



**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 24/19 Benjamin Savšek & OCSASF v. International Canoe Federation**

sitting in the following composition:

Sole Arbitrator: Mr Lars Hilliger, Denmark

**AWARD**

in the arbitration between

Benjamin Savšek

**(" First Applicant")**

Olympic Committee of Slovenia Association of Sports Federations

**("Second Applicant")**

v.

International Canoe Federation

**("Respondent")**

and

International Olympic Committee

**("First Interested Party")**

Matej Benus

**("Second Interested Party")**

Slovak Olympic and Sports Committee

**("Third Interested Party")**

Slovak Canoe Federation

**("Fourth Interested Party")**

## I. PARTIES

1. The First Applicant (the “First Applicant” or the “Athlete”) is Mr Benjamin Savšek, who is a Slovenian athlete competing at the international level in the Men’s Canoe Slalom C1 discipline.
2. The Second Applicant is the Slovenian National Olympic Committee.
3. The Respondent is the International Canoe Federation (the “ICF”)
4. The First Interested Party is the International Olympic Committee (the “IOC”), while the Second Interested Party is Mr Matej Banus, who is a Slovak athlete competing at the international level in the Men’s Canoe Slalom C1 discipline, and who finished third overall in the final of the Men’s Canoe C1 at the 2024 Paris Olympic Games.
5. The Third Interested Party is the Slovak Olympic and Sports Committee and the Fourth Interested Party is the Slovak Canoe Federation.

## 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. On 29 July 2024, the Athlete competed in the Men’s Canoe Slalom C1 Final in the 2024 Paris Olympic Games (the “Competition”).
8. To ensure that a canoeist completes the course in accordance with the applicable rules, several Gate Judges are placed near the gates, including a main gate judge, together with a video judge who reviews the decisions made by the gate judge as well as three judges reviewing the video of the canoeist. The final tally of the time taken by the canoeist is declared ultimately by the Chief Judge in accordance with the inputs of the gate judges and video judges. The Chief Judge remains the final arbiter in case of discrepancy between the gate judges and video judges.
9. At Gate 5, the Athlete hit the post, based on which two of the Gate Judges called a 50-second penalty (the “50-second Penalty”), while the other two judges called a 2-second penalty (the “2-second Penalty”).
10. The ICF Canoe Slalom Competition Rules 2023-2024 (the “Competition Rules”) states, *inter alia*, as follows:

#### “7.5 – CHIEF JUDGE

[...]

7.5.2 - The Chief Judge applies the competition rules and may disqualify an athlete or grant a rerun.

7.5.3 - The Chief Judge is the final arbiter on all judging matters. When there is official television or official video of the competition, they may avail themselves of the television or video footage to assist in their determination of any relevant matter or protest.

7.5.4 - After the Chief Judge has ruled on an enquiry concerning penalties the result then becomes a matter of fact and therefore cannot be enquired/protested further.

[...]

### **10.8 - TWO (2) PENALTY SECONDS**

10.8.1 - *Correct negotiation of the gate, but with a touch of one (1) or both poles.*

10.8.2 - *Repeated touching of the same or both poles is only penalised once.*

### **10.9 - FIFTY (50) PENALTY SECONDS**

10.9.1 - *A touch of a gate (either 1 or 2 poles) without correct negotiation of the gate.*

10.9.2 - *Intentional pushing of a gate to allow negotiation unless correctly renegotiated before any subsequent gate is negotiated. An intentional push is an unexpected action of the Athlete to enable correct negotiation of the gate.*

[...]

### **10.13 – BENEFIT OF ANY DOUBT**

*At all times, the benefit of any doubt must be given to the athlete.*

[...]

### **11.1 – ENQUIRY**

11.1.1 - *In individual events for judging and timing matters a Team Leader may make one (1) enquiry per boat, per event, per competition in level 1 and 2 competitions.*

11.1.2 - *In team events, one (1) enquiry per team will be allowed.*

11.1.3 - *A National Federation may enquire on another National Federation one (1) time during the entire competition.*

11.1.4 - *An enquiry attracts no fee.*

11.1.5 - *For ICF competitions (level 1 and 2), enquiries will only be accepted during the heats and semi-final phase. For international competition (level 3 and 4) and all team events enquiries are accepted at any phase.*

[...]

