



TAS / CAS

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

By email and courier

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Lausanne, 27 April 2022/AZ/sh

Re: CAS 2021/A/7732 American Drug Free Powerlifting Association v. International Powerlifting Association (IPF)

Dear Madam, dear Sir,

Please find enclosed, by email and courier a copy of the Arbitral Award issued by the Court of Arbitration for Sport in the above-referenced matter.

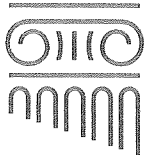
In accordance with Article R59 of the CAS Code, the attached Award is not confidential and can be published in its entirety by the CAS. If the Parties consider that any of the information contained in the Award should remain confidential, they should send a request, with grounds, to the CAS by **4 May 2022** in order that such information could potentially be removed, to the extent that such removal does not affect the meaning or the comprehension of the decision.

Please be advised that I remain at the Parties' disposal for any further information.

Yours faithfully,


Andrea SHERPA-ZIMMERMANN
Counsel to the CAS

Enc.
Cc: Panel



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CAS 2021/A/7732 American Drug Free Powerlifting Association v. International Powerlifting Association (IPF)

ARBITRAL AWARD

rendered by

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr. Romano F. Subiotto QC, Avocat in Brussels, Belgium, and Solicitor-Advocate in London, United Kingdom

Arbitrators: Mr. Jeffrey G. Benz, Attorney-at-Law and Barrister in London, United Kingdom
Mr. Nicholas Stewart QC, Barrister in London, United Kingdom

in the arbitration between

American Drug Free Powerlifting Association, United States of America

Represented by Steven B. Smith and Suzanne A. Crespo of Bryan Cave Leighton Paisner LLP in Colorado Springs, Colorado, USA

Appellant

and

International Powerlifting Association (IPF), Luxembourg

Represented by Messrs. Ross Wenzel and Anton Sotir of Kellerhals Carrard in Lausanne, Switzerland

Respondent

I. PARTIES

1. The American Drug Free Powerlifting Association (“USAPL”) is a national federation member of the International Powerlifting Federation (“IPF”). USAPL sanctions local, regional (i.e., for regions of the United States), and national events throughout the United States. USAPL is also a member of the North American Powerlifting Federation (“NAPF”), which is a regional governing body of the IPF. The NAPF sanctions Regional (i.e., within North America) events and international competitions, where athletes from different countries compete.
2. The IPF is an international governing body for the sport of powerlifting as recognized by the General Association of International Sports Federations as well as the International Olympic Committee. It was founded in 1971 and is incorporated under the laws of Luxembourg.

II. FACTUAL BACKGROUND

3. Below is a summary of the main relevant facts, as established on the basis of the Parties’ written submissions, and serves the sole purpose of providing a synopsis of the matter in dispute to the extent necessary to decide the preliminary issue in this case, as agreed between the Parties and as detailed below.
4. The sport of powerlifting is made up of three lifts, the squat, bench press, and deadlift. Two types of events are recognized by the IPF for world records: (1) bench press only events; and (2) events consisting of all three lifts. In the latter event, world records can be set in each of the three lifts and the total.
5. USAPL sanctions local, regional (i.e., for regions of the United States), and national events throughout the United States. USAPL is also a member of the North American Powerlifting Federation (“NAPF”), which is a regional governing body of the IPF. The NAPF sanctions Regional (i.e., within North America) events and international competitions, where athletes from different countries compete. With sanctioning by the NAPF and IPF since at least 2009, USAPL has run powerlifting competitions at the Arnold Sports Festival every year (with the exception of 2019 when the event was run as a USAPL-only event). The format of both the festival and the powerlifting competition within the festival is similar to other “Arnolds” run around the globe, part of the Arnold Classic Worldwide events associated with Arnold Schwarzenegger. Within the powerlifting world, Arnolds are known as open events where athletes can go to attempt world records. The “expo” format of the Arnolds is much better suited to breaking records than other types of international powerlifting competitions where national federations send teams of athletes to represent their countries, such as the World Championships and the NAPF Championships. The lifting strategy in those events is aimed at maximizing team points, and not necessarily to hit an athlete’s maximum lift.
6. With the exception of 2019, when USAPL ran the powerlifting competition at the Arnold Sports Festival as a national event only, USAPL has always had NAPF sanctioning for the event, and hosted athletes from all around the world seeking to break

world records. The same was true in 2020, although due to the Covid-19 pandemic, far fewer international athletes attended. Likewise, USAPL has always had IPF sanctioning for the event in conjunction with its NAPF sanction. The sanctions are, for all intents and purposes, one and the same. However, in 2020, over a week after the event was over, the IPF failed to recognize the world records set at the event that year. After pursuing recognition of the world records through the IPF's internal administrative process, this failure is the subject of USAPL's appeal before CAS.

