

CAS 2024/A/10617 Mi-Reu Kang v. World Taekwondo & Oumaima El Bouchti & Moroccan National Olympic Committee & Federation Royale Marocaine de Taekwondo

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Prof. Luigi Fumagalli, Professor and Attorney-at-Law, Milan, Italy
Arbitrators: Ms. Sarah Grimmer, Solicitor, Singapore, Singapore
Mr. Dolf Segaar, Attorney-at-Law, Loosdrecht, the Netherlands
Ad hoc Clerk: Ms. Giulia Vigna, Attorney-at-Law, Rome, Italy

in the arbitration between

Mi-Reu Kang, Republic of Korea

Represented by Messrs. James Morrison, Seokchun Yun, Micael Totaro, Dongsuk Shin and Ms. Célia Guignet, Attorneys-at-Law at Peter & Kim, Seoul, Republic of Korea, Sydney, Australia and Geneva, Switzerland

Appellant

and

World Taekwondo, Republic of Korea

Represented by Mr. Olivier Ducrey, Attorney-at-Law at Times Attorneys, Lausanne, Switzerland

First Respondent

Oumaima El Bouchti, Morocco

Second Respondent

Moroccan National Olympic Committee, Morocco

Third Respondent

Federation Royale Marocaine de Taekwondo, Morocco

Fourth Respondent

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I. PARTIES

1. Ms. Mi-Reu Kang (“Appellant” or “Ms. Kang”) is a South Korean taekwondo athlete, born on 16 February 2002, currently competing in the W-49kg Olympic Weight Category. The Appellant is a member of the Korea Taekwondo Association (“KTA”), which in turn is affiliated to World Taekwondo.
2. World Taekwondo (“WT” or “the First Respondent”) is the Olympic Committee-recognised international sports federation for the sport of taekwondo, headquartered in Seoul, Republic of Korea.
3. Ms. Oumaima El Bouchti (“Second Respondent” or “Ms. El Bouchti”) is a Moroccan taekwondo athlete, born on 7 October 2000.
4. The Moroccan National Olympic Committee (“Third Respondent” or “MNOCC”) serves as the National Olympic Committee in Morocco.
5. The Federation Royale Marocaine de Taekwondo (“Fourth Respondent” or “FRMT”) serves as the National Federation of Taekwondo in Morocco and is affiliated to WT.
6. All the above Parties will collectively be referred to as the “Parties”.
7. The First Respondent, the Second Respondent, the Third Respondent and the Fourth Respondent are jointly the “Respondents”.

II. FACTUAL BACKGROUND

8. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced at the remote hearing on 28 June 2024. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in these proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.
9. On 2 January 2024, WT sent a letter to all WT member associations stating in particular the following (bold in the original):

“SELECTION OF OLYMPIC WEIGHT CATEGORY FOR 2024, SUBMISSION DEADLINE 25 JANUARY 2024

[...]

As you are aware at the start of each year the Olympic Weight Category selection window

*opens as detailed in Article 1.3.1 of the WT Ranking Bylaw, the choice of the Olympic Weight Category can be determined for a period of one year from January 1st to December 31st, every year during a onetime window of **January 1st to 25th**. This window for 2024 is open. During this 25-day window the **MNA only**, can submit a list of athletes and their choice of Olympic Weight Category. You are requested to review Article 1.3 of the WT Ranking Bylaw to better understand the importance of selection of an Olympic weight category. All senior Kyorugi athletes are encouraged to select an Olympic weight category.*

[...] Please ensure that the completed spreadsheet is provided to my colleague Mr. Kabir Kar by January 25th, 2024, after this date no requests will be accepted and there will be no changes of Olympic weight category allowed until the Olympic weight category selection period in January 2025.”

10. On 6 January 2024, pursuant to Section G of the WT “Qualification System – Games of the XXXIII Olympiad – Paris 2024” (“OQS”), the WT Olympic Ranking for all the Olympic Weight Categories (“OWC”) was released (“6 January Ranking”). The 6 January Ranking for the W-49kg OWC read, in particular, as follows:
 - 8th: Ms. Oumaima El Bouchti (Morocco);
 - 9th: Ms. Mi-Reu Kang (Republic of Korea).
11. On 11 January 2024, based on the 6 January Ranking, WT confirmed in writing to the National Olympic Committees (NOCs) the quota places for participation in the Games of the XXXIII Olympiad – Paris 2024 (the “Paris Olympic Games”) obtained pursuant to Section D.1 of the OQS. Neither Ms. Kang nor Ms. El Bouchti obtained a quota place for their country.
12. On 12 January 2024, in compliance with Article 1 para. 3.1 of the WT Ranking Bylaw, Ms. El Bouchti requested a change of OWC from W-49kg to W-57kg.
13. As a result of Ms. El Bouchti’s change of OWC, she was transferred to the W-57kg WT Olympic Ranking, thereby leading to Ms. Kang being upgraded to the 8th place in the W-49kg WT Olympic Category. The Appellant and the First Respondent disagree as to the point in time at which said change in the rankings was supposed to take place in compliance with the applicable rules.
14. On 6 April 2024, the Oceania Qualification Tournament took place in Honiara (Solomon Islands). The Oceania Qualification Tournament was one of the five Continental Qualification Tournaments through which athletes could obtain a quota place for the Paris Olympic Games under Section D.1 of the OQS.
15. On 19 April 2024, the Australian Olympic Committee sent a letter to WT, accepting the quota places for “W-57kg...M-58kg M-80kg” offered by WT for the Paris Olympic Games in a letter of 11 April 2024.

16. On 26 April 2024, WT sent a letter to the Korean Sport & Olympic Committee (“KSOC”), copying KTA, communicating the following (bold in the original):

“PARIS 2024 OLYMPIC GAMES – TAEKWONDO COMPETITIONS – CONFIRMATION OF QUALIFIED PLACES

[...]