11. Based on this discrepancy in the judgements, the situation was queued for review by the Chief Judge.
12. Upon review, the Chief Judge decided to call the 50-second Penalty (the “Appealed Decision”) and the Athlete’s final time was set at 144.93 seconds and not 96.93 seconds.
13. In the Chief Judge Report Paris 2024 regarding the Athlete, which was only made available to the Applicants during these proceedings, the Chief Judge states, *inter alia*, as follows:

*[...] On review of the video from 4 different angles (3 TVS feeds and 1 TV feed) I decided that SAVSEK opened the gate with his paddle. If he had not made this action, he would not have been able to make the gate. Consequently, it was a “intentional push” (Rule 10.9.2) and a 50 second penalty.*

*An intentional push is an unexpected action of the Athlete to enable correct negotiation of the gate. As SAVSEK entered that gate, he hit it with his boat, closing the gate line. Then SAVSEK held his paddle above his head for a longer than usual time, (an unexpected action) to open the gate line to allow him to pass through it.*

*Judge 1 & 2 were well located to observe the intentional push, with one side on, and one head on.*

*As this was a final; it is not possible for the Team Leader to make an enquiry to understand the reason of the penalty (Rule 11.1.5, note the Olympic Games is considered a level 1 competition).*

*Despite this (for politeness) the Assistant Chief Judge did inform the Team Leader that the penalty had been changed due to the intentional push. As far as I am aware this was the only communication with the Team Leader regarding this situation. [...]*

14. By letter of 3 August 2024 to the ICF, the Second Applicant requested “*an official report and an explanation of the judges’ decisions*” regarding the Athlete and another Slovenian athlete, stating, *inter alia*, that “*we are convinced that the judges’ decision was not in accordance with the rules.*”
15. In its reply to the Second Applicant dated 4 August 2024, the ICF stated, *inter alia*, as follows:

*[...] During all competitions, we adhere to a structured enquiry process as outlined by the ICF Canoe Slalom rules. This process provides a clear procedure for addressing in-race decisions and allows team leaders to formally question any decisions made. Instead of issuing reports on each decision, we follow this structured enquiry process to ensure quick resolution.*

*In the case of Benjamin Savšek, who received a 50-second penalty at gate no. 5 in the Men’s Canoe Single Final on 29 July 2024, and Peter Kauzer, who received a 50-second penalty at gate no. 7 in the Men’s Kayak Single Semifinal on 1 August 2024, the chief judge followed our outlined enquiry process and provided your team leader with a clear verbal explanation of the respective decisions.*

*According to the rules, once the enquiry process is complete, the results become final and cannot be protested further (section 11.1.9)."*

### **III. THE CAS PROCEEDINGS**

16. On 9 August 2024 at 15h27 (Paris time), the Applicants filed an Application with the CAS Ad hoc Division against the Respondent with respect to the Appealed Decision.
17. On 10 August 2024 at 16h47 (Paris time), the CAS Ad hoc Division notified the Application to the Respondent and the Interested Parties and invited them to file their respective written submissions by 10 August 2024 by 17h00 (Paris time).
18. Also on 10 August 2024 at 10h27 (Paris time), the CAS Ad hoc Division notified the Parties of the composition of the Arbitral Tribunal:  
  
Sole Arbitrator: Mr Lars Hilliger, Denmark
19. On 10 August 2024 at 14h14 (Paris time), the Respondent's deadline to file its answer was extended to 10 August 2024 at 19h00 (Paris time).
20. Furthermore, on 10 August 2024 at 14h29 (Paris time), the First Interested Party informed the CAS Ad Hoc Division that it did "*not intend to make any substantive submission at this juncture, in particular pending the Respondent's answer due later today.*".
21. On 10 August 2024 at 18h36 (Paris time), the Respondent filed its answer.
22. The Second, Third and Fourth Interested Parties did not participate in the proceedings.
23. By email of 11 August 2024 at 08h06 (Paris time), the Parties were informed that the Sole Arbitrator considered himself sufficiently well informed on the basis of the written submissions filed by the Parties. Therefore, the Sole Arbitrator had decided not to hold a hearing, pursuant to Article 15 of the CAS Arbitration Rules for the Olympic Games (the "CAS AD Hoc Rules").