7. On or about 25 May 2020, USAPL filed a complaint with the IPF Court of Justice (“**IPF COJ**”), asking the IPF COJ to order that the world records set at the 2020 Arnold be recognized by the IPF (the “**COJ Complaint**”). The IPF COJ denied USAPL's complaint by letter of 22 June 2020 (the “**COJ Decision**”), which USAPL received on 23 June 2020.
8. USAPL filed an appeal with the IPF Court of Appeal (the “**IPF COA**”) on 19 August 2020 (the “**COA Appeal**”). On 26 January 2021, the IPF COA issued its decision (the “**COA Decision**”) rejecting the COA Appeal because it was filed outside of the time limit under Article 11.5.1.2. of the IPF Constitution.
9. As confirmed below, the Parties agree that this Panel should rule first on the preliminary question of whether the IPF COA was correct in deciding to reject the COA Appeal because it was filed outside of the time limit under Article 11.5.1(2) of the IPF Constitution.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

10. On 15 February 2021, USAPL filed its Statement of Appeal in this case by email and courier, seeking a ten-day extension to its deadline to file the Appeal Brief.
11. By letter of 24 February 2021, USAPL noted that it understood that CAS would not rule on the ten-day extension request until it received the couriered Statement of Appeal, but that severe winter storms might interfere with the courier. USAPL therefore told CAS that it would file the Statement of Appeal by CAS E-filing, solely for the purpose of initiating the case to confirm that the ten-day extension would be granted, and sought a ruling on this issue.
12. By letter of 25 February 2021, CAS granted the requested extension.
13. On 8 March 2021, USAPL filed its Appeal Brief.
14. By letter of 16 April 2021, the IPF requested that the proceedings be bifurcated in order to assess, as a preliminary matter, the IPF's objection on admissibility. The IPF also requested that the deadline to file its Answer be suspended pending a decision of the Panel on the matters at stake.
15. By letter of 21 April 2021, USAPL confirmed its agreement with the IPF's requests for bifurcation and for suspension of the deadline to file its Answer pending a decision of

the Panel on this issue. USAPL also requested an extension of its deadline as mentioned in the CAS Court Office letter of 19 April 2021, until 4 May 2021, and the IPF's agreement thereto.

16. By letter of 23 April 2021, CAS confirmed the suspension of the Respondent's deadline to file its Answer until further notice from the CAS Court Office, and confirmed the extension of the Appellant's deadline to file a response limited to the Respondent's objection on admissibility until 4 May 2021.
17. By letter of 4 May 2021, USAPL responded to IPF's objection on admissibility of 16 April 2021.
18. By letter of 5 May 2021, CAS confirmed that the IPF's deadline to file its Answer remained suspended until further notice from the CAS Court Office.
19. By letter of 19 May 2021, CAS informed the Parties, on behalf of the Panel, that the Panel had decided to render a preliminary award on whether the decision not to extend the deadline for the appeal to the IPF COA was correct. The parties were invited to indicate by 25 May 2021 whether they wished to have an oral hearing on this subject.
20. By letter of 25 May 2021, USAPL and the IPF confirmed that an oral hearing was not necessary.
21. By letter of 27 May 2021, USAPL requested to be given an opportunity to respond to certain substantive points made by the IPF in its letter of 25 May 2021.
22. By letter of 31 May 2021, the CAS Court Office informed the Parties that the Panel had reviewed the Parties' positions on admissibility of the appeal, and decided that the appeal was admissible. The reasons would be explained in the final Award.
23. In the same letter, the CAS Court Office informed the Parties that the Panel would for the time being focus on whether the IPF Court of Appeal was correct to reject the appeal because it was out of time as a preliminary issue. The Parties were further invited to state whether they wished a hearing on that subject by 4 June 2021.
24. By letter of 4 June 2021, USAPL responded to the points made by the IPF in its letter of 25 May 2021, and indicated that no hearing was necessary at this stage of the procedure.
25. By letter dated 4 June 2021, the IPF considered that the preliminary issues could be decided on papers.
26. By letter of 10 June 2021, the CAS Court Office gave an opportunity to the IPF to respond to USAPL's letter of 4 June 2021 by 15 June 2021.
27. By letter of 15 June 2021, the IPF responded to USAPL's letter of 4 June 2021.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant's Position