During the qualification process, a quota place for the Women’s -49kg category was unfilled due to less than four athletes competing at the Oceania Qualification Tournament. According to the Qualification System for the Games of the XXXIII Olympiad – Paris 2024, we are pleased to confirm that this quota has been reallocated to your country

M-58		M-68		M-80		M+80	
W-49	*	W-57		W-67		W+67	

... Please note that the qualified places are awarded to your NOC, not to the individual athlete(s). [...]

17. On 29 April 2024, the Secretary General of the KSOC, Mr. Sungwook Yoon, accepted the quota reallocation to the KSOC.
18. On 30 April 2024, Mr. Mohamed Shaaban, WT’s Technical Delegate for the Paris Olympic Games, sent a WhatsApp message to Mr. Jaewook Lee, Senior Director of WT, stating in particular that “*the -49 seat should go to morroco not korea*” [sic].
19. On 2 May 2024, WT sent a further letter to the KSOC, copying the KTA, revoking the reallocation of the quota place to the KSOC and specifying the following (“Appealed Decision” – bold in the original):

“REVOCATION OF REALLOCATED QUOTA PLACE FOR THE OLYMPIC GAMES PARIS 2024

We are writing to address our previous communication dated April 26, 2024, regarding the reallocation of a quota place for the W-49kg category to the Korean Sport & Olympic Committee.

[...]

We are regretted to inform you that we identified an unforeseen technical error occurred within our system after reallocation of this quota place to KSOC, resulting in inaccuracies in determining the qualified athlete for the W-49kg category. In the WT Olympic rankings released in January 2024, a Moroccan athlete was ranked 8th in W-49kg while the Korean athlete was ranked 9th. Subsequent to the January ranking release, the Moroccan athlete declared transfer her Olympic weight category from W-49kg to W-57kg, effective February 1, 2024. This change unexpectedly triggered a retrospective alteration in the athlete’s historical ranking from W-49kg to W-57kg, thereby leading to the system displaying the Korean athlete as ranked 8th when checking the January ranking in April for reallocation purposes.

In light of these unforeseen circumstances, we regret to inform you that we must revoke the decision on the reallocation of the quota place to your NOC.”

20. On the same date, WT sent a letter to the MNOC informing it of the reallocation in its favour of the quota place for the W-49kg competition at the Paris Olympic Games.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

21. On 23 May 2024, in accordance with Articles R47 and R48 of the 2023 edition of the CAS Code of Sport-related Arbitration (the “CAS Code”), Ms. Kang filed her Statement of Appeal against the Respondents with respect to the Appealed Decision.

22. In the Statement of Appeal, the Appellant:

- nominated Ms. Sarah Grimmer as arbitrator;
- named WT, Ms. El Bouchti, MNOC and FRMT as Respondents and mentioned KSOC and KTA as “*interested parties in the dispute that is the subject of this arbitration*”;
- requested that the matter be expedited and that a final award be issued before 8 July 2024;
- put forward a request for document production to the Respondents, as follows:
“*each of the Respondents, as relevant, is requested to produce to the Appellant by no later than 30 May 2024 copies of the following documents:*
(a) *any correspondence dated in January 2024 communicated between the Respondents regarding Ms EL BOUCHTI’s change of Olympic weight category;*
(b) *any correspondence dated from 1 January 2024 to 2 May 2024 communicated between any of the Respondents regarding the allocated quota to KSOC in the W-49kg Olympic weight category; and*
(c) *any correspondence between the First Respondent and the International Olympic Committee regarding the allocated quota to KSOC in the W-49kg Olympic weight category and/or the revocation of such allocated quota.*”

23. On 27 May 2024, the CAS Court Office communicated the Statement of Appeal to the Respondents and, due to the Appellant’s request to expedite the matter, proposed the following expedited procedural calendar:

- Filing of the Appeal Brief by 3 June 2024;
- Joint nomination of the Respondents’ arbitrator by 3 June 2024;
- Filing of the Respondents’ Answer by 14 June 2024;
- Hearing, if necessary, within ten (10) days from the receipt of the Answer; and

- Issuance of the operative part of the Arbitral Award within ten (10) days after the hearing or the Parties' written submissions, if possible.
24. On 28 May 2024, the Appellant confirmed her agreement to the expedited procedural calendar, specifying that the fourth and fifth steps of said calendar could be subject to amendment in consultation with the Parties.
 25. On 29 May 2024, the First Respondent informed the CAS Court Office of its agreement to the expedited procedural calendar.
 26. On 30 May 2024, the CAS Court Office informed the Parties that, due to the lack of any response from the Second, Third and Fourth Respondent, no agreement could be reached as to expediting the procedure under Article R52 para. 4 of the CAS Code. Therefore, it specified that no expedited procedure would be implemented. The CAS Court Office also requested the Respondents to comment on the Appellant's request for document production and/or produce the requested documents.
 27. On 31 May 2024, the Appellant sent an email to the CAS Court Office, reiterating the urgency of the matter and the need for a final award to be issued before 8 July 2024. The Appellant also informed the CAS Court Office that it had received an email from the Fourth Respondent in which the latter "*has made the surprising assertion that neither it nor the Third Respondent (MAROCCAN NATIONAL OLYMPIC COMMITTEE) nor the athlete (the Second Respondent, Ms EL BOUCHTI) are 'correct parties'*".
 28. On 3 June 2024, pursuant to Article R51 of the CAS Code, the Appellant submitted her Appeal Brief.
 29. On 5 June 2024, the First Respondent filed comments and documents to address the Appellant's request for production, reserving the right to produce further evidence at a later stage.
 30. On 10 June 2024, the First Respondent's counsel sent an email to the CAS Court Office, (i) noting that parallel arbitration proceedings between Australian Taekwondo Limited and WT were pending before a CAS sole arbitrator that could have an impact on the present case (the "Parallel CAS Proceedings") and (ii) proposing, "*to facilitate the process*", a calendar of the present arbitration and that the same sole arbitrator hearing the Parallel CAS Proceedings be appointed also in this case.
 31. On the same date, the Appellant informed the CAS Court Office that she (i) agreed with the First Respondent's suggested expedited procedural calendar, but (ii) opposed the request that the case be decided by a sole arbitrator.
 32. On 12 June 2024, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had appointed Mr. Dolf Segaar as an arbitrator in this

matter *in lieu* of the Respondents.

