



TAS / CAS

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

**COURT OF ARBITRATION FOR SPORT (CAS)
Ad Hoc Division – Games of the XXXIII Olympiad in Paris**

CAS OG 24/12 David Sánchez López v. Turkish Weightlifting Federation

sitting in the following composition:

Sole Arbitrator: Ms Kristen Thorsness, OLY

AWARD

in the arbitration between

David Sánchez López

("Applicant")

v.

Turkish Weightlifting Federation

("Respondent")

and

International Weightlifting Federation

(the "First Interested Party")

Comité Olímpico Nacional de España

(the "Second Interested Party")

International Olympic Committee

(the "Third Interested Party")

I. PARTIES

1. The Applicant is Mr. David Sánchez López (“Mr. López”), a Spanish weightlifting athlete. The Application was submitted in Mr. López’ name by Juan Lama Arenales, the Secretary General of the Spanish Weightlifting Federation (“SWF”).
2. The Respondent is the Turkish Weightlifting Federation (the “TWF”).
3. The First Interested Party is the International Weightlifting Federation (the “IWF”).
4. The Second Interested Party is the Spanish Olympic Committee.
5. The Third Interested Party is the International Olympic Committee (the “IOC”).

II. FACTS

A. Background Facts

6. 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.
7. Pursuant to the IWF’s 2024 Anti-Doping Rules (the “Rules”), the IWF has delegated its anti-doping sanctioning authority to an Independent Member Federations Sanctioning Panel (the “Independent Panel”) (Rules Art. 12.1).
8. On 6 May 2024, the TWF was notified that the Independent Panel had commenced disciplinary proceedings against it, arising from anti-doping violations (“ADRV”) by three Turkish weightlifting athletes that occurred in April and May of 2023. One violation was a whereabouts failure that resulted in a two-year period of ineligibility. The second was a prohibited substance violation caused by a contaminated supplement that resulted in a 22-month period of ineligibility. The third was a prohibited substance violation that resulted in a three-year period of ineligibility. The TWF was charged with violation of Article 12.3.2 of the Rules and Section C lit. b of the IWF Qualification System for the Games of the XXXIII Olympiad, Paris 2024 (the “OQS”).
9. Article 12.3.2 of the Rules provides that if three (3) or more ADRVs are committed by athletes or other persons affiliated with an IWF member federation within a 12 month period, the Independent Panel “*may ... a) impose Member Consequences on the Member Federation of a period of up to (4) years; and/or b) fine the Member Federation up to \$500,000 USD to be paid within 6 months from the receipt of the Independent Panel’s decision*”
10. Member Consequences “*may*” include “*exclusion of the Member Federation’s affiliated Athletes and Officials from participation in any IWF Events in any capacity or form whatsoever.... The specific contents, conditions and extent of the Member Consequences to be imposed in each case of a violation of Article 12 of these Anti-Doping Rules shall be determined by the Independent Panel at its discretion, taking into account the seriousness of the underlying anti-doping rule violations (for violations of*

Article 12.3.2 of these Anti-Doping Rules) and the gravity of the circumstances surrounding the case” (Rules Appendix 1, definitions; see also, Rules Art. 12.2, fn. 64).

