiently well-informed to render a (preliminary)*

Award on the timeliness of the appeal based solely on the Parties' written submissions, without the need to hold a hearing".

43. On the same date, the Panel issued an Order on Provisional Measures (the "Second OPM"), whereby it denied the Appellant's Second RPM.

44. On 9 July 2025, pursuant to Article R44.3 of the CAS Code and on behalf of the Panel, the CAS Court Office invited the Appellant to file: (i) the authorisation to proceed ("*Klagebewilligung*" or "*autorisation de procéder*") which was delivered by the Lausanne District Court following the filing of his application for conciliation dated 24 June 2024; and (ii) evidence of subsequent legal action taken (if any) before the Swiss courts.

45. On 14 July 2025, the Appellant filed the authorisation to proceed ("*Klagebewilligung*" or "*autorisation de procéder*") issued by the Lausanne District Court on 11 December 2024; and the subsequent claim filed before the Lausanne District Court on 28 March 2025. As to this subsequent claim, the Respondent informed the Panel that it had not been notified of such application.

IV. SUBMISSIONS OF THE PARTIES ON THE BIFURCATED ISSUE

46. The following summary of the Parties' respective positions on the Bifurcated Issue is illustrative and does not necessarily comprise every argument advanced by the Parties. However, the Panel has carefully considered all of the submissions put forward by the Parties, regardless of whether they are explicitly referenced in the discussion below.

A. The Appellant

47. The Appellant, in his Appeal Brief, requested the following reliefs:

> "*1. Deal with this matter in an expedited manner and issue the operative part of the award prior to the reason as soon as practically possible.*
>
> *2. Declare that CAS has jurisdiction to hear the matter and that this appeal is admissible.*
>
> *3. Annul the AQIU's decision dated May 23, 2024, thereby revoking the recognition and worldwide extension of the [BSF Decision] against the Appellant.*
>
> *4. Rule that the two-year suspension and fine imposed on the Appellant shall not be given effect within WA or its member federations, except by the BSF – effectively lifting the Appellant's suspension for all competitions under WA's authority.*
>
> *5. Order that the Appellant be immediately eligible and reinstated to compete and participate in all aquatic events worldwide, except those under the BSF's authority (subject only to any separate sanctions that may be lawfully in place, if any).*
>
> *6. Rule that the underlying BSF sanctions (the three-year and two-year suspensions imposed in 2023-2024) shall not be recognised or given effect by WA.*

7. Grant any further or alternative relief the Panel deems just and appropriate.

8. Order the Respondent to bear all costs incurred in these proceedings.

9. Order the Respondent to pay the Appellant a contribution towards his legal and other costs, in an amount to be determined at the Panel's discretion."

48. The Appellant's submissions, in essence, may be summarised as follows:

(a) The Respondent's conduct induced the Appellant to file before the Lausanne District Court

- The Appealed Decision failed to specify the appropriate appellate body and applicable deadline, thereby violating procedural fairness:

  (i) the Respondent, as the drafter of WA's rules and author of the Appealed Decision, was in a position, and under a duty, to indicate the proper appeal route;

  (ii) a federation's decisions must be reasoned, clearly designated, properly notified to the parties, and include an indication of the legal remedy available (CAS 2004/A/659, para. 24);

  (iii) the principle of good faith requires that the failure to mention appeal instructions should not prejudice the procedural rights of the concerned parties. Classically, such informalities would lead to precluding an objection against an appeal based on the fact that it was filed past the normally applicable deadline (CAS 2004/A/659, para. 24). Furthermore, good faith, codified in Article 2 of the CC, permeates all aspects of Swiss law, including the enforcement of procedural deadlines;

  (iv) in view of the fact that many sports governing bodies include a "notice of appeal rights" paragraph, explicitly referencing the appellate body and deadline, the Appellant should not be prejudiced for initially filing with the Lausanne District Court.

- The WA's reply dated 6 June 2024 was ambiguous and unhelpful, as it merely quoted Article 35.2 of the Integrity Code without explicitly designating CAS as the sole avenue of appeal. The WA's reply did not explicitly state that the Appellant must appeal to CAS, nor did it refer to the World Aquatics Constitution (the "WA Constitution") appeal arbitration clauses. The Respondent, who could have answered with a 'yes' or 'no' – effectively induced a procedural error by failing to provide a clear answer when directly asked about the competent appeal body. This strategic ambiguity prevented the Appellant from knowing the correct procedural path and constituted a violation of the principle of good faith.

- The Appellant's decision to file the application before the Lausanne District Court was not the result of negligence or procedural oversight, but rather a reasoned legal determination based on the wording of the Integrity Code and the nature of the Appealed Decision. In particular:

(i) the Appealed Decision is not a disciplinary ruling concerning the violation of the Integrity Code, but rather an administrative act recognising and enforcing a national federation's sanction;

(ii) the Appealed Decision explicitly referenced Article 36.2 of its Integrity Code, which governs the recognition of external decisions, but it did not specify the appeal mechanism applicable to such recognition;

(iii) WA's response to the request for clarification was vague and ambiguous, and failed to indicate that CAS was the exclusive forum for appeal;

(iv) all the above factors led the Appellant and his legal counsel to form a *bona fide* and reasonable belief that a decision recognising and extending a national federation's sanction was subject to review by the Swiss civil courts rather than the CAS.

- Once the Appellant communicated his intention to bring the matter before the Swiss civil courts, WA did not object to this course of action. It neither clarified that the Appellant had misunderstood its communication nor stated that CAS was the exclusive forum. WA's current position is therefore contrary to the principle of *venire contra factum proprium* (and the related doctrine of estoppel by silence or acquiescence).

- The Appellant acted in good faith throughout. First, he saw fit to issue a challenge under Article 75 of the CC in the state courts as an appropriate and timely remedy. When the Lausanne District Court later ruled that it had no jurisdiction and directed the Appeal to CAS, the Appellant immediately redirected the Appeal to the CAS, showing his willingness to comply with procedural requirements in good faith. Additionally, no party has suffered prejudice due to the initial filing in Lausanne.

- Legal certainty, the right to be heard, and procedural fairness all support the admissibility of the Appeal. In particular:

(i) the Swiss Federal Tribunal (the "SFT") recognises that ambiguous procedural instructions must be interpreted in favour of access to justice. Under basic fairness principles, when one party causes or contributes to a misunderstanding about the procedure, the other party should be given the benefit of the doubt in resolving the consequences of that misunderstanding;

(ii) the very purpose of time limits is to ensure finality and to prevent respondents from facing stale claims without notice. Here, the Respondent received timely notice of the challenge (just via the court instead of CAS). Thus, the spirit and purpose of the deadline rule were fulfilled. The Respondent was not lulled into believing that the Appellant accepted the Appealed Decision or missed the deadline and legal certainty was maintained, as the matter was *sub judice* within the deadline;

(iii) procedural fairness owed to the Appellant outweighs any nominal inconvenience to the Respondent, which had to address the jurisdiction in

court before addressing the merits in CAS. That slight inconvenience is a direct result of the WA's unclear rules and vague response to the Appellant's inquiries. Such inconvenience is far outweighed by the injustice that would occur if the Appellant were denied a hearing altogether;

(iv) denying admissibility in this case would violate the principles of legal certainty and procedural fairness, as it would punish an athlete for a procedural error directly caused by WA's conduct.