### **IV. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF**

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

#### **A. The Applicants**

##### **a. Applicants' Submissions**

25. The Applicants' submissions may in essence be summarised as follows:
  - It is not disputed that the Athlete hit one of the posts at gate 5 during the Competition. However, the question is whether this was intentional or not.

- The Chief Judge erroneously amended the penalty imposed on the Athlete from a 2-second Penalty as decided during the race by the gate judges to a 50-second Penalty without providing any official explanation to justify it.
- The official Race Analysis Report also did not contain any explanation and no official communications or report detailing the reason for the Appealed Decision was shared, which curtailed the right of the Athlete to potentially challenge the erroneous interpretation and application of the Competition Rules.
- Also, no explanation as to why the Athlete was not offered the benefit of the doubt as to the nature of the hit of the post at gate 5 (intentional or not) was provided.
- Without this erroneous decision, the Athlete would have finished third in the Competition. Now he finished eleventh overall.
- Pursuant to the Competition Rules, an enquiry cannot be made during a final, and there was no alternative remedy available under the Competition Rules to challenge the procedure by which the Appealed Decision was rendered by the Chief Judge.
- Based on the above, the Applicants challenge the Appealed Decision due to the violation of due process by the Chief Judge as arbiter and further state that such a violation of due process is the reason due to which the Appealed Decision is arbitrary in itself and should be set aside.
- The impression that the Chief Judge has unbridled powers to do as she pleases invariably tarnishes the integrity and fairness of the Competition.
- The Application does not question the correctness of the imposition of the 50-second Penalty, which the Athlete nevertheless maintains is incorrect as this would involve a field of play matter beyond the scope of adjudication by the CAS as per the Field of Play Doctrine.
- Instead, this Application falls within the exception to the Field of Play Doctrine as it involves a scrutiny of the manner in which the Appealed Decision was made and further the review of the application of the rules by the Chief Judge against the measures of fairness and non-arbitrariness.
- It is specifically asserted that the procedure by which the Appealed Decision was rendered by the Chief Judge amounts to a blatant and arbitrary application of the relevant regulations that had an impact outside the field of play. It casts a shadow of doubt over the fairness of the decisions made by the judges of the Competition, not only for the Athlete but also for all relevant stakeholders, due to the manner in which the rules (procedural and substantive) were applied and the lack of an official explanation provided by the Chief Judge.
- Without any formal explanation of the Appealed Decision, and in the light of the denial of his request for the release of the official report of the judges of the Competition, the Athlete's rights have been severely prejudiced, namely, the right to be informed of the reasons for the imposition of the increased penalty, as well as the right to appeal against the Appealed Decision if the interpretation of the rules was erroneous.

- As such, this Application falls within the exceptions of the Field of Play Doctrine (which enables the CAS to interfere in field of play decisions if they have an effect outside the field of play and if they are tainted by fraud, bias, arbitrariness or corruption) as it involves the review of the interpretation of the Competition Rules by the Chief Judge against the measures of fairness and non-arbitrariness.
- In particular, the Appealed Decision is tainted with arbitrariness because it had been made without providing an explanation or reason to the Athlete as to why the penalty was changed to a 50-second Penalty and why he was not given the benefit of the doubt. Moreover, there are no official reports of the judges that have been disclosed (even upon request) to detail the reasons for the imposition of the changed penalty.
- Furthermore, such an arbitrary decision also violates the spirit of Olympism and the general and fundamental principles of the Olympic Charter, which the Respondent is required to observe as per its own statutes.
- In case the Appealed Decision is upheld, it will only empower the authority of the Chief Judges further and place them above the law – beyond any scrutiny. Moreover, it will fail to bring about legal certainty to any decision made. Apart from this, it will have disastrous consequences to the fairness of the Competition as it exposes the sport to the subjective application of the rules rather than the objective application of the same.

**b. Applicants' Requests for Relief**

The Applicants request the Sole Arbitrator

- (i) *“To set-aside the [Appealed] Decision imposed by the Chief Judge in the finals of the Men’s Canoe Slalom C-1 competition, and*
- (ii) *To re-instate the initial 2-second penalty imposed against Benjamin Savšek and correct the final timing of Benjamin Savšek to 96.93 seconds, and*
- (iii) *To correct the final standings at the finals of the Men’s Canoe Slalom Competition at the 2024 Paris Olympic Games.”*

**B. The Respondent**

**a. Respondent's Submissions**

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

- The results of the Competition are final and cannot be reviewed.
- The 50-second Penalty was not arbitrarily imposed on the Athlete, and he has no right to obtain a better ranking through a court decision.
- The 50-second Penalty was imposed on the Athlete in full compliance with the applicable rules as the Chief Judge, who is extremely experienced, found on the basis of the video review that the Athlete opened the gate with his paddle; without

this move, he would not have been able to make the gate, and therefore his action was judged an “*intentional push*”.