28. By letter of 4 May 2021, USAPL responded to IPF's objection on admissibility of 16 April 2021, that objection being on the grounds that the COA decision of 26 January 2021, against which this appeal is directed, is unreviewable because it was within the IPF COA's "absolute discretion" whether to accept or deny the appeal based on timeliness.
29. USAPL argues that this Panel should review the timeliness issue *de novo*, and annul the COA Decision, because the denial of a case based on timeliness is subject to *de novo* review under Article R57 of the CAS Code.
30. USAPL explains that Article 11.5.1(2) of the IPF Constitution provides that appeals to the COA must be lodged with the COA Chairman within one month of the written notification of the decision on which the appeal is based, and that Article 11.5.1(5) of the IPF Constitution provides that the COA may, in its absolute discretion, waive or vary the time limits contained herein.
31. USAPL states that it received the COJ Decision on 23 June 2020, and that it filed its appeal with the COA on 19 August 2020. As described in USAPL's Appeal Brief, this all happened in the middle of the Covid-19 pandemic. Although the IPF argues that the pandemic is a poor excuse for USAPL to take over a month to file its appeal with the COA, USAPL argues that this ignores the reality of the situation. USAPL is not a large organization. Its National Office staff consists of only two people, one full-time and one part-time employee. At the time USAPL received the COA Decision, USAPL was in the middle of opening up events again after cancelling them on or around 22 March 2020 due to the pandemic. USAPL had just announced that it would start opening events with its "return to play" Covid guidelines on 2 June 2020. As a result, throughout June, July, and August, USAPL's staff were busy working closely with meet directors and members to get events going again. Among other things, this meant tracking and adapting events for ever-changing pandemic-related restrictions that varied by state and city. This also meant that USAPL's staff were in virtually constant communication with event stakeholders.
32. On 28 June 2020, USAPL announced that it was going to cancel its four National events scheduled for 2020. Immediately following the announcement, USAPL's limited staff had to take on an excessive amount of work to contact and refund all athletes, work with each event hotel and venue and at least ten vendors regarding voiding or negotiating contracts due to the cancellation of these events, and handle myriad other issues and logistics as a result of the cancellation. In the meantime, some of the people USAPL needed to work with regarding re-opening events or cancelling events were sick with the virus, including many event directors and state chairs. This further burdened USAPL and its staff during this time as it stepped in to assist local meet directors and members in any way it could. Anchorage, Alaska, where USAPL's National Office is located, had very restrictive Covid mandates that prohibited USAPL staff from working in the office. The fact that, according to the IPF, the pandemic had already been present

for months did not make the summer of 2020 any easier for USAPL. Moreover, given how much pandemic-related restrictions were in flux, one could say every day was a new surprise. USAPL therefore found it difficult to review and put together a challenge to the COJ Decision in a month. As is evident from the Appeal Brief, this is a complex case; while it might be easy to send an email, for USAPL to put together a cogent appeal to the COA was not as simple as hitting "send." Under the circumstances, it can hardly be said that a month was a "generous" amount of time. In fact, the COA, which had a one-month deadline to issue its decision, could not even meet this "generous" time period either. It needed another four months to issue the COA Decision.