33. On 16 June 2024, the First Respondent informed the CAS Court Office that, in the context of the Appellant’s request for document production, it had no further document to be produced.
34. On 18 June 2024, in accordance with Article R55 of the CAS Code, the First Respondent filed its Answer. In its Answer, the First Respondent, in particular, reserved “*its right to call its expert, Mr. Kabir Kar, independent contractor working for WT Global Membership System, to testify on these technical elements described in the preceding paragraphs*”.
35. No answer was filed by the Second, Third and Fourth Respondent within the given time limit.
36. On 19 June 2024, in accordance with Articles R54 of the CAS Code, the CAS Court Office, on behalf of the Deputy President of the CAS Appeals Arbitration Division, informed the Parties that the Panel appointed to decide the matter would be constituted by Professor Luigi Fumagalli as President, Ms. Sarah Grimmer, nominated by the Appellant, and Mr. Dolf Segaar, designated by the Deputy President of the CAS Arbitration Division *in lieu* of the Respondents, and that Ms. Giulia Vigna had been appointed to serve as *ad hoc* Clerk.
37. On 20 June 2024, the Appellant and the First Respondent expressed their availability and preference for a virtual hearing to be held on 28 June 2024. No response on the matter was provided by the Second, Third and Fourth Respondent within the given time limit.
38. On 21 June 2024, the CAS Court Office informed the Parties that the hearing would be held on 28 June 2024 by video connection.
39. On 25 June 2024, the Appellant and the First Respondent communicated their respective list of hearing attendees. The list provided by the First Respondent included, in particular, “*Kabir Kar, Independent Contractor, Global Membership System*”.
40. On 26 June 2024, the KTA filed an *amicus curiae* brief in order “*to clarify certain factual instances stated in the Answer [of WT] and address some of the legal arguments raised by WT*”, enclosing four annexes, namely:
 - (i) a document drafted in Korean with an English translation, titled “*Taekwondo Athlete Mi-Reu Kang Dramatically Secures Ticket to Paris...Five Olympians Confirmed*” (“Annex 1 AC Brief”);
 - (ii) WT’s “*Standing Procedures for Taekwondo Competition at Olympic Games*” in force as of 12 May 2024 (“*Standing Procedures*” or “Annex 2 AC Brief”);
 - (iii) a document dated May 2024 drafted by WT and titled “*New Ranking System and Qualification for LA28*” (“Annex 3 AC Brief”);

(iv) WT’s “Qualification System – Games of the XXXII Olympiad – Tokyo 2020” (“Annex 4 AC Brief”).

41. On the same date, the Appellant sent a letter to the CAS Court Office objecting to Mr. Kar’s appearance at the hearing as an expert. In essence, the Appellant argued that the First Respondent had failed to state that it intended to call an expert in accordance with Article R55 of the CAS Code.

42. On 27 June 2024:

- the CAS Court Office issued, on behalf of the President of the Panel, an Order of Procedure, which was duly signed and returned by Ms, Kang and WT on the same day;
- the First Respondent sent two letters to the CAS Court Office providing, respectively, (i) its observations as to the *amicus curiae* brief filed by the KTA, requesting the dismissal thereof and (ii) its comments on the relevance of the expert testimony of Mr. Kar at the hearing;
- the Fourth Respondent sent an email to the CAS Court Office requesting whether it was possible “*for an employed [sic] from federation to attend the hearings for tomorrow*” and informing that “*Ms. El Bouchti will attend to the hearing session*”.

43. On 28 June 2024, a hearing was held by video-conference. The following persons were in attendance:

- the Panel, formed by Prof. Luigi Fumagalli, Ms. Sarah Grimmer and Mr. Dolf Segaar, assisted by the *ad hoc* Clerk Ms. Giulia Vigna and by the CAS Counsel Dr Björn Hessert;
- for the Appellant: Ms. Mi-Reu Kang and her counsel Ms. Célia Guignet and Messrs. James Morrison, Micael Totaro, Seokchun Yun and Dongsuk Shin;
- for the First Respondent: Messrs. Corbin Min, Justin Tenbeth, Jay Lee, Yooran Kim, and Kabir Kar and Ms. Claudia Cardenes, assisted by Mr. Olivier Ducrey and Ms. Josepha Nehring, counsel

(hereinafter, the Appellant and First Respondent will also collectively be referred to as the “Attending Parties”).

44. No one attended the hearing on behalf of the Second, Third and Fourth Respondent.

45. At the outset of the hearing, all Attending Parties confirmed that they had no objection as to the constitution and composition of the Panel. The Panel, then, informed the Attending Parties of its determinations as to some preliminary procedural matters:

- (i) Mr. Kar’s expert testimony: The Panel recalled that the First Respondent, in its Answer, merely reserved the possibility to call Mr. Kar as an expert at the hearing without

formally submitting an evidentiary request in this respect. Later on, Mr. Kar was announced among the hearing attendees. In this respect, the Panel observed that, pursuant to Article R55 of the CAS Code, experts, if any, shall be named within the Answer, which shall include an expert report and/or a summary of the subject of his/her testimony. The indication of an expert after said submission can take place only (a) with the agreement of the parties or (b) on the basis of exceptional circumstances, and none of said conditions was met in the present case. Although paras. 75-78 of the Answer filed by the First Respondent allowed to somewhat infer the area of Mr. Kar's testimony, the Panel found that Mr. Kar could not be formally admitted as an expert but, however, he could attend the hearing as part of WT's representatives team and make some declarations, in said capacity, limited to the topics mentioned in paras. 75-78 of the Answer;

- (ii) admissibility of the *amicus curiae* brief filed by KTA: The Panel noted the First Respondent's objections to the admission of the *amicus curiae* brief in the case file and, in particular, the argument that the KTA in the present case was an addressee of the Appealed Decision and thus could not be treated as an "objective third party". The Panel emphasised that the *amicus curiae* brief was going beyond what is normally expected from an entity that has no interest in the case and appeared as a sort of reply to the First Respondent's Answer. Furthermore, the Panel noted that the *amicus curiae* brief raised points concerning the factual aspects of the case that could and should have been brought beforehand during the course of the proceedings. Accordingly, the Panel declared the *amicus curiae* brief inadmissible.