(b) The Appeal should be considered timely under Article 63 of the CPC

- While the general rule is that compliance with Article R49 of the CAS Code is a prerequisite for admissibility absent extraordinary circumstances, the present dispute constitutes precisely the type of extraordinary circumstances in which Swiss law and CAS precedents recognise an exception to the strict deadline. In other words, an appeal may be considered timely even if the filing with CAS occurred outside the deadline, provided that the appellant initially lodged a valid action before another competent forum within the relevant time limit. This principle is reflected in Swiss procedural law, in particular Article 65 of the CPC), which explicitly protects parties who erroneously commence proceedings before an incorrect forum.

- Article 63 of the CPC applies to CAS proceedings in general:

  (i) CAS panels regularly refer to Swiss law for guidance on procedural matters not expressly governed by the CAS Code, provided such reference does not conflict with any specific CAS rule. This approach is warranted given that CAS is seated in Switzerland, and Swiss law, including the CPC and the Swiss Private International Law Act (the "PILA"), forms part of the framework governing CAS proceedings;

  (ii) Swiss law supplements the CAS Code on procedural issues where the CAS Code is silent or ambiguous (*ex multis*, CAS 2024/A/10290, para. 76; CAS 2023/O/10000, para. 66; CAS 2020/A/7373, para. 88; CAS 2019/A/6179, para. 84). According to legal doctrine, based on the principle of good faith, the rule contained in Article 63.1 of the CPC shall apply by analogy. The CAS has embraced the approach wherein the appeal was deemed admissible, even though the CAS filing came after the usual deadline (CAS 2008/A/1528 & 1546, para. 7.12). The SFT has also recognised CAS appeals as essentially equivalent to domestic Swiss association-law appeals (under Article 75 of the CC), which reinforces the fact that Swiss domestic procedural safeguards are relevant to CAS;

  (iii) the issue at hand – namely, the consequences of a mistakenly filed appeal in another forum – is not explicitly addressed in the CAS Code. Accordingly, the solution provided by Article 63.1 of the CPC should be applied by analogy. The underlying principle is that a federation's decision ought not to evade judicial review merely because the aggrieved party initially sought relief in an incorrect venue. In this respect, the scope of Article 63.1 of the

CPC extends beyond ordinary civil proceedings and includes appeals against decisions of an association (e.g. a sports federation);

(iv) far from overriding the CAS Code, an interpretation and application of Article R49 of the CAS Code that accords with Swiss procedural law would thereby promote harmony between the CAS procedure and fundamental legal principles.

- Article 63 of the CPC applies in this case:

(i) the Lausanne District Court declined jurisdiction over the Appeal, thereby rejecting the submission on jurisdictional grounds;

(ii) the Appellant promptly re-filed the appeal with CAS within one month of the Lausanne District Court's decision.

- Under Article 63 of the CPC, the legal consequence is that the original filing date before the Lausanne District Court should be deemed the commencement date for proceedings before the CAS.:

(i) the date of filing "relates back" to the original submission date, provided that the claimant/appellant resubmits the case to the proper forum within a short period thereafter (CAS 2008/A/1528 & 1546, para. 7.12);

(ii) a party might initially resort to state courts for legitimate reasons, including questions of jurisdiction, without being deemed to have evaded arbitration, provided they acted in good faith. Swiss law is clear that unless it is established that the appellant brought the challenge in the state courts solely in an attempt to cure his failure to meet the CAS time limit, or for any other abusive reason, the party must be given another opportunity to file the appeal, irrespective of whether the state court was seized within the time limit that would have been applicable before the CAS. Thus, even if an appellant had filed in the state court a few days outside the 21-day CAS window but still within the one-month deadline per Article 75 of the CC, Swiss law would still forgive that, provided the filing was within the state court's own deadline and not a bad-faith ploy;

(iii) by operation of the above principles, the appeal ought to be treated as if it had been filed on the date of the initial submission to the Lausanne District Court. The deadline was, in effect, suspended from that date.

(c) The Appealed Decision is null and void and, therefore, time limits do not apply

- It is a recognised principle under Swiss law that decisions tainted by a qualified breach of law or statutory provisions are not merely voidable but null and void *ab initio*. In other words, if the illegality is sufficiently grave, the impugned act is treated as having never produced legal effects.

- Swiss jurisprudence is unequivocal: a null and void act may be challenged at any time. The SFT clarified that, subject only to the doctrine of abuse of rights, nullity

may be invoked at any time and by any party, without being bound by any deadline, as the act is void *ipso jure* (SFT 5A_205/2013, consid. 4). Pursuant to Article 75 of the CC, the one-month time limit for challenging decisions applies exclusively to voidable resolutions. Where a decision is null and void, no such deadline applies (CAS 2010/A/2188, para. 80; CAS 98/185, para. 5). Moreover, given the fundamental nature of the right to be heard, any violation thereof results in the automatic nullification of the contested decision (SFT 142 III 360, consid. 4.1.4; SFT 133 III 235, consid. 5.3).

- According to the established case law of the SFT, a decision rendered by an association will be deemed null and void only where the defect is: (i) particularly serious (*i.e.,* it constitutes a fundamental infringement of law or internal regulations), (ii) manifest (it is obvious or readily ascertainable), and (iii) the recognition of nullity does not gravely endanger legal certainty (see SFT 145 III 436, consid. 4; SFT 144 IV 362, consid. 1.4.3). These criteria are clearly satisfied in the present case since:

  (i) the Appealed Decision is vitiated by gross procedural irregularities, namely a denial of any opportunity to be heard and the failure to provide notification of rights of appeal. These violations are so fundamental that they call into question the validity of the entire disciplinary process. Both CAS and the SFT have consistently recognised that a decision adopted in manifest breach of natural justice may be deemed null;

  (ii) the requirement of legal certainty is not compromised by acknowledging nullity. On the contrary, it is upheld, as recognising the void nature of the Appealed Decision ensures that only decisions adopted in conformity with basic procedural safeguards are enforced.

- Finally, it bears emphasis that a disciplinary process which deprives the individual of the most basic guarantees of due process cannot yield a valid decision. The proper remedy is the nullification of such a decision, with the possibility for the governing body to initiate a new and lawfully conducted process should it wish to pursue the matter.

B. The Respondent

49. The Respondent, in its Answer, requested the following reliefs:

> "*(i) Dismiss Appellant's appeal in proceedings CAS 2025/A/11161 in its entirety and confirm the Recognition of the Decision;*
>
> *(ii) Order Appellant to pay Respondent's legal costs and other expenses of at least CHF 25'000, considering inter alia the legal fees incurred in connection with Appellant's two request for provisional measures*."