33. USAPL added that an international federation decision denying a case based on timeliness can be appealed to CAS, and that CAS can review discretionary determinations, such as the COA's decision that USAPL appeal against the COJ decision was out of time. USAPL rejected what it understood as the IPF's distinction between "discretion", that CAS can review, and "absolute discretion", which, according to the IPF, CAS cannot review, emphasizing that Article 11.5.1(5) of the IPF Constitution provides that any decision may be appealed to CAS in accordance with the CAS rules. USAPL concludes that the timeliness issue is not a matter of admissibility before CAS, but rather goes, at most, to the question of what issues are before this Panel on appeal.
34. USAPL also points to a number of other allegedly fatal issues, particularly that the COA had only five members at the time USAPL's appeal was received, and only four when the COA Decision was issued. However, Article 11.5.2(1) of the IPF Constitution provides that the COA is to consist of the Chairperson and six members, and the IPF Constitution does not provide for panels to decide appeals before the COA; thus, all members must decide an appeal, with the exception of recusals. In the case of the USAPL appeal, USAPL argues that the COA was improperly constituted because it had too few members. Furthermore, the entire COA did not decide the matter. USAPL adds that the Chairperson Ms. Bettina Altize initiated a vote on whether to waive the one-month time requirement for USAPL's appeal. Before the case was taken away from her without notice, the vote on the issue would have been tied. At the time the COA Decision was issued, one COA member who had voted against accepting USAPL's appeal was no longer on the COA. Despite being Chairwoman of the COA, the case was taken away from Ms. Altizer, and she was not even made aware of who was participating in deciding the appeal. Ms. Altizer was not involved in or even consulted on the ultimate COA Decision, nor was she even provided a copy of the COA Decision, either before or at the time it was issued. USAPL asserts that COA Decision itself gives no indication as to who was involved in the decision. Given that Ms. Altizer was not involved in the decision, and another COA member had left at the time it was issued, at most only three COA members could have been involved. The COA Decision suggests it may even have been only one individual, where it states: "the Court of Appeal discussed if it should consider the appeal on its merits on his discretion."
35. For these reasons, USAPL argues that the COA Decision denying USAPL's appeal based on timeliness should be annulled.

36. USAPL argues further that, under Article R57 of the CAS Code, this Panel is empowered to review the COA Decision *de novo* and that this means that this Panel should hold a new hearing on the underlying merits of this case, *i.e.*, whether the IPF must recognize the world records set at the Arnold Sports Festival ("2020 Arnold") in 2020. The USAPL adds that the COA Decision should in any event be annulled because it was rendered too late, as the COA took approximately five months to render a decision after receiving all of the documentation, in contravention with Article 11.5.1 (3) of the IPF Constitution, which provides that the COA shall, within one month of receiving all documentation and submissions relating to the appeal or, if a hearing is to be held, within one month of such hearing, examine and investigate the matter and make a decision on it.
37. Even if this Panel were to accept the narrowest view of this matter and review the COA Decision to determine whether it was "arbitrary or unlawful," clearly it was. The COA Decision was issued late, the COA was not properly constituted because it was short at least one member, and the COA Decision was not made with the input of all members. The Chairwoman was not even aware the decision was being made.
38. Furthermore, the COA Decision itself was arbitrary. The decision noted that USAPL failed to plead force majeure for the delayed filing of its appeal, but the COA had never given USAPL an opportunity to make that argument, nor would it have been obvious that USAPL needed to or could make that argument, first because the disruption caused by the Covid-19 pandemic was obvious, and second because the IPF rules do not specify that force majeure can be pleaded.
39. By letter of 4 June 2021, USAPL noted that Article 11.3.5 of the IPF Constitution specifically says, "*Every member of the IPF Court of Justice and any Hearing Panel shall be and remain impartial and independent of the parties in any hearing. Note that this may be the entire Court of Justice or a sub-set, dependent on the circumstances of the case and availability of members. The minimum number of the Hearing Panel shall be three.*" That language is distinctly lacking in Article 11.5, regarding the Court of Appeal. Notably, Article 11.5.2(2) of the Constitution, on which the IPF relies, says nothing about panels making decisions on behalf of the COA and Article 11.5 in general does not contain any language authorizing the same. Thus, the absence of language analogous to Article 11.3.5 in Article 11.5 of the Constitution indicates that the COA must make decisions as a whole.
40. USAPL added that the appeal was not handled in a transparent manner, and was fatally flawed, even though the IPF claims that it was simply complying with USAPL's wishes when it removed the appeal from Bettina Altizer's purview.
41. The USAPL concludes that the COA Decision should be annulled, and, if it is annulled, a *de novo* evidentiary hearing on the merits should be held recognizing the world records from the 2020 Arnold, pursuant to Article R57 of the CAS Code.