- Pursuant to the Competition Rules, an enquiry cannot be made during a final, which is not disputed by the Applicants.
- In the light of the Field of Play Doctrine, the CAS cannot review the result of the Competition.
- According to the field of play doctrine “*The referee’s bona fide exercise of judgment or discretion ... is beyond challenge otherwise than in so far as the rules of the game themselves provide. ... This is a fundamental element in sports law, most fully elucidated in the jurisprudence of the CAS.*”
- There are strong sporting-based principles underlying this doctrine, including the need for finality and to ensure the authority of the referee and match officials. Moreover, it is widely recognised that such decisions are “*best left to field officials, who are specifically trained to officiate the particular sport and are best placed, being on-site, to settle any question relating to it*”, and that, in most cases, there is no way to know what would have happened if the decision had gone another way. Other factors that support such an approach include the arbitrators’ lack of technical expertise, the inevitable element of subjectivity, the need to avoid constant interruption of competitions, the opening of floodgates and the difficulties of rewriting records and results after the fact.
- Even if the sports rules do provide for the possibility of review of the decision after the competition, the CAS has been clear that the Field of Play Doctrine applies.
- When a field of play decision can be reviewed by a jury or another body, the CAS jurisprudence makes it clear that such review can only be challenged if there is evidence of bad faith or arbitrariness. Otherwise, there is no basis for interfering.
- In the case at hand, there is no evidence that the decision was made in bad faith or that it was arbitrary. On the contrary, the 50-second Penalty imposed on the Athlete is fully in line with the Competition Rules. Therefore, the Application must be dismissed.
- Moreover, the Applicants cannot claim to deprive another athlete from a bronze medal.
- By claiming that the 50-second Penalty must be annulled, the consequence being that a bronze medal should be awarded to the Athlete, the later aims at depriving a competitor, namely Mr Matej Benus of Slovakia, from a medal.
- Since Mr Benus and the Slovak NOC may be negatively affected by a decision to reallocate the bronze medal to the Athlete, Mr Benus and Slovak NOC should have been named as Respondents in these proceedings. Since they are not parties to these proceedings, the prayers for relief specified by the Applicants must be dismissed.



**b. Respondent's Requests for Relief**

The ICF requests the Sole Arbitrator to rule as follows:

- “1. *The Appeal filed by Mr Benjamin Savsek and the OCSASF is inadmissible and, in any event, dismissed.*
2. *Mr Benjamin Savsek and the OCSASF are ordered to compensate the ICF for its legal costs and other costs incurred in this arbitration, in an amount to be determined by the CAS sole arbitrator.”*

**V. JURISDICTION AND ADMISSIBILITY**

27. 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”.*

28. Article 1 of 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.”*

29. Article 1 of the CAS Ad hoc Rules provides that the relevant dispute must arise during the Olympic Games or during a period of 10 days preceding the Opening Ceremony of the Olympic Games (emphasis added).

30. The Opening Ceremony for the Paris Olympic Games was held on 26 July 2024.

31. The Appealed Decision was rendered on 29 July 2024 and the Application complied with all admissibility requirements under Article 10 of the CAS Ad hoc Rules.

32. The Respondent does not challenge the jurisdiction of the CAS Ad hoc Division, but requests, in its first prayer for relief, that the Application be deemed inadmissible. The Respondent, however, does not explain on what grounds it bases said request for relief.
33. To the extent that said grounds are connected to the Respondent's arguments regarding the impossibility for CAS arbitrators to review field of play decisions and/or the standing to be sued of the Second and Third Interested Parties, the Sole Arbitrator notes that according to well-established CAS jurisprudence (cf. for field of play: CAS 2015/A/4208; CAS 2019/A/6591; CAS 2018/A/5916; and for standing: CAS 2020/A/6694; CAS 2016/A/4602; CAS 2013/A/3047; 2008/A/1639) both are issues of substantive law and, therefore, are connected to the merits of the case. As a consequence, the Sole Arbitrator will deal with them issue under the appropriated section of the award, *i.e.*, the merits.
34. Based on the above, and considering the lack of any convincing arguments to the contrary, the Sole Arbitrator concludes that the CAS Ad hoc Division for the Olympic Games has jurisdiction in this case and that the appeal is admissible.