46. Thereafter, after hearing the Attending Parties' comments in that respect, the Panel had an in-chamber meeting to discuss whether the Appellant, regardless of the inadmissibility of KTA's *amicus curiae* brief, could refer to the documents attached thereto absent the agreement of the other Parties. The Panel then communicated to the Attending Parties that it had decided upon the admissibility of the annexes to the *amicus curiae* brief, as follows:

- (i) Annex 1 AC Brief was excluded from the case file, as it was a mere press release and no exceptional circumstance applied for its admission under Article R56 para. 1 of the CAS Code;
- (ii) Annexes 2, 3 and 4 AC Brief were admitted into the case file. The Panel explained that, since they are WT's regulations (a) they could in any case be taken into account due to the *iura novit curia* principle and (b) they were not unknown to the First Respondent, therefore there was no issue concerning the latter's right to be heard.

47. The Attending Parties, then, made submissions in support of their respective cases. At the end of the hearing, finally, the Attending Parties confirmed their satisfaction with the manner in which the Panel had conducted the hearing and that their right to be heard had been fully respected.

48. After the hearing, the Appellant sent to the CAS Court Office a copy of the PowerPoint presentation it had shown during the hearing, “*for the Panel’s reference*”. The PowerPoint presentation raised no new arguments and, in any case, none of the other Parties raised any objection to it.
49. On 3 July 2024, the First Respondent sent an email to the CAS Court Office informing that the CAS had dismissed the appeal filed in the Parallel CAS Proceedings.

IV. SUBMISSIONS OF THE PARTIES

A. Appellant

50. In her Appeal Brief, Ms. Kang requested the CAS to:
- “(a) *DECLARE that Mi-Reu KANG is ranked 8th place in the January 2024 W-49kg WT Olympic Ranking;*
- (b) *ORDER that the Appealed Decision is set-aside in its entirety;*
- (c) *DIRECT that by no later than 7 July 2024, WT is to:*
- (i) *remove Oumaima EL BOUCHTI from the January 2024 W-49kg WT Olympic Ranking; and*
- (ii) *rank Mi-Reu KANG in 8th place of the January 2024 W-49kg WT Olympic Ranking;*
- (d) *DECLARE that the Quota Place in the W-49kg Olympic Weight Category is reallocated to KSOC;*
- (e) *DIRECT that by no later than 7 July 2024, WT is to:*
- (i) *revoke any reallocation of the Quota Place in the W-49kg Olympic Weight Category that has been made to any NOC, including MNOC, after the Appealed Decision; and*
- (ii) *reallocate the Quota Place in the W-49kg Olympic Weight Category to KSOC;*
- (f) *ORDER that the Respondents are, jointly and severally, to bear and pay the arbitration costs, including the legal fees and other expenses incurred by the Appellant in connection with these proceedings.”*
51. Ms. Kang’s submissions, in essence, may be summarized as follows:
- (i) Ms. Kang has standing to appeal:
- (a) although the Appealed Decision was addressed to the KSOC, Ms. Kang is an aggrieved party directly affected by it, since:
- due to the Appealed Decision, Ms. Kang’s position in the WT Olympic Ranking was downgraded from 8th to 9th; accordingly, the Appellant has a

- sporting interest in seeing her result restored and the correct ranking established by WT;
- the Appellant’s downgrading to 9th place entailed the reallocation of the quota place initially granted to the KSOC to the MNOC, thereby depriving Ms. Kang of the opportunity to participate in the Paris Olympic Games;
- (b) notwithstanding the fact that, according to the OQS, the quota to participate in the Paris Olympic Games is allocated to the NOCs, not to individual athletes, it is highly likely that the KSOC would allocate the quota to Ms. Kang, considering that:
- Ms. Kang is a high-ranked athlete within both WT and the KSOC;
 - The KSOC already stated that it plans “*to request the Korea Taekwondo Association to confirm the use of the quota and submit the athlete’s details, and reply with their response (whether the quota will be used and the nominated athlete*” and KTA, on the other hand, stated the following: “*if the W-49kg quota for the 2024 Paris Olympics is reallocated to Korea, we plan to allocate the quota to Kang Mi-Reu*”;
- (c) there is a clear sporting interest at stake, at least to ensure that WT establishes the correct ranking based on its rules.
- (ii) WT wrongfully applied the WT Ranking Bylaw and the OQS when ranking Ms. El Bouchti in 8th place in the W-49kg WT Olympic Ranking:
- (a) due to the functioning of the ranking system under the WT Ranking Bylaw, Ms. El Bouchti’s change of OWC from W-49kg to W-57kg on 12 January 2024 had retroactive effect from 1 January 2024 and caused the transferral of all her eligible point to said new OWC:
- in accordance with Article 1 paras. 1 and 2 of the WT Ranking Bylaw, the WT ranking system is formed of eight World Weight Categories (namely W-46kg, W-49kg, W-53 kg, W-57kg, W-62kg, W-67kg, W-73kg and W+73kg – “WWCs”) and four OWCs (W-49kg, W-57kg, W-67kg and W+67kg);
 - due to the fact that there are more WWCs than OWCs, Article 1 para. 2.1.2 of the WT Ranking Bylaw determines how to allocate points made in WWCs to the relevant OWCs, as follows:

<i>Women’s division</i>		
<i>World</i>	→	<i>Olympic</i>
<i>-46, -49, -53kg</i>	→	<i>-49kg</i>