B. The Respondent's Position

42. By letter of 16 April 2021, the IPF recalled that the Appellant challenged two decisions, namely (i) the COJ Decision of 22 June 2020, which confirmed that the non-recognition of the world records at the 2020 Arnold Sports Classic was correctly decided by the IPF, and (ii) the COA Decision of 26 January 2021, which found that the appeal filed by the USAPL against the COJ Decision was inadmissible because it had been filed late.
43. The IPF noted that the rules and regulations of the IPF do not provide for a direct right of appeal to CAS against the COJ Decision and, in any event, the appeal was filed about eight months after that decision, so that the appeal was plainly inadmissible to the extent that it was directed against the COJ Decision.
44. With respect to the COA Decision, the IPF noted that the COJ Decision was received by the USAPL on 23 June 2020, the Article 11.5.1(2) of the IPF Constitution provides for a time limit of one month of the written notification of the decision on which the appeal is based to appeal decisions made by the COJ to the IPF Court of Appeal, and the USAPL filed its appeal against the COJ Decision on 19 August 2020, *i.e.*, 57 days after its notification.
45. The IPF acknowledges that Article 11.5.1(5) of the IPF Constitution provided for the possibility, at the “absolute discretion” of the COA, for an exception to be made, and for an otherwise inadmissible appeal to be heard.
46. The IPF notes that, in this case, the COA exercised its (absolute) discretion not to waive or vary the one-month time-limit. It drew attention, in particular, to how late the appeal was (*i.e.*, more than 50 days after the notification of the decision) and the fact that there was no force majeure situation.
47. The IPF argues that a decision that is made based on ‘absolute discretion’ should only be interfered with in the most exceptional circumstances. This is a fortiori the case where the decision is concerned with whether or not to make an exception to the rules, *i.e.*, to admit an otherwise inadmissible appeal. Certainly, the question for the reviewing body is not whether the decision was right or wrong or whether it would have done the same thing. The exercise of the (absolute) discretion would have to be so unconscionably wrong as to be untenable. Otherwise, the granting of ‘absolute’ discretion would be meaningless.
48. The IPF adds that the USAPL has not put forward any compelling reason for why it filed its appeal after the deadline or for why its appeal should have been admitted, and, in particular, that when it filed the appeal on 19 August 2020, the USAPL did not claim, either in the cover letter or in its written submission, that the time limit for appeal should be waived or varied, or that the USAPL had exceptional circumstances for filing the appeal outside of the time limit. In fact, the USAPL did not address the missed time limit at all.
49. The IPF notes that, in the Appeal Brief before CAS, the USAPL sought to attribute the late filing to the pandemic, claiming that “the disruption caused by the Covid-19

pandemic was obvious”, but rejects what it describes as a vague reference to the Covid-19 pandemic, stating that the pandemic did not prevent emails being sent or wire payments being made, and that the pandemic had already been in place for months by the time of the COJ Decision. The USAPL was therefore not taken by surprise. In any event, it missed the (already generous) one-month deadline not by a day or two, but by 27 days.

50. The IPF concludes that the COA was therefore perfectly entitled to exercise its (absolute) discretion not to waive or vary the time-limit for appeal. That decision should not be interfered with, such that the COJ Decision is final and binding.
51. The IPF adds that this should be dispositive of this appeal, and avoid the need to consider the underlying merits, i.e. the question of whether the world records at the 2020 Arnold Sports Classic should be recognized, and that, in any event, where decisions are merely discretionary in nature, the CAS has held that it can interfere with them only if they are arbitrary or otherwise unlawful.
52. In the interests of procedural economy, the IPF argues that this Panel dismiss this appeal on the basis that the appeal by USAPL before the IPF Court of Appeal against the COJ Decision was inadmissible, and that it is not necessary for this Panel to review the merits of the appeal.
53. By letter of 25 May 2021, the IPF responded to the USAPL’s letter of 4 May 2021, stating that Article 11.3.5 of the IPF Constitution provides that a subset of the members of the Court of Justice may be assigned to a specific case as a hearing panel and that Article 11.5.2(2) of the Constitution provides that the procedures conducted by the COA are, by analogy, the same as for the Court of Justice. As a result, it was not necessary for all the members of the COA to render the Appealed Decision.
54. The IPF then commented on the reasons for the absence of several members of the COA from the panel that rejected the USAPL’s appeal, in particular that the USAPL itself asked for Bettina Altizer and Bára Sigurjónsdóttir to recuse themselves from this case due to a conflict of interest. The IPF added that Bettina Altizer, as a member of the executive of USAPL, had an obvious conflict of interest in this case in her role as chair of the COA. The Panel notes that USAPL did not deny this point in its letter of 4 June 2021, and limited itself to asserting that “*the real issue is that the matter was not handled in a transparent manner*”. The Panel would add that Article 11.5.2(1) of the IPF Constitution provides that membership of the Executive Committee of the IPF is a disqualification from membership of the COA. But the Panel notes that this could have been handled more transparently than it was, as apparently notice was not given to the affected individual about the conflict asserted to disqualify her.
55. By letter of 15 June 2021, the IPF stated that it maintains its position that the USAPL failed to file an appeal before the IPF Court of Appeal within the established time limit, and that the IPF COA was entitled to exercise its (absolute) discretion not to waive or vary the time-limit for appeal.