50. The Respondent's submissions, in essence, may be summarised as follows:

(a) The Respondent did not act in bad faith and did not mislead the Appellant

- WA acted consistently in good faith, communicated promptly and clearly, and did not, at any point, mislead the Appellant regarding his procedural rights. This holds true for the WA's letter dated 6 June 2024, in which WA simply cited the unambiguous Article 35.1 of the Integrity Code;

- the WA Constitution, as well as the Integrity Code, unequivocally establish the exclusive jurisdiction of CAS, and clearly provide that any appeal shall be filed exclusively with CAS;

- the Respondent's position has also been recognised by the Lausanne District Court, which did not "direct the appeal to CAS" as incorrectly claimed by Appellant, but rather explicitly stated that the WA statutes and regulations: (i) are clear regarding the resolution of disputes; (ii) clearly recognise CAS as the exclusive authority for resolving all types of disputes; and (iii) expressly prohibit recourse to ordinary national courts. There are, therefore, certainly no "procedural ambiguities" whatsoever.

- In any event, the Appellant's assertion that WA did not specify CAS as the competent appellate body in the Appealed Decision cannot avail him. According to constant jurisprudence of the SFT, the Appellant should have carried out a minimum review of the legal remedies. Even in circumstances where information regarding the applicable legal remedy is incorrect (*quod non*), a party cannot benefit from such error if it failed to exercise the requisite level of diligence. In fact, it is incumbent on any party to familiarise itself with the relevant rules and regulations (SFT 5A_706/2018, consid. 3.1; SFT 141 III 270, consid. 3.3).

(b) The Appeal is filed well beyond the 21-day limit, which is non-extendable

- The Appeal was manifestly filed out of time, *i.e.* after the expiry of the 21-day deadline provided for under Articles 30.6 and 31.2 of the WA Constitution and Article 35 of the Integrity Code.

- The time limit to submit a Statement of Appeal is fixed, strictly non-extendable, and preclusive in nature. This is supported by the fact that this is the only deadline under the CAS Code that may be assessed *ex officio*, as provided by its Article R49. The time limit constitutes a "*Verwirkungsfrist*" (preclusion period) under Article 75 of the CC. Accordingly, it may neither be interrupted nor extended and must be enforced ex officio.

- Failure to comply with the applicable time limit results in the irrevocable loss of the right to challenge the decision (CAS 2016/A/4814, para. 65; CAS 2013/A/3135, para. 27). Once the time period for filing an appeal to CAS has expired, the decision becomes final and binding, and it is no longer possible to contest it before any state court (SFT 4A_488/2011, consid. 4.3.1)

- Strict adherence to the rules on time limits is of paramount importance to ensure equal treatment of the parties and to preserve the legal certainty of decisions

rendered by federations, associations or sports-related bodies (CAS 2020/A/7517, para. 86; CAS 2010/A/2315, para. 16).

- The SFT has held that requiring strict compliance with time limits for filing an appeal does not amount to excessive formalism. On the contrary, "*procedural rules are necessary for implementing legal remedies that guarantee proceedings can take place under the principle of equal treatment. In respect of this principle and legal certainty, strict adherence to the provisions governing the time limit for filing an appeal is thus obvious, without this requirement standing in contradiction with the prohibition of excessive formalism*" (SFT 4A_690/2016, consid. 4.2).

- Since the 21 days following the Appealed Decision expired on 13 June 2024, from that date the recognition of the BSF Decision became final, binding and *res judicata*. The *res judicata* effect applies not only to the Parties but to all members of WA; this is the *erga omnes* effect of a decision that must be protected.

- The Appellant's attempt to invoke Article 63 of the CPC to justify his late filing is misplaced and unfounded, as:

  (i) the CPC does not apply to appeals in relation to final decisions of associations;

  (ii) Article 63.1 of the CPC is a provision of Swiss domestic procedural law and does not apply to international arbitral proceedings; in fact, the CPC is not applicable to disputes regarding international matters (Articles 1 and 2 of the CPC). In such cases, the relevant law is Chapter 12 of the PILA, which governs international arbitration seated in Switzerland, where at least one of the parties did not have its domicile, its habitual residence or its seat in Switzerland (*in casu* the Appellant);

  (iii) Article 182 of the PILA applies, according to which the parties may determine the arbitral procedure by reference to arbitration rules, *i.e.* the CAS Code in the present case;

  (iv) the CAS Code clearly and unequivocally states that the time limit to submit the Statement of Appeal is fixed, non-extendable *stricto sensu*, and preclusive. This means that it must be observed *ex officio*.

(c) The Appealed Decision is not null and void

- The recognition of the Appealed Decision is not null and void, but was rendered in conformity with the WA's rules and regulations.

- The doctrine of nullity is reserved for exceptional and narrowly defined cases. In case of doubt, established jurisprudence and scholarly opinion consistently favour the concept of voidability rather than nullity, thereby preserving legal certainty and procedural order.

- As a consequence, once the deadline to appeal a decision rendered by a Swiss association has expired, any alleged violations of law or of the association's internal

statutes are deemed to be cured, and the contested decision becomes final and binding.

V. JURISDICTION

51. Article R47 of the CAS Code provides 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*".

52. The Appellant relies on Articles 30.6 and 31 of the WA Constitution as the relevant legal bases for the jurisdiction of the CAS. The Respondent similarly refers to Articles 30.6 and 31 of the WA Constitution, and additionally invokes Article 35 of the Integrity Code. These provisions read as follows:

> - Article 30.6 of the WA Constitution:
>
> "*Unless otherwise provided in this Constitution or in the [WA] Rules, a final decision of [WA] imposing a disciplinary sanction or measure can be appealed within twenty-one (21) Days from the date of the decision to the [CAS]. The recourse to other tribunals or courts is excluded. The CAS shall also have exclusive jurisdiction over interlocutory orders and interim measures and no other court or tribunal shall have authority to issue interlocutory orders or interim measures relating to matters before the CAS.*"
>
> - Article 31 of the WA Constitution:
>
> "*31.1 World Aquatics recognises the [CAS], with seat in Lausanne, Switzerland, as exclusive court to resolve any kind of disputes between [WA], [WA] Members, members of [WA] Members, Continental Organisations, National Aquatics bodies, Athletes, Officials and any person or organisation subject to this Constitution and/or any [WA] rule or regulation.*
>
> *31.2 Provided no internal legal remedy is available, any appeal against a final decision of [WA] shall be submitted to the exclusive jurisdiction of CAS within twenty-one (21) Days from the date of the decision being appealed. Unless otherwise specified in the applicable [WA] Rules, an appeal shall not have suspensive effect: subject to any other decision by CAS, the decision being appealed shall therefore remain in full force.* [WA] *is entitled to file an appeal to CAS against any final and binding decision of a body of* [WA].
>
> […]
>
> *31.5 Recourse to ordinary state courts is prohibited*."
>
> - Article 35 of the Integrity Code:

> "*Only final decisions of the Adjudicatory Body determining that an Integrity Code Violation has been committed may be appealed by any Party to the proceedings in question. Any such appeal shall be filed exclusively to the CAS*."

53. Although the Parties do not dispute the jurisdiction of the CAS in this matter, the Panel considers it appropriate and necessary to identify the specific provisions conferring such jurisdiction. Specifically, the Panel notes that the proper legal basis for CAS jurisdiction lies in Articles 30.6 and 31.2 of the WA Constitution. Article 35 of the Integrity Code, by contrast, governs appeals from final decisions of the Adjudicatory Body finding an Integrity Code Violation. Since the Appealed Decision is a recognition decision under Article 36.2 of the Integrity Code, and not a disciplinary decision of the Adjudicatory Body, Article 35 of the Integrity Code is not applicable in the present context (see *infra* paras. 79 to 88).