## **VI. APPLICABLE LAW**

35. Under Article 17 of the CAS Ad hoc Rules, the Panel 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.*".
36. The Applicants did not address the issue of applicable law but referred to the Competition Rules in their Application.
37. The Respondent submits that since it is domiciled in Switzerland, Swiss law must apply to this dispute. Furthermore, the Respondent submits that the ICF rules and regulations, and in particular the Competition Rules, are applicable.
38. The Sole Arbitrator notes that the "*applicable regulations*" in this case are the ICF rules and regulations, and in particular the Competition Rules, and subsidiarily Swiss law should the need arise to fill a possible gap in these rules and regulations.

## **VII. DISCUSSION**

### **A. Legal framework**

39. According to Article 16 of the CAS Ad Hoc Rules, the Panel has "*full power to establish the facts on which the application is based*".

### **B. Merits**

40. The present dispute concerns the decision of the Chief Judge to impose the 50-second Penalty on the Athlete.
41. While the Respondent on its part submits that this is a clear field of play decision, which, pursuant to the Field of Play Doctrine, the CAS Ad Hoc Division cannot review, the Applicants submit, on their part, that it falls within the exception to the Field of Play

Doctrine as it involves a scrutiny of the manner in which the Appealed Decision was made as well as the review of the Application by the Chief Judge against the measures of fairness and non-arbitrariness.

42. The Sole Arbitrator agrees that the Field of Play Doctrine is well-established and settled as a cornerstone principle of sports and CAS case law. The Parties apparently also agree on the rationale and the scope of this principle.
43. As set out in CAS OG 24-15 / CAS OG 24-16, according to the field of play principle, if a decision is demonstrated to be a *“decision made on the playing field by judges, referees, umpires and other officials, who are responsible for applying the rules of a particular game,”* (CAS 2021/A/8119), the same should not be reviewed by the Panel. This wise principle seeks to avoid a situation in which arbitrators are asked to substitute their judgment for that of a judge, referee, umpire or other official, on a decision made in the course of a competition that relates to a sporting activity governed by the rules of a particular game.
44. As set out in CAS 2021/A/8119, *“[t]he rationale for the “field of play” doctrine is that CAS Panels are not sufficiently trained in the rules of any or all sports and do not have the advantage to observe the event. All submissions by a party in relation to the judging and scoring of a competition are within the “field of play” doctrine and cannot be reviewed by a CAS Panel. Consequently, any challenge to the assessment of difficulty in a performance, assessment of artistry and execution – including the results of the performances – are all matters within the doctrine of “field of play”. Any challenge on technical breaches in the athletes’ performance are always matters requiring the expertise and judgment by those experts in the “field of play”. If a video recording was a procedural aspect that led to the decision-making in the “field of play”, its use is not open to review.”*
45. Pursuant to the Field of Play Doctrine, CAS panels nevertheless have the power to review, and, therefore, overturn a field of play decision, subject to the applicant/appellant demonstrating that the panel would be justified in overturning such decision. However, CAS jurisprudence has consistently reaffirmed that CAS Arbitrators do not overturn the decisions made on the playing field by judges, referees, umpires or other officials charged with applying the rules of the game unless there is some evidence that a rule was applied arbitrarily or in bad faith (see CAS OG 00/013, CAS OG 96/006, CAS 2004/A/727).
46. The Sole Arbitrator initially notes that he agrees with the Parties that the Appealed Decision is covered by the Field of Play Doctrine.
47. The Sole Arbitrator further notes that it is not disputed that, pursuant to Article 7.5.3 of the Competition Rules, the Chief Judge is the final arbiter in all judging matters. As such, the Chief Judge decided to call the 50-second Penalty, which the Sole Arbitrator does not consider to be an amendment of a previous call but simply as the final decision based on the fact that the Gate Judges were not aligned. Furthermore, it is not disputed that, in accordance with the Competition Rules, there was no enquiry procedure available to the Athlete at the Competition since the Olympic Games are classified as a Level 2 Competition.

