



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

COURT OF ARBITRATION FOR SPORT (CAS)

Ad Hoc Division – The XXV Olympic Winter Games in Milano-Cortina

CAS OG 26/01

sitting in the following composition:

Sole Arbitrator: Prof. Luigi Fumagalli, Professor and Attorney-at-Law in Milano, Italy

AWARD

in the arbitration between

Aleksandr Bolshunov

Represented by Ms. Anna Smirnova, Attorney-at-law at Monteneri Sports Law, Zurich, Switzerland.

(“**Applicant**”)

v.

International Ski and Snowboard Federation

Represented by Dr. Stephan Netzle, Netzle Legal, Uster, Switzerland

(“**Respondent**”)

I. PARTIES

1. The Applicant is Mr. Aleksandr Bolshunov (the “Applicant” or the “Athlete”), who is a cross-country skier from Russia.
2. The Respondent is the International Ski and Snowboard Federation (the “Respondent” or the “FIS”), which is the International Federation governing international skiing and snowboarding, including Alpine Skiing, Cross-Country Skiing, Ski Jumping, Nordic Combined, Freestyle Skiing and Snowboarding, recognized as such by the International Olympic Committee (the “IOC”), which is the organisation responsible for the Olympic movement, having its headquarters in Lausanne, Switzerland. One of its primary responsibilities is to organise, plan, oversee, and sanction the summer and winter Olympic Games, fulfilling the mission, role and responsibilities assigned by the Olympic Charter (the “OC”).

II. FACTS

3. The elements set out below are a summary of the main relevant facts as established by the Sole Arbitrator by way of a chronology on the basis of the submissions of the Parties. Additional facts may be set out, where relevant, in the legal considerations of the present award.
4. The dispute concerns a request made by the Athlete to FIS in order to be recognized eligible to be entered to the Milano-Cortina 2026 Olympic Winter Games (the “2026 OWG”) as an Individual Neutral Athlete (“AIN”) under the FIS Individual Neutral Athlete Policy (the “FIS AIN Policy”).
5. On 3 December 2025, the Athlete sent an email to FIS as follows:

“I am writing to formally apply for an Individual Neutral Athlete (AIN) status in accordance with the FIS Individual Neutral Athlete Policy in order to participate in FIS events, including qualification events for the Milano Cortina 2026 Olympic Winter Games.

Please provide me with all the information and documents necessary to proceed and inform me what steps are required on my part.”

6. On 4 December 2025, FIS transmitted by email to the Athlete “*the application form for AIN status, along with the FIS AIN Policy and the respective Annex 1*”, requesting him to complete them in all sections.
7. Annex 1 to the application form transmitted to the Athlete detailed the “*Conditions of Participation for Individual Neutral Athletes and their Support Personnel*”.
8. On 4 December 2025, the Athlete sent to FIS his “*Application Form for an Individual Neutral Athlete Status*”.
9. On 18 December 2025, FIS requested the Athlete to provide a copy of his passport. The Athlete duly complied with that request on the same date.
10. On 24 December 2025, the Respondent sent to the Applicant a letter as follows (the “Letter of 24 December 2025”):

"Following evaluation by an independent third party and the FIS Individual Neutral Athlete Eligibility Review Panel (AINERP), we regret to inform you that your application for Individual Neutral Athlete status has been declined.

Please note that the eligibility criteria set out in the FIS Individual Neutral Athlete Policy are thoroughly checked by an independent third party in the case of each applicant." (emphasis omitted)

11. On 20 January 2026, the Athlete's counsel wrote a letter to FIS as follows:

"Mr. Bolshunov has contacted us to inform that on 24 December 2025 he received a letter from the International Ski and Snowboard Federation, whereby he was informed that his "application for Individual Neutral Athlete status has been declined". Mr. Bolshunov provided us with a copy of your letter, dated 24 December 2025 [...].

The undersigned has noted that your letter of 24 December 2025 does not contain any reasons, factual findings, or legal grounds explaining the basis for the rejection, nor at least identifies any inclinations or alleged failures from the criteria set out in the FIS Individual Neutral Athlete Policy [...].

In this respect, you may appreciate that in the absence of such elements, the notification received by the Athlete appears purely discretionary and does not enable him to understand the rationale underlying such decision.

To the best of our knowledge, the Athlete has fully complied with all the requirements of the AIN Policy and has not committed any act or omission that would justify a rejection of his application.