54. In light of the foregoing, the Panel is satisfied that the Appealed Decision is capable of being appealed before CAS pursuant to Articles 30.6 and 31.2 of the WA Constitution.

55. Accordingly, the Panel confirms that the CAS has jurisdiction to adjudicate this dispute.

VI. BIFURCATION

56. The Panel recalls that, on 7 March 2025, the Respondent requested the bifurcation of the present procedure in order to address the admissibility of the appeal (see *supra* para. 32). The Appellant commented said request in his email of 20 March 2025, where he stated that "*bifurcation is not appropriate*".

57. Thereafter, on 24 March 2025, the CAS Court Office informed the Parties that "[*i*]*t will be for the Panel, once constituted, to rule on the request for bifurcation upon receipt of the Respondent's position on the admissibility of the appeal and the Appellant's comments*". The request for bifurcation was then granted on 7 April 2025.

58. The CAS Code does not regulate the conditions under which a panel may bifurcate the proceedings (other than in case of jurisdiction). In the absence of any provision in the CAS Code and any agreement between the Parties in this respect, the Panel falls back on Article 182(2) of the PILA, which provides as follows:

> "*Where the parties have not determined the procedure, the arbitral tribunal shall determine it to the extent necessary, either directly or by reference to a law or to arbitration rules.*"

59. In doing so, the Panel draws inspiration from Article 125 of the CPC, which reads as follows:

> "*In order to simplify the proceedings, the court may, in particular:*
> *a. limit the proceedings to specific issues or claims;*
> *b. order the division of cases;*
> *c. order the joinder of cases;*
> *d. refer the counterclaim to separate proceedings.*"

60. According to this provision, a court may – in order to streamline and simplify the proceedings – limit the scope of the proceedings to specific issues or claims. The guiding principles for the exercise of this discretionary power are the proper administration of justice and procedural efficiency.

61. The Panel considers that it is in the interests of the proper administration of justice and procedural efficiency to rule and decide in this award first on the Bifurcated Issue *i.e.* the question of the admissibility of the appeal.

VII. ADMISSIBILITY

62. Article R49 of the 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. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document*".

63. The Appealed Decision was notified to the Appellant on 23 May 2024. The Appellant filed his Statement of Appeal on 2 February 2025, *i.e.* – as pointed out by the Respondent and acknowledged by the Appellant – significantly beyond the twenty-one (21) day time limit stipulated in Articles 30.6 and 31 of the WA Constitution (see *supra* paras. 9, 23 and 52.

64. In this context, the admissibility of the appeal has been contested by the Respondent. The Appellant, however, contends that the Appeal should nonetheless be considered admissible.

65. The Panel addresses the question of admissibility of the Appeal in detail in paras. 73 to 125 *infra*.

VIII. APPLICABLE LAW

66. The Panel observes that the Bifurcated Issue is a matter of admissibility (see *infra* para. 73) that is purely procedural.

67. In this respect, the Panel recalls that procedural issues are to be decided based on the relevant *lex arbitri*.

68. As the seat of the present arbitration is Switzerland and at least one of the Parties was domiciled outside Switzerland at the time when the relevant arbitration agreement is executed (Mr. Ivanov) reference must be made to Articles 176 *et seq.* of the PILA.

69. In particular, the Panel notes that, under Article 182(1) of the PILA, the parties may determine the arbitral procedure "*either themselves or by reference to arbitration rules*".

70. In this regard, Article 35.4 of the Integrity Code refers to the applicability of the provisions of the CAS Code ("*The appeal proceedings before CAS shall be conducted in English and the procedure will be governed by the procedural rules of the CAS [Code]*"). Moreover, by submitting themselves to the CAS, not contesting directly its jurisdiction, the Parties made an implicit agreement to accept the CAS Code as the applicable procedural rules (see CAS 2020/A/7605, para. 168).

71. Lastly, the Panel recalls that if certain aspects of the procedure are not addressed by the CAS Code, *i.e.* if there is a lacuna, the procedure must be determined, in accordance with Article 182(2) of the PILA (see *supra* para. 58) either directly or by reference to a law or to arbitration rules (see CAS 2019/A/6179, para. 84).

72. Accordingly, where necessary, the Panel can rely on Swiss law.

IX. PROCEDURAL ISSUES: LEGAL ANALYSIS OF THE BIFURCATED ISSUE

73. As a preliminary observation, the Panel notes that the question of whether the Appeal was filed in a timely manner constitutes a matter of admissibility, rather than jurisdiction (CAS 2023/A/9515, para. 44; CAS 2019/A/6294, para. 82; SFT 4A_406/2021; STACHER, Jurisdiction and Admissibility under Swiss Arbitration Law - the Relevance of the Distinction and a New Hope, in Bulletin ASA 2020/1 p. 67 s. et 73).

74. That said, in order to determine the admissibility issue, the Panel observes that there are several key dates which have been accepted or not disputed by the Parties (see *supra* paras. 9, 17, 23 and 25):

- 23 May 2024: the AQIU transmitted the Appealed Decision directly to Mr Ivanov by letter;
- 24 June 2024: the Appellant lodged an application before the Lausanne District Court;
- 21 January 2025: the Lausanne District Court dismissed the application on the grounds of lack of jurisdiction;
- 2 February 2025: the Appellant filed its Statement of Appeal with the CAS.

75. That said, the Panel notes that, pursuant to Articles 30.6 and 31.2 of the WA Constitution (see *supra* para. 52) read in conjunction with Article R49 of the CAS Code, the relevant *dies a quo* that triggers the 21-day deadline for filing an appeal is the "*date of the decision*". Accordingly, in the present case the deadline started to run on 23 May 2024 and expired on 13 June 2024. Since it is undisputed that the Appeal was lodged with the CAS well beyond the applicable deadline, the issue to be determined is whether the Appeal can nonetheless be considered admissible despite non-compliance with such a time limit.

76. In this regard, and in light of the arguments raised by the Parties, the main issues to be examined by the Panel are as follows:

- whether the Respondent acted in bad faith and/or misled the Appellant, such that an exception to the 21-day deadline should be granted pursuant to the principle of good faith;

- whether the Appeal may nonetheless be considered timely under Article 63 of the CPC;

- whether the Appealed Decision is null and void, in which case – according to the Appellant – any statutory time limit would be rendered irrelevant under Swiss law.

A. Whether the Respondent acted in bad faith and/or misled the Appellant in filing his application before the Lausanne District Court

77. The Appellant submits, *inter alia*, that the decision to initially seize the Swiss civil courts rather than the CAS stemmed from: (i) the Respondent's failure to specify the competent appeal body and relevant deadline in the Appealed Decision; (ii) the ambiguous and uninformative nature of WA's letter dated 6 June 2024, which did not explicitly confirm CAS as the sole appellate forum; and (iii) the Respondent's failure to object or clarify the matter upon being informed of the Appellant's intention to proceed before the Swiss civil courts.

78. The Respondent contests these assertions and submits, *inter alia*, that: (i) it acted transparently and referred to clear regulatory provisions designating the CAS as the exclusive appellate body, a conclusion later upheld by the Lausanne District Court; and (ii) in any event, parties have a duty of diligence to consult the relevant rules themselves. As established by the Swiss Federal Tribunal (the "SFT"), even incorrect information concerning legal remedies does not exempt a party from this obligation.