-53, -57, -62kg	→	-57kg
-62, -67, -73kg	→	-67kg
-67, -73, +73kg	→	+67kg

- pursuant to Article 1 para. 2.1.1 of the WT Ranking Bylaw “*it is possible for an athlete to be ranked in several [WWCs]*” while, under Article 1 para. 2.1.2 of the WT Ranking Bylaw, “[*a*]n athlete shall be ranked in one (1) Olympic weight category following his/her selection”;
 - under Article 1 para. 3.1 of the WT Ranking Bylaw “[*t*]he choice of the Olympic Weight Category can be determined for a period of one year from January 1 to December 31 every year by the athlete during a time window from January 1 to 25” and according to Article 1 para. 3.4 of the WT Ranking Bylaw, when there is a change of OWC “*the points will be transferred only from the overlapping World Weight Category(s) to the newly selected Olympic Weight Category*”;
- (b) due to the functioning of the OQS, WT should not have referred to the WT Olympic Ranking of January 2024 when reallocating the quota to the MNOC:
- under Section F.1 of the OQS, “[*i*]f a quota place through a Continental Qualification Tournament is not filled up... It will be reallocated to the NOC of the next highest ranked eligible athlete in any continent in the same weight category based on the WT Olympic Ranking, respecting the maximum number of athletes per NOC specific in section B. Quota Places. The WT Olympic Ranking must reflect results including Grand Prix Final of December 2023” (emphasis added);
 - Section D.1 of the OQS on the allocation of quota places through the WT Olympic Ranking Pathway provides that said places will be obtained by the “*highest five (5) ranked athlete in each weight category on the WT Olympic Ranking which reflected result until Grand Prix Final of December 2023*” (emphasis added);
 - clearly, the difference between the system under Section D.1 of the OQS and Section F.1 of the OQS lies in the fact that the former only allows to consider the results obtained within December 2023, while the latter provides no such limitation; in this respect, the Appealed Decision, though issued in May 2024, unreasonably relied on the January 2024 WT Olympic Ranking for the purpose of allocating a quota under Section F.1 of the OQS;
- (c) in the present case, Ms. El Bouchti changed her OWC from W-49kg to W-57kg on 12 January 2024; as a consequence:
- the change was effective retroactively from 1 January 2024 and irrevocable

until 1 January 2025, so that all her points, if any, could only count for the W-57kg OWC;

- after the change, Ms. El Bouchti no longer had any points counting towards the W-49kg OWC and was removed from the W-49kg WT Olympic Ranking;
- there was no technical error, and the W-49kg WT Olympic Ranking released in January 2024 correctly showed Ms. Kang in 8th place.

B. First Respondent

52. In its Answer, WT requested the Panel:

- “(1) To confirm the decision issued by World Taekwondo;*
- (2) To dismiss all prayers for relief of the Appellant;*
- (3) In any case, to condemn the Appellant to pay any and all arbitration costs (administrative costs and fees) as well as a contribution towards Respondent’s legal costs.”*

53. WT’s submissions, in essence, may be summarized as follows:

- (i) Ms. Kang has no standing to appeal:
 - (a) the Appealed Decision was addressed to the KSOC, while Ms. Kang is not an addressee thereof;
 - (b) Ms. Kang does not have the requirements to have standing as a third party, as no such right is conferred to her under the WT regulations, which are silent on this matter;
 - (c) Ms. Kang is not directly affected by the Appealed Decision:
 - there is no confirmation that she would be selected by the KSOC to fill the quota place before the Appealed Decision was issued;
 - there was no downgrading of her ranking from 8th place to 9th place;
 - she did not qualify for the Paris Olympic Games through the “standard” qualification system and, accordingly, she does not hold a sporting interest in the appeal;
- (ii) an unforeseen technical error in the ranking computer program caused the quota to be allocated to the KSOC instead of the MNOC:
 - (a) Article 1 para. 3.1 of the WT Ranking Bylaw shall be interpreted in the sense that the one-year duration of the choice of OWC merely determines the timeframe during which events can be considered for the selected OWC; accordingly, a choice of OWC in January 2023 is reflected in the rankings from February 2023

to January 2024;

- (b) the change of OWC merely meant that, starting from 1 February 2024, Ms. El Bouchti only earned points in the W-57kg OWC with relevance for the new Olympic cycle leading to the Los Angeles Olympic Games in 2028;
- (c) in the 6 January Ranking, Ms. El Bouchti was correctly ranked in 8th place; the events after the release of the 6 January Ranking (including Ms. El Bouchti's change of OWC on 12 January 2024) are irrelevant to establish the WT Olympic Ranking for the purpose of the OQS; accordingly, the 6 January Ranking could not be affected by her change of OWC;
- (d) notwithstanding the above, a technical error caused a retrospective change of Ms. El Bouchti's results in her previous OWC and her wrongful removal from the W-49kg WT Olympic Ranking.

C. Second, Third and Fourth Respondent

54. The Second, Third and Fourth Respondent did not file any submission or request for relief regarding the desired outcome of the proceedings.

V. JURISDICTION

55. Article R47 para. 1 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”.

56. Article 10.1 of the WT Statutes (2023 edition) provides in particular as follows:

“10.1 Members or Individuals dealing with the WT or sharing in its activities shall recognize, accept and abide by the following: [...]

10.1.5 WT appeals, complaints and dispute resolution processes must be fully exhausted before taking any case to the Court of Arbitration for Sport (‘CAS’);

10.1.6 any appeal against decisions of the WT and its judicial bodies must be lodged in accordance with WT disciplinary actions and appeals procedures;

10.1.7 CAS as the only competent judicial authority external to the WT, to the exclusion of any ordinary court of law in respect of the WT and its governing documents, any civil judicial authority of any country and any other arbitration body; [...]”

57. Under Article 10.2.1 of the WT Statutes, the definition of “*Members or Individuals*” include those who “*participate as athlete in an event under the authority of WT*” thus, accordingly, Ms. Kang.
58. The Parties did not dispute the jurisdiction of the CAS. The Appellant and the First Respondent confirmed it by signing the Order of Procedure (see *supra* at para. 42).
59. It follows that CAS has jurisdiction to hear and adjudicate the dispute.