Mr. Bolshunov is a top-level international athlete, with vast experience of competing at the highest sporting level, and the refusal of AIN status has serious and potentially irreversible consequences for his professional career.

In the absence of the valid reasoning supporting the rejection of his AIN application, the Athlete is objectively prevented from understanding your Decision and assessing it legally. Accordingly, the Athlete is not in a position to exercise his procedural rights in an effective manner. As a result, this inevitably raises serious concerns pertaining to the procedural fairness and due process, particularly given the gravity of the consequences at stake.

In light of the above, we hereby formally request that FIS provides without delay:

- *Specific provision of the AIN Policy that the Athlete has allegedly failed to fulfil;*
- *The factual elements relied upon in reaching the conclusion on the rejection of the AIN application of the Athlete.*

Given the urgency of the matter and the ongoing competitive season, we kindly request your response within 48 hours of receipt of this letter.

For the avoidance of doubt, this request is made without prejudice to the Athlete's right to seek further legal remedies, including recourse to courts and arbitration.

All rights of the Athlete are reserved herewith." (emphasis omitted)

12. On 22 January 2026, FIS in a letter to the Athlete's counsel (the "Letter of 22 January 2026"), answered as follows:

"As already set out in the AIN rejection letter dated 24 December 2025, Mr. Bolshunov has not met the strict neutrality criteria required under Annex 1 to the FIS Individual Neutral Athlete Policy [...].

The FIS, at its full discretion, has sole authority to determine whether the eligibility criteria

have been met, subject only to the final review of the IOC when it comes to participation in the Olympic Winter Games 2026 Milano Cortina. By its very nature, the FIS cannot disclose its sources. FIS also does not engage in discussions regarding the interpretation of the criteria and the assessment of individual applications by AINERP.

However, so that AIN-applicants, all other competitors and the public can trust that decisions regarding the admission and refusals of AIN applications are made correctly and without third party-influence, the FIS, guided by the IOC Principles to the Implementation of the Participation for Individual Neutral Athletes and their Support Personnel with a Russian or Belarusian Passport at the Olympic Winter Games Milano Cortina 2026, has established a solid and thorough evaluation procedure to review the compliance of eligibility criteria set out in the FIS Individual Neutral Athlete Policy, which consists in a thorough background check by an independent party and a separate assessment by the FIS AINERP. This administrative procedure is applied consistently and equally to all applicants. This procedure also applies for the exceptional participation in other FIS Events.”

III. THE CAS PROCEEDINGS

13. On 28 January 2026 at 13:42 (Milan time), the Applicant filed an Application with the CAS Ad Hoc Division against the Respondent to challenge the Letter of 24 December 2025 and the Letter of 22 January 2026. The Application contained also a request for provisional measures.
14. On 28 January 2026 at 15:05 (Milan time), the CAS Ad Hoc Division notified the Application to the Respondent.
15. On 28 January 2026 at 15:24 (Milan time), the CAS Ad Hoc Division notified the Parties of the composition of the Arbitral Tribunal:
Sole Arbitrator: Prof. Luigi Fumagalli, Professor and Attorney-at-Law in Milano, Italy
16. There were no objections to the appointment of the Sole Arbitrator.
17. On 28 January 2026 at 15:43 (Milan time), the Sole Arbitrator issued procedural directions granting the Respondent a deadline until 29 January 2026 at 10.00 am (Milan time) to file its reply to the Applicant's application, if deemed necessary, and reserving any decision whether to hold a hearing, pursuant to Article 15 lit. c para. 1 of the Arbitration Rules applicable to the CAS ad hoc division for the Olympic Games (the “CAS Ad Hoc Rules”), upon receipt of the Respondent's reply.
18. On 29 January 2026 at 9:45 (Milan time), the Respondent filed its Reply to the Application filed by the Athlete.
19. On 29 January 2026 at 11:54 (Milan time), the Parties were informed that the Sole Arbitrator deemed himself to be sufficiently informed and had therefore decided not to hold a hearing.

IV. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

20. The Parties' submissions and arguments shall only be referred to in the sections below if and when necessary, even though all such submissions and arguments have been considered.