79. The Panel preliminarily observes that the Appealed Decision did not expressly indicate the procedural avenues available to the Appellant and that WA's letter dated 6 June 2024 actually referred to a possible appeal before the CAS, but under Article 35 of the Integrity Code. However, the Panel notes that said article is not the correct provision granting jurisdiction to the CAS. To elaborate, the Panel recalls Article 35 of the Integrity Code, along with the definitions of "Adjudicatory Body" and "Integrity Code Violation" under the Integrity Code:

(i) Article 35 of the Integrity Code:

"*Only final decisions of the Adjudicatory Body determining that an Integrity Code Violation has been committed may be appealed by any Party to the proceedings in question. Any such appeal shall be filed exclusively to the CAS*."

(emphasis added).

(ii) Adjudicatory Body

"*The independent adjudicatory body of the AQIU, established in accordance with Article 24 of the [WA] Constitution*."

(iii)Integrity Code Violation:

"*Where a Covered Person:*

- *Fails to comply with any of the requirements set out in this Integrity Code or;*

- *attempts or agrees with any other person to engage in conduct (whether by act or omission) that would culminate in a breach of any requirement of this Integrity Code (unless the Covered Person renounces their attempt or agreement prior to it being discovered by a third group not involved in the attempt or agreement);*

- *solicits, induces, instructs, persuades or encourages any person to engage in conduct (whether by act or omission) that would amount to a breach of any requirement of this Integrity Code if committed by the Covered Person themself; and/or*

- *authorises, causes, or knowingly assists, encourages, aids and abets, covers up, or is otherwise complicit in, any act or omission by any person that would amount to a breach of any requirement of this Integrity Code if committed by the Covered Person themself.*

[…]".

80. A plain reading of the above provisions confirms that although the AQIU is indeed an "Adjudicatory Body", its act of recognising and extending the BSF Decision does not amount to a determination of an "Integrity Code Violation". It follows that Article 35 of the Integrity Code does not govern the present matter. Rather, the AQIU acted pursuant to its powers under Article 36.2 of the Integrity Code to recognise and enforce a domestic disciplinary sanction at the international level (see *supra* para. 9).

81. Despite the above, the Panel also notes that Articles 30.6 and 31.2 of the WA Constitution unambiguously provide that the sole competent appeal authority against "*a final decision of World Aquatics*" is the CAS, and that the relevant deadline is 21 days from the date of the decision.

82. Therefore, regardless of the information provided in the Appealed Decision and in WA's letter of 6 June 2024, the Panel concludes that, in the absence of any other applicable provision establishing an internal legal remedy against such recognition decisions, Articles 30.6 and 31.2 of the WA Constitution clearly provide the proper route of appeal, namely to the CAS. These provisions state as follows:

- Article 30.6 of the WA Constitution:

"*Unless otherwise provided in this Constitution or in the [WA] Rules, a final decision of [WA] imposing a disciplinary sanction or measure can be appealed within twenty-one (21) Days from the date of the decision to the [CAS]. The recourse to other tribunals or courts is excluded. The CAS shall also have exclusive jurisdiction over interlocutory orders and interim measures and no other court or tribunal shall have authority to issue interlocutory orders or interim measures relating to matters before the CAS.*"

- Article 31.2 of the WA Constitution:

"*Provided no internal legal remedy is available, any appeal against a final decision of [WA] shall be submitted to the exclusive jurisdiction of CAS within twenty-one (21) Days from the date of the decision being appealed. Unless otherwise specified in the applicable [WA] Rules, an appeal shall not have suspensive effect: subject to any other decision by CAS, the decision being appealed shall therefore remain in full force. [WA] is entitled to file an appeal to CAS against any final and binding decision of a body of [WA].*"

(emphasis added).

83. Accordingly, although the Appealed Decision did not explicitly state the available legal remedy or deadline, the WA Constitution leaves no room for ambiguity in establishing the exclusive jurisdiction of the CAS and the applicable 21-day time limit. In any event, the mere omission of procedural guidance in the Appealed Decision does not suffice to infer that the Appellant was actively misled or that the Respondent acted in bad faith (see CAS 2016/A/4817, para. 96).

84. It is worth noting that the Lausanne District Court, in its judgment, confirmed the clarity of the relevant WA regulations in this respect, as it, *inter alia*, held that the WA regulations: (i) are unequivocal with respect to the resolution of disputes; (ii) clearly designate the CAS as the exclusive dispute resolution authority for all categories of disputes; and (iii) expressly exclude recourse to ordinary national courts (see *supra* para. 23).

85. Thus, the Panel considers that the lack of procedural guidance in the Appealed Decision does not excuse the Appellant's late filing and does not invalidate the time bar imposed by Article R49 of the CAS Code.

86. Moreover, turning to WA's reply dated 6 June 2024 (see *supra* para. 15), the Panel acknowledges that the response cited Article 35 of the Integrity Code, which is not applicable *in casu*. Furthermore, the letter did not respond to the question posed by the Athlete. On 5 June 2024, the Appellant inquired with the AQIU, whether the proper appeal route against the Appealed Decision was to the CAS. Instead of answering that question, the AQIU confirmed that it respected "*the necessary process*" prior of issuing he Appealed decision and that the Appellant's "*considerations [he] mentioned in … [his] email … appear to primarily refer to the decision(s) passed at national level and thus should be, or should have been discussed in the context of the appropriate national appeal avenue, if any*." Thus, the letter of the AQIU appears to be saying that there was, in practice, no appeal route open against the Appealed Decision.

87. The Panel acknowledges that the answer by the AQIU lacks clarity, but it is of the view that said answer did not mislead the Athlete, since it did not refer the latter to an appeal route in front of state courts.

88. In reaching this conclusion, the Panel also notes that Article 35 of the Integrity Code itself unequivocally states that an appeal must be lodged "*exclusively to the CAS*" (see *supra* para. 79). Neither the WA's letter dated 6 June 2024 nor Article 35 of the Integrity

Code contain any reference to Swiss civil courts. Furthermore, there is no evidence on record to suggest that the WA ever indicated, either explicitly or implicitly, that Swiss civil courts had jurisdiction. On the contrary, Articles 30.6 and 31.5 of the WA Constitution expressly exclude recourse to any other tribunal or ordinary state court (see *supra* para. 52). As a consequence, the Panel finds that the WA did not mislead the Appellant in any manner.

89. The Appellant also expressly acknowledged in his submissions that Article 35 of the Integrity Code was not applicable to the Appealed Decision. It was thus incumbent upon him to rely on the WA Constitution, which the Lausanne District Court ultimately applied in finding it lacked jurisdiction.

90. The Panel further recalls that, under established Swiss jurisprudence, a party cannot invoke incorrect information concerning legal remedies to its benefit if it failed to exercise the requisite standard of diligence. A party is under a duty to consult and interpret the applicable rules and regulations (SFT 5A_706/2018, consid. 3.1; SFT 141 III 270, consid. 3.3; SFT 138 I 49, consid. 8.3.2).