11. Moreover, “*should two or more Athletes or other Persons affiliated to a Member Federation be found to have committed a violation of these Anti-Doping Rules giving rise to a period of Ineligibility of four years or more on the occasion of an edition of the Summer Olympic Games (including following further analyses of Samples), the Member Federation shall be automatically prevented from recommending, entering and/or proposing affiliated Athletes and other Persons for participation in the next ensuing Summer Olympic Games following the final decision imposing the (first two) relevant sanctions (and shall take all necessary measures to prevent such participation), without prejudice to any other sanction that may be imposed in accordance with these Anti-Doping Rules” (Rules Art. 12.3.3; see also, OQS, p. 4).*
12. According to the IWF’s Olympic Qualification System for the Paris Olympic Games, only athletes ranked in the top ten in the Olympic Qualification Ranking would be allocated an Olympic quota place. On 21 June 2024, the IWF published its Olympic Qualification Ranking lists for each weight class to be contested at the Paris Olympic Games. Mr. López was ranked eleventh in the 73kg class. One Turkish athlete was ranked in the top ten on that list.
13. On 5 July 2024, the Independent Panel issued its Final Decision (the “Decision”) and circulated it only to the involved parties.
14. On 8 July 2024, the weightlifting entries for the Paris Olympic Games were published and included a Turkish weightlifter in the 73kg weight class.
15. On 17 July 2024, the International Testing Agency issued a press release acknowledging and briefly summarizing the Independent Panel’s Decision.
16. On 22 July 2024, a summary of the grounds of the Decision was published on the IWF website.
17. On 29 July 2024, the Independent Panel’s Decision was posted on the IWF website.

III. THE GROUNDS OF THE APPEALED DECISION

18. Rather than attach the Independent Panel’s Decision, Mr. López submitted an article from the IWF website dated July 22, 2024, which states that the Independent Panel “recently” took several decisions. One of the decisions summarized in the article was the Independent Panel’s decision regarding the TWF at issue here.
19. The full Decision noted that the Independent Panel “*should take into account the degree of fault or negligence of the Member Federation*” (Rules Art. 12.2). Accordingly, the Independent Panel found that mitigating factors included:
 - a. The three ADRVs here were the minimum required to establish a breach of the Rules;

- b. The whereabouts failure violation arose in “*peculiar circumstances related to the repeated notifications of retirement and reentries in the [IWF’s Registered Testing Pool] by the athlete, whose recent career furthermore indicates a lack of participation in international and national events*”;
 - c. One of the prohibited substances violations resulted from a contaminated supplement without significant fault or negligence on the part of the athlete, and another “*is not entirely convincing in retrospect*”; and
 - d. It was not established that TWF’s Athlete Support Personnel were involved in the ADRVs.
20. The only aggravating factor the Independent Panel noted was the fact that one ADRV involved the presence of five prohibited substances, “*a significant violation indicating a serious breach of the Anti-Doping Rules*” (Decision, para. 44).
21. In light of these factors and the discretion it enjoys under Rules Art. 12.3.2, the Independent Panel “*deem[ed] it fair and proportionate’ to impose a fine of \$100,000 against the TWF for violation of Rules Art. 12.3.2*” (Decision, para. 45).
22. The Independent Panel found that the OQS’ requirement of automatic withdrawal of all quota places at the Paris Olympic Games was not applicable here, because the underlying violations did not involve periods of ineligibility of four years or more. It further found that, in light of the mitigating factors set out above, “*it would be disproportionate to order the withdrawal of the single Olympic quota place earned by Turkish weightlifters*” (Decision, paras. 46-49).

IV. THE CAS PROCEEDINGS

23. On 2 August 2024 at 8h30 (Paris time), the Applicant filed an Application with the CAS Ad hoc Division against the Respondent with respect to the Decision.
24. On 2 August 2024 at 11h30 (Paris time), the CAS Ad hoc Division notified the Application to the Respondent and invited the latter to file its Answer by 2 August 2024 at 16h00 (Paris time).
25. On 3 August 2024 at 15h58 (Paris time), the CAS Ad hoc Division notified the Parties of the composition of the Arbitral Tribunal: Sole Arbitrator Ms. Kristen Thorsness, OLY (USA).
26. On 3 August 2024 at 18h30 (Paris time), the CAS Ad hoc Division issued its Procedural Directions and Summons, directing the Parties and Interested Parties to appear for an in-person hearing on this matter on 5 August 2024 at 10h00 (Paris time), and setting a deadline of 4 August 2024 at 16h00 (Paris time) for submission of any Answers to the Application, submission of lists of witnesses and participants at the hearing, and any request(s) for translator services.
27. The CAS Ad hoc Division received correspondence from the TWF, the IWF and Mr. López on 4 August 2024 at 12h12, 13h10 and 13h44 (Paris time), respectively.