A. The Applicant

a. *Applicant's Submissions*

21. The Applicant's submissions may be summarized as follows:

- i. the Letter of 24 December 2025 and the Letter of 22 January 2026 should be considered in conjunction as a final decision, constituting a final determination on the Athlete's application for AIN status, and producing an immediate legal effect, i.e. the exclusion of the Applicant from the 2026 OWG (the "Exclusion"). No explanation was provided in support of the Exclusion, and there is no other remedy available for the Applicant to protect his rights other than seek urgent review by the CAS Ad Hoc Division;
- ii. procedural violations were committed by the Respondent:
 - a. the Respondent failed to provide legal certainty and reasonable foreseeability in its actions. The principle of legal certainty requires that a decision affecting the Athlete's rights enable him to understand which legal rule or criterion has been applied, on what factual background the decision rests, and through what reasoning the deciding authority reaching its conclusion. In addition, it requires that decisions affecting the rights of athletes be sufficiently clear and reasoned, so that the addressee can understand the rule applied and the factual basis relied upon by the deciding body. Therefore, eligibility decisions affecting an athlete's participation in major sporting events must enable the athlete to clearly understand the criteria applied to his individual situation and the reasons why he is considered eligible or ineligible. In the present case, the Respondent's decisions fail to meet these minimum standards. The Applicant has been left in limbo, without any indication of the specific eligibility criteria allegedly not satisfied, and without any explanation as to the legal or factual grounds on which he is excluded from participation in a major sporting event. The Exclusion, expressed in purely conclusory terms and devoid of reasons, prevent the Applicant from understanding, verifying, or effectively challenging the Respondent's assessment, and are therefore incapable of meaningful review;
 - b. FIS exercised its discretion in an arbitrary and unjustified manner, having failed to state the reasons of the Exclusion, and thus violated the fundamental right of the Applicant to be heard and deprived him of any possibility of effective review. In particular, at no stage he was explained which elements of his application were considered decisive, or of any factual findings allegedly weighing against him, or of any interpretation of the applicable criteria that could justify the denial of AIN status. Consequently, the Athlete was never afforded an opportunity to comment on, rebut, or clarify the decisive elements underlying the Respondent's assessment. A system in which an athlete is excluded on the basis of undisclosed considerations,

while being expressly denied any explanation or clarification, amounts to an arbitrary exercise of regulatory power. Moreover, any information relied upon in the assessment process may be incorrect, incomplete, outdated, misleading, or taken out of context. Any such error, however inadvertent, directly and exclusively affects the Athlete, who under the Respondent's stated approach has no legal or procedural means to identify, challenge, or correct it. By refusing to engage in any discussion or explanation of its assessment, the Respondent effectively places the Athlete in a position of procedural helplessness, which cannot be reconciled with the requirements of legal certainty, due process, or effective review;

- iii. opaque and unreviewable eligibility decisions create a risk of discriminatory application, which the OC is designed to prevent. Within the Olympic framework, and in light of the Fundamental Principles of the OC, procedural transparency and reviewability are practical preconditions for the effective protection of athletes' rights. Where eligibility determinations are taken without disclosure of the applicable criteria, the factual basis relied upon, or the reasoning followed, the safeguards embedded in the system established under the auspices of the IOC and governed by the OC are deprived of any concrete effect. An athlete cannot be expected to comply with, or defend himself against, standards that are neither articulated nor explained. Moreover, the absence of reasons transforms the exercise of regulatory authority into one that is functionally immune from scrutiny, thereby creating a risk of arbitrariness that is incompatible with the OC's emphasis on fairness, equal treatment, and good governance. In the Olympic context, where exclusion from participation entails the loss of a unique and non-repeatable sporting opportunity, such opacity is particularly acute and cannot be justified by reference to administrative convenience or institutional discretion;
- iv. the conditions for the granting of a provisional measure staying the Exclusion are satisfied, as the Applicant would otherwise suffer irreparable harm, the success of his application is likely and his interests prevails over those of the Respondent.

b. Applicant's Requests for Relief

22. The Applicant requested the Sole Arbitrator:

- 1. *To declare this Application admissible;*
- 2. *To confirm the jurisdiction of the CAS Ad Hoc Division to hear the present dispute;*
- 3. *To set aside the Challenged Decisions;*
- 4. *To order the Respondent to recognise the Athlete as eligible to participate in the Olympic Games;*
- 5. *To order the Respondent to cover the Applicant's legal and other costs incurred in connection with the present proceedings;*
- 6. *To order the Respondent to cover the costs of these proceedings (if any) entirely;*

Alternatively, in the event points 1-6 are rejected:

- 7. *To declare this Application admissible;*
- 8. *To confirm the jurisdiction of the CAS Ad Hoc Division to hear the present dispute;*
- 9. *To set aside the Challenged Decisions;*

10. *To order the Respondent, as an interim and/or provisional measure, to stay the Challenged Decisions and to recognise the Athlete as eligible to participate in the Olympic Games pending a final determination on the merits;*
11. *To order the Respondent to cover the Applicant's legal and other costs incurred in connection with the present proceedings;*
12. *To order the Respondent to cover the costs of these proceedings (if any) entirely;*
Alternatively, and in any in the event points 1-12 above are rejected:
13. *To declare this Application admissible;*
14. *To confirm the jurisdiction of the CAS Ad Hoc Division to hear the present dispute;*
15. *To order the Respondent to immediately reconsider the Athlete's application for AIN status in full compliance with fundamental procedural guarantees, including:*
 - a) *the obligation to state clear and specific reasons;*
 - b) *the identification of the applicable criteria and standard of assessment;*
 - c) *the disclosure of the factual basis relied upon;*
16. *To stay the Challenged Decisions and recognize the Athlete eligible to participate in the Olympic Games pending the outcome of the procedure on the merits of the present matter;*
17. *To order the Respondent to cover the Applicant's legal and other costs incurred in connection with the present proceedings;*
18. *To order the Respondent to cover the costs of these proceedings (if any) entirely".*

B. The Respondent

a. Respondent's Submissions

23. The Respondent submits that the CAS AD Hoc Division has no jurisdiction *ratione temporis* to accept and hear the Applicant's case for the following reasons:
 - i. according to Article 1 of the CAS Ad Hoc Rules, for the Applicant to succeed, the dispute must have arisen during the 10 days preceding the Opening Ceremony for the 2026 OWG, scheduled for 6 February 2026. This means that the dispute must have arisen no sooner than 27 January 2026. However, the dispute between the Parties arose significantly earlier. The dispute in fact arose on 24 December 2025, when the FIS denied the Athlete's application for AIN status;
 - ii. the Letter of 22 January 2026 is not relevant for the determination of the jurisdiction *ratione temporis* of the CAS Ad Hoc Division, because the dispute had already arisen on 24 December 2025: the following correspondence simply illustrates the parties' disagreement or dispute, which existed already since 24 December 2025;
 - iii. if the Letter of 22 January 2026 were considered as the starting point of the dispute (*quod non!*), this date is also before the relevant date of 27 January 2026, which constitutes the starting date of the jurisdiction *ratione temporis* of the CAS Ad Hoc Division;
 - iv. the same conclusion would be reached assuming that the dispute arose on 20 January 2026, *i.e.* when the Applicant first protested against the FIS decision in the Letter of 24 December 2025.

b. Respondent's Requests for Relief

24. The Applicant requested the Sole Arbitrator:

1. *Not to accept the Application because of lack of jurisdiction.*
2. *Subsidiarily, and in case the Panel accepts jurisdiction of the CAS Ad Hoc Division, it shall dismiss the Application in its entirety to the extent that it is admissible.*
3. *To order the Applicants to pay a fair contribution towards the Respondent's legal costs to be determined by the Panel.*"

V. JURISDICTION AND ADMISSIBILITY

25. Rule 61 ["*Dispute Resolution*"] of the OC provides as follows:

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

26. Article 1 ["*Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)*"] of the CAS Ad Hoc Rules provides as follows:

"The purpose of the present Rules is to provide, in the interests of the athletes and of sport, for the resolution by arbitration of any disputes covered by Rule 61 of the Olympic Charter, insofar as they arise during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games.

In the case of a request for arbitration against a decision pronounced by the IOC, an NOC, an International Federation or an Organising Committee for the Olympic Games, the claimant must, before filing such request, have exhausted all the internal remedies available to him/her pursuant to the statutes or regulations of the sports body concerned, unless the time needed to exhaust the internal remedies would make the appeal to the CAS Ad Hoc Division ineffective."

27. The jurisdiction of the CAS Ad Hoc Division to hear the Applicant's case is disputed: on one hand, it is invoked by the Applicant, who submits that the CAS Ad Hoc Division is the only forum capable of providing timely and effective judicial protection; on the other hand, it is denied *ratione temporis* by the Respondent, which contends that the dispute arose well before the period mentioned at Article 1 of the CAS Ad Hoc Rules.