91. In addition, the Panel observes that under Swiss law, a heightened standard of diligence is expected from legal professionals. Lawyers are required, in all cases, to conduct a summary review of procedural guidance concerning legal remedies (SFT 135 III 374, consid. 1.2.2.2; SFT 134 I 199, consid. 1.3.1). Given that the Appellant is, and has been, represented by experienced legal counsel with specific expertise in sports arbitration, their conduct must be attributed to the Appellant (see HAAS, *The 'Time Limit for Appeal' in Arbitration Proceedings before the Court of Arbitration for Sport (CAS)*, SchiedsVZ 1/2011, pg. 14).

92. Moreover, the Panel is mindful that exceptions to the time limits prescribed under Article R49 of the CAS Code must be interpreted narrowly and restrictively. As a rule, the time limit for lodging an appeal is fixed, non-extendable and preclusive in nature (CAS 2016/A/4814, para. 65; ARROYO, *Arbitration in Switzerland – The Practitioner's Guide: Article R49 CAS Code* – RIGOZZI/HASLER, 2018, Wolters Kluwer, p. 1598). Whether the deadline is established by the CAS Code itself or by the underlying federation's rules, arbitral tribunals are not authorised to extend it, even on grounds of equity or good faith – save for truly exceptional circumstances (CAS 2020/A/7075, para. 77; SFT 101 II 86, consid. 2).

93. Finally, the Panel reiterates that the application of equitable principles such as proportionality or good faith cannot override the inadmissibility of a time-barred appeal (CAS 2013/A/3135, para. 28).

94. Such a strict interpretation of the 21-day time limit for the filing of the Statement of Appeal is reinforced by Article R32 of the CAS Code, which provides, *inter alia,* as follows:

> "*Upon application on justified grounds and after consultation with the other party (or parties), either the President of the Panel or, if she/he has not yet been appointed, the President of the relevant Division, may extend the time limits provided in these Procedural Rules, with the exception of the time limit for the filing*

of the statement of appeal, if the circumstances so warrant and provided that the initial time limit has not already expired. With the exception of the time limit for the statement of appeal, any request for a first extension of time of a maximum of ten days can be decided by the CAS Director General without consultation with the other party (-ies)".

(emphasis supplied)

95. In the case at hand, the Panel finds that the Appellant's decision to initiate proceedings before the Lausanne District Court cannot be attributed to any bad faith, misrepresentation, or procedural misconduct on the part of the Respondent. Consequently, such conduct does not justify an exception to the strict 21-day time limit for lodging an appeal under Article R49 of the CAS Code. In this respect, the Panel finds no breach of the principle of good faith, which applies equally to procedural matters, including in the context of international arbitration (see SFT 4A_600/2020 and SFT 4P.196/2003).

96. Likewise, the Panel does not find any other special circumstances that would justify any departure from the 21-day time limit under Article R49 of the CAS Code.

97. In light of the above, the Panel finds no basis for deviating from the narrow interpretation of the time limit under Article R49 of the CAS Code. If an appeal is not filed within the prescribed time, its inadmissibility is automatic. The Appellant's (in)action cannot override this result. The expiry of the deadline has a preclusive effect and must be assessed by the Panel based on the facts established by the parties. The Panel has no discretion to extend this deadline (CAS 2019/A/6241, para. 68; CAS 2016/A/4814, para. 65).

98. The consequence of non-compliance with the deadline is automatic and self-executing. The silence, inaction or even acquiescence of the Respondent does not alter this legal effect (CAS 2016/A/4814, para. 66; CAS 2006/A/1168, para. 43). Furthermore, the consequence is not merely the forfeiture of the right to appeal before the CAS, but the loss of the Appellant's substantive claim altogether (CAS 2020/A/7075, para. 77; CAS 2016/A/4814, para. 65; FUMAGALLI, *Review of CAS jurisprudence regarding jurisdiction and admissibility*, CAS Bulletin 2016/1, pg. 23).

99. Finally, and in any event, as established above, the Respondent has never suggested that the Swiss civil courts had jurisdiction (see *supra* paras. 86 and 87). Consequently, the doctrines of *venire contra factum proprium* and estoppel by silence of acquiescence are not applicable in the present case.

100. For all of the foregoing reasons, no breach of the duty of good faith is found in order to justify an exception to the strict time limit under Article R49 of the CAS Code.

B. Whether the Appeal should be considered admissible in light of Article 63 of the CPC

101. On the one hand, the Appellant argues that, while the general rule requires strict compliance with Article R49 of the CAS Code as a prerequisite for admissibility, the

present dispute constitutes precisely the type of exceptional circumstances in which Swiss law and CAS jurisprudence permit a derogation from the deadline. In particular, the Appellant submits that Article 63.1 of the CPC should be applied by analogy, given that the CAS Code does not expressly address this issue. Accordingly, the Appellant contends that the Appeal should be deemed to have been lodged on the date of the original filing before the Lausanne District Court, thereby suspending or tolling the applicable time limit as of that date.

102. On the other hand, the Respondent maintains that the time limit for filing a Statement of Appeal is non-extendable and, in any event: (i) the CPC is not applicable to appeals against final decisions of associations; and (ii) the CPC forms part of Swiss domestic procedural law and is inapplicable to disputes before international arbitral tribunals.

103. In essence, the question before the Panel is whether the timely filing of an appeal before an incompetent forum has the effect of suspending the running of the time limit, such that a new time limit would commence following the jurisdictional rejection by the said forum.

104. However, the Panel must first assess the threshold question of whether Article 63.1 of the CPC is applicable to the present dispute. Article 63.1 of the CPC provides as follows:

> "*If a submission that has been withdrawn or rejected due to lack of jurisdiction is filed again with the competent conciliation authority or court within one month of withdrawal or the declaration of non-admissibility, or if it is forwarded in accordance with Article 143 paragraph 1bis, the date of the first filing is deemed to be the date of pendency*".

105. As a general principle, arbitral tribunals seated in Switzerland are not required to apply the *lex fori* procedural rules (CAS 2019/A/6144 & 6145, para. 100; BERGER/KELLERHALS, *International and Domestic Arbitration in Switzerland*, 3rd edition, 2014, p. 643). The Panel notes, however, that the CAS Code does not contain any specific provision governing the reinstatement or suspension of time limits for filing an appeal. Consequently, in application of Article 182(2) of the PILA (see *supra* para. 72) CAS panels have, on occasion, looked to Swiss law – including the CPC – to resolve procedural *lacunae* or ambiguities (*ex multis*, CAS 2024/A/10290, para. 76; CAS 2023/O/10000, para. 66; CAS 2020/A/7373, para. 88; CAS 2019/A/6179, para. 84). That being said, although there is no uniform approach in the literature regarding the application of Article 63 CPC in international arbitration proceedings before the CAS, the CAS jurisprudence shows that, in a similar situation, a Panel has considered that if a party decides to proceed before a civil court first, the time limit for appeal to CAS cannot be reinstated later (CAS 2005/A/953). It shall be emphasised that, in such circumstances, nothing prevents an Appellant from filing at the same time an appeal before a civil court and before CAS to preserve its rights.