28. On 4 August 2024 at 13h59 (Paris time), the CAS Ad hoc Division acknowledged receipt of the foregoing correspondence and notified the Parties that the deadline for submitting Answers to the Application would be extended to 18h00 (Paris time) on 4 August 2024. The CAS Ad hoc Division noted that all other time deadlines remained in effect. The CAS Ad Hoc Division also granted the requests by Mr. López and the TWF to appear at the hearing by video conference.
29. On 4 August 2024 at 15h51, 17h28 and 17h45 (Paris time), the CAS Ad hoc Division received written responses to the Application from the IOC, the TWF and the IWF, respectively. The Spanish Olympic Committee did not submit a written response.
30. On 5 August 2024 at 10h00 (Paris time) a hearing was held with the participation of the following persons, in addition to the Sole Arbitrator and Lia Yokomizo, Counsel to the CAS:

For Mr. López:

- David Sánchez López (remote)
- Juan Lama Arenales (remote)

For the Spanish Olympic Committee:

- Julio González Ronco (remote)

For the Turkish Weightlifting Federation:

- Anil Gursoy Artan (remote)

For the International Weightlifting Federation:

- Nicolas Zbinden (remote)

For the International Olympic Committee:

- Patrick Pithon (in person)

31. There were no objections to the appointment of the Sole Arbitrator. Before the hearing was concluded, the Parties expressly stated that they did not have any objection to the procedure adopted by the Sole Arbitrator and confirmed that their right to be heard and to be treated equally was respected.

V. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

32. 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

33. Mr. López asserts that, under the Rules, upon the IWF's finding of three ADVRs by persons affiliated with the TWF, the IWF was obligated to bar the TWF and all its affiliated athletes from competition in the 2024 Paris Olympic Games.
34. Mr. López' requests that the TWF's entry in the 73kg weight class should be replaced with Mr. López.

B. The Respondent

35. The Turkish Weightlifting Federation's submission may be summarized, in essence, as follows:
 - a. The CAS Ad hoc Division lacks jurisdiction because the Decision giving rise to Mr. López' claims arose on 21 June 2024, when the Ranking List was published with a Turkish athlete listed in the 73kg weight class, or no later than 5 July 2024, when the Independent Panel's Decision was issued;
 - b. Mr. López lacks standing to pursue his claims because he is not authorized to contest the Decision under the Rules;
 - c. The TWF is not the proper respondent, as it was merely a party to the underlying Independent Panel's Decision, and did not render that decision itself; and
 - d. Under Swiss law, because the Decision sets out the facts and reasons that lead to the Independent Panel's conclusions, and is therefore neither unfair nor in bad faith, it may not be disturbed.
36. The TWF requests that the Application be rejected and that the CAS Ad hoc Division "*confirm that TWF athletes continue to compete at the Olympics.*"

C. The Interested Parties

37. The International Weightlifting Federation's submission may be summarized, in essence, as follows:
 - a. Mr. López lack standing because they were not parties to the proceedings before the Independent Panel;
 - b. Mr. López, as a competitor, lacks sufficient legal interest to challenge the disciplinary Decision;
 - c. Only National Olympic Committees may seek reallocation of Olympic quota spots, but the Spanish Olympic Committee has not done so here;
 - d. The TWF lacks standing to be sued because it did not render the Decision;
 - e. Mr. López' claim fails on the merits because the violations by Turkish weightlifters were not on "on the occasion" of the Olympic Games;

- f. The Rules and the Qualification System allow wide discretion to the Independent Panel when deciding the scope of sanctions to be imposed, and the Decision was neither arbitrary nor unreasonable.

- 38. The IWF requested that the Application be dismissed.
- 39. The IOC's submission may be summarized, in essence, as follows:
 - a. Mr. López lacks standing to bring this appeal; and
 - b. The TWF lacks standing to be sued here.
- 40. The IOC's written submission did not seek specific relief, but implied that the Application should be dismissed.
- 41. The Spanish Olympic Committee did not submit any written response to the Application.