28. The Sole Arbitrator remarks that the Application filed by the Athlete gives rise to a number of issues pertaining to jurisdiction and admissibility. The Applicant is in fact challenging before this Sole Arbitrator, acting under the CAS Ad Hoc Rules, the Exclusion, and indicates that it resulted from the FIS final decision contained in the Letter of 24 December 2025 and in the Letter of 22 January 2026. As a result, the Application raises *inter alia* the following questions:

- i. are the Letter of 24 December 2025 and the Letter of 22 January 2026 to be considered a single decision?
- ii. if not, is an appeal with respect to each of the two letters individually admissible? and in that context:

- a. is an appeal against the Letter of 24 December 2025 still possible under the FIS Statutes? and
- b. is the Letter of 22 January 2026 an appealable decision?

29. The Sole Arbitrator finds that he has no jurisdiction *ratione temporis* to give an answer to those questions.

30. The Sole Arbitrator finds in fact that Article 1 of the CAS Ad Hoc Rules is clear. The CAS Ad Hoc Division for the 2026 OWG has been established to provide for the resolution by arbitration of any disputes covered by Rule 61 of the OC only insofar as they arise during the 2026 OWG or during a period of 10 days preceding the Opening Ceremony of the 2026 OWG. As a result, in order to fall within the jurisdiction *ratione temporis* of the CAS Ad Hoc Division, the dispute must have arisen at the latest on 27 January 2026, *i.e.* 10 days before the Opening Ceremony, which will take place on 6 February 2026.

31. The Sole Arbitrator holds that such condition is not satisfied in the present case:

- i. there is a dispute when there is a specific disagreement on a point of law or fact and one party's claim is positively opposed by the other;
- ii. the reference in Article 1 of the CAS Ad Hoc Rules to the moment in which the dispute "arises" gives relevance to its start, and not to its continuation or conclusion. The point was also noted in CAS OG 22/02 Andrei Makhnev, Artem Shuldiakov and the Russian Olympic Committee v. International Ski Federation (FIS);
- iii. the dispute between the Parties in this case concerns the Athlete's request to participate in the 2026 OWG as an AIN. This request was denied in the Letter of 24 December 2025. At that moment the dispute arose, because on that moment the diverging positions of the Parties were formalized. As a result, the dispute arose well before 27 January 2026;
- iv. the events which followed the Letter of 24 December 2025 are irrelevant and added nothing to the dispute, which remained the same: *i.e.*, an opposition between the Athlete's request to be admitted, and the FIS denial expressed in the Letter of 24 December 2025;
- v. even assuming (without conceding) (a) that a new dispute had arisen with regard to the Applicant's request to be provided with the grounds for his Exclusion, as submitted on 20 January 2026 and allegedly denied in the Letter of 22 January 2025, and (b) assuming that the Letter of 22 January 2025 contains an appealable decision (which the Sole Arbitrator doubts), the dispute arose in any case before 27 January 2026.

32. In view of the above, the Sole Arbitrator considers that the CAS Ad Hoc Division has no jurisdiction *ratione temporis* to hear the application filed by the Athlete, since the dispute between the Applicant and the Respondent arose before 27 January 2026, *i.e.* earlier than the starting date of the jurisdiction *ratione temporis* of the CAS Ad Hoc Division.

VI. CONCLUSION

33. In view of the above considerations, the CAS Ad Hoc Division has no jurisdiction *ratione temporis* to hear the Applicant's application filed on 28 January 2026, including his request for provisional measures.

VII. COSTS

34. According to Article 22 para. 1 of the CAS Ad Hoc Rules, the services of the CAS ad hoc Division "are free of charge".
35. According to Article 22 para. 2 of the CAS Ad Hoc Rules, parties to CAS ad hoc proceedings "shall pay their own costs of legal representation, experts, witnesses and interpreters".

DECISION

The Ad Hoc Division of the Court of Arbitration for Sport renders the following decision:

The CAS Ad Hoc Division established for Milano-Cortina 2026 Olympic Winter Games has no jurisdiction to hear the application and request for provisional measures filed by Mr Aleksandr Bolshunov on 28 January 2026.

Award with grounds: Milan, 29 January 2026

THE AD HOC DIVISION OF THE COURT OF ARBITRATION FOR SPORT



Luigi Fumagalli
Sole Arbitrator