106. The underlying purpose of Article 63 of the CPC is to protect parties acting in good faith from suffering undue prejudice as a result of a procedural misstep of having chosen the wrong forum, thereby permitting reinstatement of the original filing date under certain conditions (CAS 2023/A/9515, para. 54). Swiss legal commentary supports the possibility of reinstatement of the appeal deadline under the principle of good faith,

provided that: (i) the failure to meet the time limit was not due to the fault of the party seeking reinstatement (*e.g.* due to misinformation from the decision-making body); and (ii) the re-filing occurred promptly after the obstacle ceased to exist (MAVROMATI/REEB, *The Code for the Court of Arbitration for Sport: Commentary, Cases and Materials*, 2nd ed. 2025, Wolters Kluwer, Art. R49 no. 18).

107. In addition, the Panel is aware that recent jurisprudence of the SFT may be interpreted as showing a certain reluctance to apply Article 63 of the CPC by analogy in an arbitral context. In SFT 4A_16/2023, consid. 5.3, the SFT held as follows:

> "*Et même si la doctrine fortement majoritaire reconnaît le caractère hybride de l'art. 63 CPC ... elle souligne aussi les lacunes et incertitudes causées par l'insertion d'une telle réglementation dans un code procédural destiné aux tribunaux internes. Dans un tel contexte, l'on ne saurait taxer d'arbitraire le refus d'appliquer par analogie l'art. 63 CPC au présent litige.*"
>
> Free translation: "And even if the strong majority of legal doctrine recognises the hybrid nature of Art. 63 CPC…, it also highlights the gaps and uncertainties caused by the insertion of such a regulation in a procedural code intended for domestic courts. In such a context, the refusal to apply Art. 63 CPC by analogy to the present dispute cannot be considered arbitrary."

108. That said, the Panel has duly considered the Appellant's argument that the procedural error, namely the filing of the action before a Swiss civil court rather than the CAS, could be remedied by analogy through the application of Article 63 of the CPC. While the Panel acknowledges that Article 63 of the CPC is a complex provision with a hybrid nature, in that it is a procedural rule containing elements of substantive law, as observed by the SFT (see SFT 4A_16/2023 of 8 November 2023), it does not consider it necessary, for the purposes of this case, to engage in abstract considerations regarding the theoretical applicability of this domestic rule to international arbitration governed by the PILA. Rather, the Panel finds that the matter can be resolved on practical grounds since – even assuming, *arguendo*, that Article 63.1 of the CPC could be applied by analogy – the appeal would still fall short of admissibility requirements.

109. When contemplating an analogous application of Article 63.1 of the CPC, the Panel is mindful of the strict nature of Article R32.2 of the CAS Code that does not foresee any extension of the time limit for appeal (Article R49 of the CAS Code). The provision provides for a strict expiry period ("*délai de péremption*") for the deadline to appeal in the interest of legal security, exceptions of which cannot be accepted lightly. Therefore, the Panel must be particularly cautious when applying Article 63.1 of the CPC by analogy to arbitration proceedings before the CAS. This is all the more true considering that Article 63.1 of the CPC is designed first and foremost for cases where the forum chosen by mistake and the correct forum are both before Swiss courts. The provision, thus, cannot be applied *verbatim* to a case where a party misinterpreted or misjudged the existence or validity of an arbitration agreement. Consequently, when assessing whether to apply Article 63.1 of the CPC by analogy, this Panel only takes into account the guiding principles of that provision and will not apply it in a literal manner.

110. In this regard, Article 63 of the CPC contains a number of cumulative conditions, as consistently developed in jurisprudence and doctrine (see, *inter alia*, SFT 145 III 428, consid. 3.5.2; SFT 141 III 481, consid. 3.2.2; KUKO ZPO-DROESE, 3rd ed. 2021, Art. 63, N. 14). A guiding principle contained in Article 63.1 of the CPC is that the initial filing before the wrong forum must have occurred as a result of a misjudgement that was neither tactical nor deliberate. In this respect, the Panel is not persuaded that the Appellant's conduct meets this threshold. Indeed, in the context of Article 63.1 of the CPC , a distinction must be drawn between a mere misjudgement – where a party mistakenly but sincerely chooses the wrong forum – and a strategic or intentional choice to seize the wrong forum (see SEILER, in SUTTER-SOMM/LÖTSCHER/LEUENBERGER/SEILER, ZPO, 3rd ed. 2025, Art. 63 N. 8; KUKO-ZPO/DROESE, 3rd ed. 2021, Art. 63 N. 1; SFT 5A_421/2012, consid. 2.2; SFT 4A_332/2015, consid. 4.4.2). Only in case of a genuine misjudgement a party is entitled to benefit from the safeguard set forth in Article 63.1 of the CPC.

111. When assessing the procedural chronology of the present case as a whole and the Appellant's conduct in light of the above guiding principles and procedural safeguards, it appears that the Appellant engaged in a calculated strategy when pursuing proceedings before the Swiss state courts. It appears that the Appellant thought that his chances of succeeding on provisional measures would be higher in front of state courts than before CAS. Article R37 of the CAS Code would have barred him from seeking provisional measures before state courts once a statement of appeal has been filed. The conclusion that the Appellant was rather guided by strategic aims than by mistake is reinforced by the fact that, even after initiating the present arbitral proceedings, the Appellant proceeded to file a substantive claim before the Lausanne District Court on 28 March 2025. Notably, that filing included a dedicated section on "*recevabilité*", in which the Appellant expressly asserted the jurisdiction of the Swiss civil court, thus confirming a continued reliance on that forum despite the parallel pendency of the present CAS proceedings. In the end, however, the Panel can leave this issue open.

112. A further guiding principle that can be deduced from Article 63.1 of the CPC is that the party that mistakenly initiated the proceeding before the wrong forum must file its claim before the correct forum promptly, in order to benefit from the effects of continuous *lis pendens*. Article 63.1 of the CPC, thus, contains a temporal element of paramount importance. This temporal requirement must be interpreted and applied even more strictly in a sporting context as the one at hand. Indeed, once a party realises, or ought reasonably to have realised, that the forum seized may be incorrect, such party must act without delay by submitting the claim before the competent forum within a short timeframe to preserve the original filing date. Considering that the deadlines in the CAS Code are, generally speaking, much shorter than in the CPC and taking into account the paramount importance of the deadline in Article R49 of the CAS Code, the Panel is of the view that the party in question must remedy its mistake without delay and, therefore, cannot exhaust the one-month deadline contained in Article 63.1 of the CPC designed for different purposes.

113. In the present case, the Panel does not consider that this condition of prompt corrective action was satisfied. More particularly, the Panel notes that the Appellant received the operative part of the Lausanne District Court's decision on provisional measures on 19 August 2024, which clearly indicated that his request was "inadmissible". An

unsuccessful conciliation hearing followed on 4 December 2024 – presumably involving discussions on jurisdiction –, and on 21 January 2025, the Appellant received the full reasoning of the above decision on provisional measures, expressly stating that the state court lacked jurisdiction and that the competent forum was the CAS.

114. Despite this sequence of events, the Appellant waited until 2 February 2025, *i.e.* more than 10 days later, to file a Statement of Appeal before the CAS. Notably, the decision being challenged had originally been issued on 23 May 2024. In the Panel's view, this delay in taking corrective action fails to meet the promptness requirement derived from Article 63 of the CPC, and does not merit protection under the narrow exception to Article R32.2 of the CAS Code. This is all the more true, considering that the threshold for filing a statement of appeal (within the meaning of Article R48 of the CAS Code) is low. In practice, a Statement of Appeal with which an arbitration proceedings becomes pending is a very brief document (MAVROMATI/REEB, *The Code for the Court of Arbitration for Sport: Commentary, Cases and Materials*, 2nd ed. 2025, Wolters Kluwer, Art. R48 no. 7).