56. With respect to the issues addressed by the USAPL in the letter of 4 June 2021, the IPF confirmed that it fully relied on its letter dated 25 May 2021. In addition, the IPF notes that article 11.5 of the IPF Constitution does not require that decisions be made by the court "as a whole", contrary to the USAPL's argument. Instead, article 11.5.2(3) clearly states that the "procedures of the Court of Appeal run in analogy to the respective rules for the Court of Justice", which provide for a panel to deal with a specific case.

57. The IPF concludes that the USAPL's appeal should be dismissed.

V. JURISDICTION

58. Article R47 CAS Code provides that:

“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 [...].”

59. Article 11.5.1(5) of the IPF Constitution provides that:

[...] Decisions made by the IPF Court of Appeal may be appealed to CAS in accordance with the CAS rules.

60. Article 11.6.1 of the IPF Constitution provides that:

“No appeal shall be filed with the Court of Arbitration for Sports (CAS) before the Appellant has exhausted the legal remedies available to him prior to appeal [...] An appeal against a decision on a particular case may be filed with CAS only after the decision of [...] The IPF Court of Appeal (CA); decisions on cases where an appeal against a decision of the IPF Court of Justice is referred to the CA, as defined in the relevant rules of this Constitution.”

61. Article 11.6.2 of the IPF Constitution provides that:

“Any decision made by the CAS shall be final and binding on the parties concerned.”

62. The Parties do not contest CAS's jurisdiction.

63. As a result, the Panel finds that CAS has jurisdiction to adjudicate and decide on the present dispute.

VI. ADMISSIBILITY

64. Article R49 CAS Code provides that:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.”

65. The IPF Constitution sets forth no deadline for appeals to CAS. As a result, USAPL's deadline was 21 days after USAPL's receipt of the COA Decision under Article R49 of the CAS Code. USAPL filed its Statement of Appeal on 15 February 2021, *i.e.*, within 21 days after USAPL's receipt of the COA Decision (which deadline was 16 February 2021). In its Statement of Appeal, USAPL sought a ten-day extension to its deadline to file the appeal brief under Article R51 of the CAS Code, which extension was granted by CAS by letter of dated 25 February 2021. Accordingly, USAPL filed its Appeal Brief on 8 March 2021, within the extension granted by CAS.

66. The IPF does not dispute that USAPL filed its appeal against the COA Decision with CAS within the applicable deadlines.

67. This Appeal is therefore admissible.

VII. APPLICABLE LAW

68. Article R58 CAS Code provides that:

“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.”

69. The applicable regulations are in the IPF Constitution. The Panel will decide this dispute according to the IPF Constitution and, subsidiarily, according to the law of Luxembourg, in accordance with R48 of the CAS Code.

VIII. MERITS

70. The relevant provisions of the IPF Constitution are the following:

71. Article 11.5.1(2) of the IPF Constitution, which provides that:

“appeals other than appeals to the CAS must be lodged with the Court of Appeal Chairman within one month of the written notification of the decision on which the appeal is based. A copy of the appeal must be sent to the Secretary General.”