VI. JURISDICTION AND ADMISSIBILITY

- 42. Rule 61.2 of the Olympic Charter provides as follows:

"61 Dispute Resolution

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".

- 43. Article 13.2.1 and footnote 69 of the Rules provides that: *"[i]n cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS" for de novo review.*
- 44. Article 1 of the CAS Arbitration Rules for the Olympic Games (the "CAS Ad Hoc Rules") provides as follows:

"Article 1. Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)

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."

- 45. Numerous CAS decisions establish that a dispute "arise[s]" on the date on which the Applicant received the reasoning or other information necessary to understand or

evaluate the challenged decision (e.g., CAS OG 14/03, para. 5.28; CAS OG 20/06 and 08, para. 5.15).

46. Although the Decision was rendered on 5 July 2024, the only evidence presented to the Sole Arbitrator was that neither Mr. López nor the SWF were aware of it until sometime after 20 July 2024, when they saw the 22 July 2024 publication of its summary. Although the IWF and TWF argued that the fact that a Turkish athlete was listed in the 73kg weight class ranking and entries on 21 June 2024 and 8 July 2024 should have put Mr. López on notice that he should object, the Sole Arbitrator concludes that the ranking and entry list would not reasonably have alerted Mr. López to the reasoning of the Decision and, as a consequence, would not have allowed him to raise an objection against it.
47. In view of the above, and especially considering that, during the hearing, IWF's Counsel expressly confirmed that the summary of the Decision was not publicly published until 22 July 2024, the Sole Arbitrator finds that this dispute arose on 22 July 2024, within ten days prior to the Opening Ceremonies of the Paris Olympic Games and therefore within the jurisdictional timeframe of the CAS Ad hoc Division. The Sole Arbitrator further finds that, as this dispute relates to entries in the Paris Olympic Games, it is connected with those Games and falls within the jurisdiction of the CAS Ad hoc division.

VII. APPLICABLE LAW

48. Under art. 17 of the CAS Ad Hoc Rules, the Sole Arbitrator must decide the dispute "*pursuant to the Olympic Charter, the applicable regulations, general principles of law and the rules of law, the application of which it deems appropriate.*"
49. These proceedings are governed by the CAS Ad Hoc Rules enacted by the International Council of Arbitration for Sport ("ICAS") on 14 October 2003 (amended on 8 July 2021). They are further governed by Chapter 12 of the Swiss Private International Law Act of 18 December 1987 ("PILA"). The PILA applies to this arbitration as a result of the express choice of law contained in art. 17 of the Ad Hoc Rules and as the result of the choice of Lausanne, Switzerland as the seat of the ad hoc Division and of its panels of Arbitrators, pursuant to art. 7 of the CAS Ad Hoc Rules.
50. According to art. 16 of the CAS Ad Hoc Rules, the Sole Arbitrator has "*full power to establish the facts on which the application is based.*"
51. The Sole Arbitrator notes that the applicable regulations in this case are the International Weightlifting Federation's 2024 Anti-Doping Rules and the IWF Qualification System for the Games of the XXXIII Olympiad, Paris 2024, as interpreted under Swiss law.

VIII. DISCUSSION

A. Standing

52. According to CAS jurisprudence, standing requires that the applicant have a protectable interest (CAS 2013/A/3140 para. 8.3) or a legitimate interest (CAS 2015/A/3880 para. 46) in the challenged decision. This is the case if: (a) the applicant is sufficiently affected by the impugned decision, and (b) a concrete interest of a financial or sporting nature is

at stake (CAS 2015/A/3880 para. 46; see also CAS 2013/A/3140 para. 8.3; CAS 2014/A/3665, 3666 and 3667 para. 47; CAS 2015/A/3959 para. 143 et seq.).