VI. ADMISSIBILITY

60. 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”.
61. The applicable WT Statutes and regulations do not specify the time limit to appeal against the decisions rendered by WT and/or its adjudicatory bodies. Accordingly, the 21-day time limit provided under Article R49 of the CAS Code shall apply.
62. The Appealed Decision was issued on 2 May 2024. Ms. Kang timely lodged her appeal on 23 May 2024, i.e. within the 21 days allotted under Article R49 of the CAS Code.
63. Moreover, the appeal complies with the requirements of Articles R47 and R48 of the CAS Code and no objections were raised by the Respondents.
64. It follows that Ms. Kang’s appeal is admissible.

VII. APPLICABLE LAW

65. Article R58 of the 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”.
66. Accordingly, the present dispute shall be decided in accordance with the applicable WT rules and regulations, as well as subsidiarily, absent any express choice of law by the Parties, the

law of the Republic of Korea as the law of the country in which WT is domiciled, cf. Article 1.3 of the WT Statutes.

VIII. MERITS

A. Appellant's standing to appeal

67. WT contends that Ms. Kang lacks standing to appeal the Appealed Decision, considering that she is not the addressee thereof and, in any case, she does not meet the requirements to have standing as a third party.
68. Ms. Kang, on the other hand, argues that she has standing to appeal as an aggrieved party that was directly affected by the Appealed Decision.
69. The Panel is mindful that, as confirmed by CAS jurisprudence, the CAS can only hear the dispute when an appellant has standing to appeal (see *ex multis* CAS 2014/A/3744-3766).
70. Accordingly, the Panel may consider whether or not to uphold Ms. Kang's appeal only after being satisfied that she has standing to appeal the Appealed Decision.
71. In this respect, the Panel recalls that, as per the longstanding jurisprudence of the CAS, standing to appeal is a – preliminary – matter that pertains to the merits of the case (see e.g. CAS 2022/A/8865-866-8867, CAS 2018/A/5888, CAS 2016/A/4787 and CAS 2012/A/2906).
72. As a first point, the Panel observes that standing to appeal often stems from the regulations of the sports body that issues the decision appealed against, which grant a right to appeal to a person or entity (as noted e.g. in CAS 2008/A/748).
73. In the present case, the First Respondent argues that the WT regulations are “silent” on the issue. The Appellant, on the other hand, relies on Article 10.2.1 of the WT Statutes (see *supra* at para. 57) to argue that she is a “Member” of WT allowed to appeal against the decisions issued by its sports adjudicating bodies. The Panel agrees that the aforementioned provision may read, together with Article 10.1 of the WT Statutes, as opening the way, from the point of view of jurisdiction, for Ms. Kang to file an appeal, as a “Member”, against decisions of WT's bodies, including, therefore, the Appealed Decision. Such provision, however, is not decisive to the issue of “standing”, which is a substantive condition to be satisfied by any appellant seeking a remedy from CAS.
74. In fact, the Panel points out that standing to sue (in this case, to appeal) pertains to a party's legal entitlement to appear before the CAS and it is formed of both a “formal” and a “substantive” element (see M. COCCIA, “*Court of Arbitration for Sport*” in Coccia/Colucci (eds.), *International Sports Justice*, SLPC, 2024, pp. 80-87):

- (i) the “formal” element (also known as *legitimatío ad causam*) requires the appellant to have a legal status entitling it to bring an action against the respondent; as stated in a previous CAS case: “*the Appellant has certainly standing to file an appeal against the Appealed Decision. In that decision, in fact, FIFA denied a right (to obtain the grounds of the FIFA DC’s Decision) that the Appellant invokes as pertaining to him. In other words, at stake in the Appealed Decision was the existence or not of a right of the current Appellant. The Appellant has the standing to challenge any determination in that respect*” (CAS 2021/A/8308 at para. 57). In other words, the appellant should “own” the right that they claim as affected by the decision;
- (ii) the “substantive” element (also known as “legal interest”) refers to the appellant having “*something at stake*” in the dispute; CAS precedents have referred to this aspect as the “aggrievement requirement”: “*Only an aggrieved party, having something at stake and thus a concrete interest in challenging a decision adopted by a sports body, may appeal to the CAS against that decision.... The... ‘aggrievement requirement’ is an essential element to determine the legal interest and the standing of a party to appeal before the CAS a sports body’s decision, because the duty assigned to a panel by the CAS Code rules governing the appeal arbitration procedure is that of solving an actual dispute and not that of delivering an advisory opinion to a party that has not been aggrieved by the appealed decision*” (CAS 2009/A/1880-1881 at paras. 29-30; see also CAS 2017/A/5160-5405). The Panel is also mindful that previous CAS cases have referred to legal interest as a “*sufficient interest in the matter being appealed*” so that the appellant shall prove that it has “*a tangible interest, of financial or sporting nature, at stake*” (CAS 2013/A/3140 at para. 8.3).

75. Against this background, the Panel must refer to the circumstances of the present case and determine whether the Appellant meets the formal and/or substantive requirement to be considered as having standing to appeal the Appealed Decision.

76. First, as per the aforementioned jurisprudence, the Panel must establish whether, in the present case, the Appellant is “invoking a right pertaining to her”.

77. The Panel, in particular, turns to the requests for relief filed by the Appellant (see *supra* at para. 50) and preliminary notes that the present case must be distinguished from those cases in which the National Olympic Committee of an athlete is involved, alongside the athlete, in the challenge of a decision of an international federation allocating a quota place; in fact, in this case, the KSOC is not a party to the proceedings, and Ms. Kang acted before the CAS on her own.