48. Moreover, the Sole Arbitrator notes that the Applicants have not referred to any applicable rules or regulations pursuant to which the Chief Judge was in fact obliged to reason the Appealed Decision.
49. In order for the Sole Arbitrator to review the Appealed Decision in accordance with the Field of Play Doctrine and based on the Applicants' submissions, sufficient proof of bias, bad faith, arbitrariness or legal error thus bringing the dispute within the exception to the Field of Play Doctrine must be presented to the Sole Arbitrator.
50. Based on the facts of the case and the Parties' submissions, the Sole Arbitrator finds that it is up to the Applicants to discharge the burden of proof to establish that this dispute falls within the exception to the Field of Play Doctrine.
51. In doing so, the Sole Arbitrator adheres to the principle established by CAS jurisprudence that *"in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue. In other words, the party which asserts facts to support its rights has the burden of establishing them (..). The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some fact and persuade the deciding body, it must actively substantiate its allegations with convincing evidence"* (e.g. CAS 2003/A/506, para. 54; CAS 2009/A/1810&1811, para. 46; and CAS 2009/A/1975, paras. 71ff).".
52. However, the Sole Arbitrator finds that the Applicants have failed to adequately discharge their burden of proof to establish that the Appealed Decision was rendered in violation of the principle of fairness and non-arbitrariness.
53. On the contrary, the Sole Arbitrator finds that the Chief Judge Report Paris 2024 submitted by the Respondent during these proceeding apparently explains the reasoning for the Appealed Decision, which reasons the Sole Arbitrator is not in a position to review. However, the reasons do not appear to be arbitrary.
54. Furthermore, the Sole Arbitrator cannot accept the submission by the Applicants that the lack of explanation/reasoning of the Appealed Decision and/or the lack of opportunity to appeal the Appealed Decision pursuant to the Competition Rules should enable the Sole Arbitrator to review the decision. The Sole Arbitrator notes in this regard that the lack of explanation/reasoning of the Appealed Decision and/or the lack of opportunity to appeal the Appealed Decision appears to be in line with the applicable (policy) rules and regulations and that he is not in a position, in the present dispute, to deal with the reasons behind these or to substitute them (at least in the absence of special circumstances which the Sole Arbitrator finds is the case here).
55. Moreover, the Sole Arbitrator does not find that the submission regarding the alleged lack of granting the Athlete the benefit of doubt is decisive, already because the Sole Arbitrator is not convinced that there was ever any doubt regarding the Appealed Decision.

56. The Sole Arbitrator does not accept that the mere fact that different judges might have a different view on the nature of a “situation” which occurred during a competition *per se* should constitute the existence of doubt in relation to the application of the Competition Rules.
57. On the contrary, if this was to be the case, it would then make the responsibility of the Chief Judge to be the final arbiter, as set out in Article 7.5.3 of the Competition Rules, redundant in case of different views by the gate judges, and the Sole Arbitrator considers this to be illogical.
58. Moreover, the Chief Judge does not refer to any doubt regarding her decision.
59. Based on the above, the Sole Arbitrator finds that the Appealed Decision falls outside the scope of review of the CAS, and the Application must therefore be dismissed.
60. Finally, and for the sake of good order, the Sole Arbitrator further notes that, based on the above, he does not find any need to deal with the questions as to whether Mr Benus and the Slovak NOC should have been nominated as respondents in the Application.

#### **VIII. COSTS**

61. According to Article 22, para. 1, of the CAS Ad hoc Rules, the services of the CAS Ad hoc Division are free of charge.
62. According to Article 22, para. 2, of the CAS Ad hoc Rules, parties to CAS Ad hoc Division proceedings “*shall pay their own costs of legal representation, experts, witnesses and interpreters*”.
63. None of the Parties seek costs. Accordingly, there is no order as to costs.

#### **IX. CONCLUSION**

64. In view of the above considerations, the Application filed on 9 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 Benjamin Savšek and the Olympic Committee of Slovenia Association of Sports Federations on 9 August 2024 is dismissed.

Operative part: Paris, 11 August 2024

Award with grounds: Lausanne, 16 August 2024

**THE AD HOC DIVISION OF THE COURT OF ARBITRATION FOR SPORT**

Lars Hilliger  
Sole Arbitrator