115. Furthermore, the Panel notes from the exchange of correspondence between the Parties that the Appellant was aware of the possibility that the appropriate forum for appeal was the CAS. Consequently, it would have been entirely feasible and also appropriate for the Appellant to immediately file a Statement of Appeal and, subsequently request a stay of proceedings once he became aware that CAS could be the appropriate forum. This precautionary measure would not have prevented the Appellant to further explore the potential jurisdiction of the civil courts. His failure to do so cannot now be invoked to justify the disregard of the clear and strict procedural deadline as set forth in Articles R32.2 and R49 of the CAS Code.

116. Finally, although not considering this factor decisive for its conclusion, the Panel notes that both the request for provisional measures and the request for conciliation were submitted to the Lausanne District Court on 24 June 2024, which is significantly later than the expiry of the 21-day deadline for appealing to the CAS. That deadline, triggered by notification of the Appealed Decision on 23 May 2024, expired on 13 June 2024. From that date onwards, the Appellant's right to appeal under Article R49 of the CAS Code lapsed and, in the Panel's view, based on the specific circumstances of the present case, the subsequent initiation of proceedings before the Lausanne District Court – and any alleged retroactive *lis pendens* arising therefrom – cannot serve to retroactively cure the inadmissibility of the appeal, *i.e.* by reinstating the time limit to file the statement of appeal under the general principle of good faith and the analogous application of Article 63.1 of the CPC.

117. To conclude, the deadline to file an appeal before the CAS is short and strict. In case of doubt regarding which forum (state court or arbitral tribunal) is competent to decide the dispute, the Panel is willing to contemplate an analogous application of Article 63.1 of the CPC. However, the Panel is of the view that in such context the temporal scope of said provision needs to be adapted. The Appellant must take corrective actions as soon as possible, where the arbitral avenue becomes a viable option. This follows from the strict nature of the deadline of appeal, the low threshold for filing a statement of appeal and the interests of all parties involved to speedily resolve sports-related disputes. To conclude otherwise would give rise to untenable results: it would allow a party who

failed to comply with the binding CAS deadline to revive its claim merely by engaging in state court litigation after the time limit had passed. This would fundamentally undermine the legal certainty and finality of decisions, create opportunities for forum shopping and procedural gamesmanship, and directly conflict with the principle of preclusion (*Verwirkungsfrist*) that is well established in Swiss arbitration law (see SFT 4A_690/2016, consid. 4).

118. In light of the foregoing considerations, the Panel concludes that the appeal was submitted out of time and must therefore be declared inadmissible.

C. Whether the time limits for the Appeal are inconsequential if the Appealed Decision is null and void

119. The Appellant submits that the Appealed Decision is vitiated by fundamental procedural irregularities and manifest breaches of applicable legal standards, which, taken together, render the decision not merely voidable, but null and void *ab initio*. Consequently, according to the Appellant, the time limit referred to in Article R49 of the Code (or its equivalent in the WA Constitution or the Integrity Code) does not apply.

120. Conversely, the Respondent maintains that the Appealed Decision was rendered in conformity with the applicable legal framework of WA, and that any procedural shortcomings do not rise to the level required to establish legal nullity. According to the Respondent, under Swiss law, the concept of nullity is reserved for rare and exceptional cases involving particularly egregious and manifest violations of mandatory legal provisions. In situations of doubt, decisions are presumed to be voidable, and not null, and any such defects are cured by the expiry of the applicable time limit. Accordingly, once the time limit to file an appeal has lapsed, the decision acquires binding force, regardless of the alleged flaws.

121. The Panel begins by noting that the question of whether a decision is null and void, or merely voidable, is a question of substance and pertains to the merits of the dispute. However, the resolution of that issue is not determinative for the procedural admissibility of an appeal under the CAS Code. This is because Article R49 of the CAS Code imposes a procedural threshold that applies irrespective of the substantive characterisation of the underlying decision. In particular, the 21-day deadline is a mandatory statutory time limit that the Parties accepted to abide by when selected the CAS as a *forum*. This position is firmly established in CAS jurisprudence, with which this Panel concurs (CAS 2016/A/4817, para. 100; CAS 2011/A/2360 & 2392).

122. In addition, the Panel refers to CAS 2011/A/2360 & 2392, where it was held (at paras. 52 *et seq.*) that Article R49 of the CAS Code is not confined to appeals against merely voidable decisions. The Panel in that case reasoned that:

> "*Contrary to the view held by the Appellants, the Panel finds that Article R49 of the CAS Code is not limited to appeals filed against 'annullable' decisions. First, nothing in the wording indicated such a limited scope of applicability of said provision. Second, in the Panel's opinion, the Appellants' argument that Article R49 of the CAS Code must be applied in light of Article 75 of the [CC] and the distinction made in that connection between 'null and void' decisions on the one*

hand and 'annullable' decisions on the other, simply cannot fit with what must have been the intention of the drafters of Article R49, since that provision is designed to apply to all parties appealing decisions to the CAS whatever the substantive law applicable to the dispute. In other words, subject to the parties being entitled to agree on a different time limit, Article R49 purports to place an admissibility threshold upon all appeals, without reference to the substantive law applicable to a dispute before CAS. […] *Therefore, the time limit for the commencement of claims set out in Article R49 of the CAS Code, being part of the procedural rules chosen by the parties to these arbitration proceedings, is applicable irrespective of the fact that other time limits may exist for filing appeals in front of State courts as provided for example by Article 75 of the [CC] as interpreted by Swiss law. Consequently, the substantive characterisation of the underlying decision as "null and void" or "challengeable" and the effect of such characterisation on the time limit set out in Article 75 of the SCC are irrelevant to the procedural admissibility of the claim under Article R49 of the CAS Code.*".

123. The Panel is mindful that, according to certain doctrinal and jurisprudential interpretations, Article R49 of the CAS Code may, in exceptional cases, be subject to derogation where the ground for nullity of the decision under appeal is of such gravity that it may raise concerns of incompatibility with fundamental principles of public policy. That said, even if such a possibility were to be entertained in theory, the Panel sees no basis, on the facts of this case, to conclude that the Appealed Decision rises to a level of seriousness capable of engaging such considerations.

124. In conclusion, the Appeal was belatedly filed and, therefore, cannot be entertained.

125. In view of the above conclusion, it is unnecessary for the Panel to address the other prayers for relief and ancillary requests made by the Parties. All other or further claims or requests are hereby dismissed.

X. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed on 2 February 2025 by Mr Antani Ivanov against the decision rendered on 23 May 2024 by the World Aquatics Integrity Unit is inadmissible.

2. (…).

3. (…).

Seat of arbitration: Lausanne, Switzerland

Date: 29 August 2025

THE COURT OF ARBITRATION FOR SPORT

Mario Vigna
President of the Panel

Ulrich Haas
Arbitrator

Markus Bösiger
Arbitrator