78. In this respect, the Panel first refers to the prayers for relief *sub* (b), (d) and (e) under which the CAS was requested to:

- “*ORDER that the Appealed Decision is set-aside in its entirety*” (request b);
- “*DECLARE that the Quota Place in the W-49kg Olympic Weight Category is*

reallocated to KSOC” (request d);

- *“DIRECT that by no later than 7 July 2024, WT is to (i) revoke any reallocation of the Quota Place in the W-49kg Olympic Weight Category that has been made to any NOC, including MNOC, after the Appealed Decision; and (ii) reallocate the Quota Place in the W-49kg Olympic Weight Category to KSOC” (request e).*

79. The Panel is of the view that the Appellant lacks *legitimatio ad causam* as to said requests, since she is clearly not claiming a right of her own.
80. In fact, request (b) concerns the Appealed Decision that, actually, was solely directed to the KSOC, while requests (d) and (e) concern the allocation of quotas (or revocation thereof) to the KSOC, a right that only pertains to the KSOC and that only the latter could exercise (but decided not to).
81. Nor could the Appealed Decision be directed at Ms. Kang, considering that it concerns the *“Revocation of reallocated quota place”* and that, according to Section B.4 of the OQS, *“Quota places are allocated to the NOC(s)”*, which can then discretionally select the athletes to fill said places. The same was confirmed in WT’s letter of 26 April 2024 (*“Please note that the qualified places are awarded to your NOC, not to the individual athlete(s)”* – see *supra* at para. 16).
82. Moreover, in any case, the Appellant cannot claim to have a “legal interest” with reference to those requests, as there is no direct interest in the outcome sought with those prayers for relief.
83. In fact, the Panel recalls that, as per CAS jurisprudence, an indirect interest is insufficient to establish a party’s standing to appeal considering that the relief sought *“does not have tangible and immediate direct consequences for them”* (CAS 2015/A/4343 at para. 116; see also CAS 2015/A/4289 and CAS 2020/A/7590-7591).
84. The Panel is also not satisfied that Ms. Kang has demonstrated sufficient grounds to create a direct interest in the outcome of said requests for relief. Notably, in the circumstances, the statements of the KTA and the KSOC, according to which Ms. Kang considered it highly likely that she would be allocated the quota, were merely hypothetical.
85. The Panel now turns to requests (a) and (c), under which the CAS was asked to:
- *“DECLARE that Mi-Reu KANG is ranked 8th place in the January 2024 W-49kg WT Olympic Ranking” (request a);*
 - *“DIRECT that by no later than 7 July 2024, WT is to (i) remove Oumaima EL BOUCHTI from the January 2024 W-49kg WT Olympic Ranking; (ii) rank Mi-Reu KANG in 8th place of the January 2024 W-49kg WT Olympic Ranking” (request c).*

86. The Panel notes that requests (a) and (c) are clearly directed at affecting the legal sphere of the Appellant and thus “pertain” to her right, thereby fulfilling the formal requirement of the standing to appeal.
87. That said, turning to the substantive aspect of the standing to appeal *i.e.* the Appellant’s legal interest, the Panel is of the view that Ms. Kang, while not being the direct addressee of the Appealed Decision, has a sufficiently direct interest in the outcome of the appeal.
88. In fact, the Panel is aware that a non-addressee of a decision can be considered as having standing to appeal as a third party, if it shows a “direct, personal and actual interest” in the case (as specified e.g. in CAS 2016/A/4924 & 4943 and in the CAS precedents quoted therein). In other words, “*the decision being challenged must affect the appellant directly, concretely, and with more intensity than others*” (CAS 2015/A/4289 at para. 134).
89. In the present case, those requests are aimed at rectifying an – allegedly – flawed application of WT rules in terms of rankings, which was caused by the Appealed Decision. Accordingly, the latter tangibly affected her and created a legal interest to appeal against it (see also CAS OG 22/007).
90. In light of the above, the Panel concludes that:
- the Appellant does not have standing to appeal with reference to requests (b), (d), (e), which are therefore rejected;
 - the Appellant has standing to appeal with reference to requests (a) and (c) (and (f) with reference to costs), which will therefore be analysed in the following sections.

B. Whether Ms. Kang can request that the “January 2024 W-49kg WT Olympic Ranking” be amended

91. In both her requests (a) and (c), the Appellant asks that she be ranked 8th in the “January 2024 W-49kg WT Olympic Ranking”.
92. The Panel notes that, according to the arguments offered by the Parties in their written submissions and at the hearing, based in particular on Article 9 of the WT Ranking Bylaw (“*the new ranking will be valid and published on the first day of the following month*”) and Section G of the OQS (Qualification Timeline, specifying the following: “*6 January 2024 – World Taekwondo Olympic Ranking published*”), the expression “January 2024 W-49kg WT Olympic Ranking” could refer to either one of the following:
- The ranking as of 1 January 2024 pursuant to Article 9 of the WT Ranking Bylaw, earned by the athletes on the basis of the results achieved until 31 December 2023 (“1 January Ranking”); or
 - The 6 January Ranking, published on 6 January 2024 pursuant to Section G of the OQS.

93. Accordingly, in the present case there would be two different WT Olympic Rankings referring to January 2024, following two different sets of rules, and whose amendments could potentially lead to very different results.

94. The Panel, however, points out that, with reference to either (i) the 1 January Ranking or (ii) the 6 January Ranking, the Appellant's requests (a) and (c) are to be dismissed, for the reasons laid down below.

a) As to the 1 January Ranking

95. The Appellant argues that there was no "*unforeseen technical error*", as mentioned in the Appealed Decision, that allegedly led to "*inaccuracies in determining the qualified athlete for the W-49kg category, in the WT Olympic rankings released in January 2024*", and "*unexpectedly*" triggered a retroactive amendment of Ms. El Bouchti's ranking.

96. In fact, according to Ms. Kang, following the correct application of the WT Ranking Bylaw, Ms. El Bouchti's change of OWC should have entailed her transferral to the W-57kg WT Olympic Ranking effective 1 January 2024, thereby leading to the 1 January Ranking (i) not mentioning Ms. El Bouchti and thus (ii) having Ms. Kang ranked in 8th place, as the situation was when, on 26 April 2024, the quota was allocated to the KSOC. Accordingly, the ranking computer program relied upon by WT (namely "Simply Compete", as clarified at the hearing) operated in the right way and no mistake was made when it retroactively amended the 1 January Ranking.