53. Prior CAS decisions relating to third party standing note that it generally arises in only two situations: (a) if a regulation or rule explicitly allows it, or (b) if the third party is “*directly affected*” by the challenged decision. “*Where the third party is affected because he is a competitor of the addressee of the measure/decision taken by the association – unless otherwise provided by the association’s rules and regulations – the third party does not have a right to appeal. Effects that ensue only from competition are only indirect consequences of the association’s decision/measure*” (CAS 2020/A/7590-7591, paras. 91-94).
54. “*The ordinary meaning of the words used [in the Rules] must be considered in the context of the document under consideration, the document being considered as a whole*” (CAS Ad hoc Division OG 10/003, para. 5). “*There is no reason to depart from the plain text, unless there are objective reasons to think that it does not reflect the core meaning of the provision under review*” (CAS 2017/O/5264, 5265 & 5266, para. 4).
55. Under Rules Article 13.2, “*a decision imposing Consequences or not imposing Consequences for an anti-doping rule violation*” is appealable under those Rules.
56. However, it is not enough – as Mr. López argued during the hearing – that he is impacted by the Decision because the Independent Panel’s decision not to bar Turkish weightlifters from the Paris Olympic Game means that he cannot compete in those Games. Rules Article 13.2.3 states that the only persons entitled to appeal decisions imposing sanctions for anti-doping rules violations are “*(a) the Athlete or other Person who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) IWF; (d) the National Anti-Doping Organization of the Person’s country of residence or countries where the Person is a national or license holder; (e) the International Olympic Committee ... where the decision may have an effect in relation to the Olympic Games ... including decisions affecting eligibility for the Olympic Games ...; and (f) WADA.*” Mr. López is none of these.
57. Alternatively, Rules Article 13.2.3.5 provides that appeals from decisions rendered under Article 12 may be appealed to CAS “*by the Member Federation or other party.*” It appears that Mr. López deems himself to be such an “other party.” While “other party” is not defined in the Rules, the usage of that phrase elsewhere in the Rules reflects that it is not used to include persons outside of the underlying proceeding (see e.g., Rules Articles 13.1.3 and fn. 70, 13.2.3.1, 13.2.3.2).
58. Because Mr. López is not one of the enumerated persons entitled to appeal the Independent Panel’s Decision regarding the Member Consequences imposed against the TWF, and he was not a participant in that proceeding who was directly affected by it, he lacks standing to appeal under both Rules Article 13.2.3 and 13.2.3.5.
59. Because the Sole Arbitrator finds that Mr. López lacks standing, the question of whether the TWF is a proper Respondent here need not be addressed. However, the Sole Arbitrator notes that because the TWF was merely the addressee in the underlying Independent Panel proceeding and did not issue the Decision which Mr. López challenges here, there is no relief that can be obtained from it here.

B. The Independent Panel's Decision

60. Because Mr. López lacks standing to bring this appeal, the Sole Arbitrator need not reach the merits of his claims against the decision of the Independent Panel.
61. However, for the sake of completeness, the Sole Arbitrator notes that Rules Article 12.3 and Appendix 1 are explicitly discretionary and permissive – the Independent Panel “*may*” impose sanctions which “*may*” include exclusion of a federation’s athletes “*and/or*” imposition of fines. Given this language, and the Independent Panel’s reasoned weighing of both mitigating and aggravating factors, its Decision cannot be said to have been an abuse of its discretion or unreasonable.

IX. COSTS

62. According to Article 22 para. 1 of the CAS Ad Hoc Rules, the services of the CAS Ad hoc Division “are free of charge”.
63. 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*”.
64. It was confirmed at the hearing that none of the Parties seek costs. Accordingly, there is no order as to costs.

X. CONCLUSION

65. In view of the above considerations, Mr. López’ application filed on 2 August 2024 shall be dismissed.

DECISION

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

The application filed by Mr. David Sánchez López on 2 August 2024 is dismissed.

Operative part: Paris, 6 August 2024

Award with grounds: Paris, 7 August 2024

THE AD HOC DIVISION OF THE COURT OF ARBITRATION FOR SPORT

Kristen Thorsness
Sole Arbitrator