97. The Appellant, in particular, contends the following:

- an athlete can only be ranked in one WT Olympic Ranking at a time (see Article 1 para. 2.1.2 WT Ranking Bylaw: "*An athlete shall be ranked one (1) Olympic weight category following his/her selection*") and the choice of one OWC is determined for a period of one year starting each year on 1 January (see Article 1 para. 3.1 WT Ranking Bylaw: "*The choice of the Olympic Weight Category can be determined for a period of one year from January 1 to December 31 every year by the athlete during a time window from January 1 to 25*"). Accordingly, although Ms. El Bouchti made her choice on 12 January 2024, said choice was retroactively effective from 1 January 2024 onwards;
- a change in the OWC entails that all the (overlapping) points are transferred to the newly selected OWC (Article 1 para. 3.4 WT Ranking Bylaw: "*If athlete changes Olympic Weight Category, the points will be transferred only from the overlapping World Weight Category(s) to the newly selected Olympic Weight Category*") and, therefore, all the points in the previous 4-year Olympic cycle had to be transferred to the new WT Olympic Rankings, including the 1 January Ranking.

98. The Panel notes, however, that, as pointed out by WT and pursuant to Article 9 of the

WT Ranking Bylaw, “[t]he...*Olympic Ranking will be updated the last day of each month and the new ranking will be valid and published on the first day of the following month*”.

99. Therefore, Article 1 para. 3.1 of the WT Ranking Bylaw, according to which any amendment in OWC applies for the period of 1 January to 31 December of a given year, shall be applied in conjunction with Article 9 of the WT Ranking Bylaw, providing that any ranking in the new OWC is valid from the monthly ranking list that follows said amendment. Accordingly, Ms. El Bouchti’s choice of W-57kg OWC applied from 1 January 2024, but, at the same time, the W-57kg WT Olympic Ranking could include Ms El Bouchti only from 1 February 2024 onwards. That ranking did not affect her position in the W-49kg WT Olympic Ranking as of 1 January 2024, as the latter was based on results in competitions up to 31 December 2023.
100. In light of the above, there could not be any retroactive modification of the 1 January Ranking and WT was right in correcting the error caused by the “Simply Compete” system in this respect.

b) As to the 6 January Ranking

101. The 6 January Ranking was published before Ms. El Bouchti’s change of OWC and, accordingly, still reflected Ms. El Bouchti in the W-49kg WT Olympic Ranking (in 8th place, see *supra* at para. 10).
102. While, according to the Appellant, there should have been a retroactive amendment of all the W-49kg WT Olympic Rankings effective 1 January 2024, WT at the hearing specified that the 6 January Ranking, which was published pursuant to the OQS, could not be affected by any subsequent event, including by results of competitions taking place after 6 January 2024 and preceding the beginning of the Paris Olympic Games.
103. In this respect, the Panel has noted the functioning of the OQS and observes that the WT Olympic Rankings published on 6 January 2024 for each OWC pursuant to Section G of the OQS (and unaffected by subsequent results) are relevant for the purpose of Section D.1 of the OQS, under which “(1) *athlete per weight category can obtain a quota for their NOC through WT Olympic Ranking*” for the allocation of a total of 40 quota places (20 men, 20 women). The same provision specifies that said quota will be obtained by the five highest ranked athlete in each OWC as per the WT Olympic Ranking “*which reflected result until Grand Prix Final of December 2023*”. The Panel notes that the rationale behind the exclusion of the results of the Grand Prix Final is clearly that of avoiding a double counting, as the Grand Prix Final is one of the events granting additional quota places under Section D.1 of the OQS.

104. In fact, the confirmation of the quota places earned through the WT Olympic Ranking immediately follows the publication of the 6 January Ranking (confirmation that, pursuant to Section G of the OQS, took place on 11 January 2024).
105. The Panel would find it odd to consider, failing express indications to the contrary, that the reallocation of unused quota places pursuant to Section F of the OQS should take place on the basis of a different WT Olympic Ranking – *i.e.*, of an updated version of the 6 January Ranking following some athletes' changes of OWC. And chiefly so where Section F.1 of the OQS specifically underlines that the 6 January Ranking should be modified (only), in case a reallocation is needed, to take into account the results "*including*" the Grand Prix Final of December 2023. Clearly, if an additional modification was contemplated for other purposes under the OQS, said possibility would have to be expressly mentioned.
106. The Panel notes that, at the hearing, the Appellant sought to corroborate her argument that the 6 January Ranking could in fact be amended due to subsequent events, by referring to the Standing Procedures, *i.e.* the regulations that govern all aspects related to taekwondo at the Olympic Games including, for instance, the drawing of seeds, the tournament system, etc. Notably, the Appellant mentioned Article 4.2 of the Standing Procedures, according to which "[b]ased on the WT Olympic Ranking as of June 1, 2024, all ranked athletes will be seeded in the order of their ranks, while the rest of the athletes will be drawn randomly".
107. However, the Panel is of the view that said circumstance has no bearing on the 6 January Ranking. In fact, while the latter is relevant to establish the entries to the Paris Olympic Games, the WT Olympic Rankings mentioned in Article 4.2 of the Standing Procedures only impact the seeding of the athletes that, thanks to the qualification of their respective NOCs, were definitively selected to participate in the Games.
108. Accordingly, even assuming that Ms. El Bouchti's change of OWC could have any retroactive effect beginning from 1 January 2024 (*quod non*) this would have no impact on the 6 January Ranking and, therefore, no change could be made to that list.
109. In light of the above, the Appellant's requests directed at amending the "*January 2024 W-49kg WT Olympic Ranking*" must be dismissed.
110. All further or different motions or requests submitted by the Parties are rejected.

IX. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 23 May 2024 by Mi-Reu Kang against the decision issued on 2 May 2024 by World Taekwondo is dismissed.
2. The decision issued on 2 May 2024 by World Taekwondo is confirmed.
3. (...).
4. (...).
5. All other and further motions or requests for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Operative part of the Award notified on 5 July 2024

Date: 22 April 2025

THE COURT OF ARBITRATION FOR SPORT

Luigi Fumagalli
President of the Panel

Sarah Grimmer
Arbitrator

Dolf Segaar
Arbitrator

Giulia Vigna
Ad hoc Clerk