72. Article 11.5.1(5) of the IPF Constitution, which provides that:

“The Court of Appeal may, in its absolute discretion, waive or vary the time limits contained herein.”

73. Article 11.3.5(1) of the IPF Constitution, which provides that:

“Every member of the IPF Court of Justice and any Hearing Panel shall be and remain impartial and independent of the parties in any hearing. Note that this may be the entire Court of Justice or a sub-set, dependent on the circumstances of the case and availability of members. The minimum number of the Hearing Panel shall be three.”

74. Article 11.5.2(3) of the IPF Constitution, which provides that:

The procedures of the Court of Appeal run in analogy to the respective rules for the Court of Justice if not amended explicitly under article 11.5.1.

75. The Panel recalls that it is uncontested between the Parties that the USAPL received the COJ Decision on 23 June 2020, and that it filed its appeal to the COA on 19 August 2020, which is well outside the one-month deadline set forth in Article 11.5.1(2) of the IPF Constitution.

76. The Panel notes that Article 11.5.1(5) of the IPF Constitution provides that the IPF COA has absolute discretion to waive this time limit, but, exercising its absolute discretion, did not do so in this case.

77. This Panel has power to substitute its own discretion for the IPF COA’s exercise of its discretion. That is clear from the express terms of Article R57 of the CAS Code. The question is whether it should conduct that *de novo* review, as the USAPL asks.

78. In principle, in the absence of special circumstances this Panel would not exercise that power and would uphold the discretionary decision of the IPF COA as long as:

(1) The decision had been made by a IPF COA Hearing Panel constituted in accordance with the IPF Constitution.

(2) The IPF COA Hearing Panel had taken account of all relevant matters and had disregarded irrelevant matters.

(3) The COA Decision was a reasonable decision (whether or not, on the same facts, this CAS Panel would have reached a different decision).

79. This approach recognises that the discretion whether to admit a late appeal to the COA is entrusted by the IPF Constitution to the IPF COA, whose members have the advantage of their knowledge of the activities and affairs of the IPF and the sport of powerlifting. The Panel's starting point was a firm resistance to interfering with an exercise of discretion by that designated decision-making body unless there are circumstances which drive us to that course.
80. However, in the present case the Panel do find such circumstances. There are aspects of the IPF COA decision-making process in this case which lead this Panel to conclude this is an exceptional case where the CAS Panel should substitute its own discretion.
81. On this question, the starting point is the composition of the IPF COA Hearing Panel. Reading articles 11.3.5 (1) and 11.5.2 (3) of the IPF Constitution together, a Hearing Panel of the IPF COA need only consist of three members drawn from the overall membership of the IPF COA. However, there must be a minimum of three. The Hearing Panel for any specific case is nominated by the Chairman.
82. The USAPL has put in evidence before this CAS Panel an affidavit of Ms Bettina Altizer sworn on 4 May 2021, in which Ms Altizer stated:
- (1) She had been the Chair of the IPF COA since 2016.
 - (2) There had been five members of the IPF COA when the USAPL filed its appeal: Ms Altizer, Mr Kalevi Sorsa, Mr Patrik Björk, Mr Nikolas Göb and Ms Bára Sigurjónsdóttir.
 - (3) As Chair of the IPF COA, Ms Altizer had determined that it was appropriate to bifurcate the procedural issue of timely filing and the substantive issue of the merits of the appeal.
 - (4) She had emailed all the members of the IPF COA asking for their positions on whether the COA should accept USAPL's appeal in its discretion.
 - (5) The full IPF COA decides the matter before the court except for any recusing members.
83. It is common ground that neither Ms Altizer nor Ms Sigurjónsdóttir took part in the eventual COA Decision. The USAPL's 19 August 2020 email had specifically asked for them to recuse themselves owing to conflict of interest. Their non-participation in the decision was therefore consistent with the USAPL's own request, although it appears that they were both removed from the case in an irregular manner (extraordinarily, in Ms Altizer's case, apparently without her even being informed before the COA Decision that she was no longer involved).
84. However, it is unnecessary for this CAS Panel to go into the details of Ms Altizer's and Ms Sigurjónsdóttir's removal from the case. Ms Altizer's affidavit also states: "I do know that Mr. Sorsa resigned from the Court of Appeal in 2020 prior to the issuance of this decision." That statement has not been contradicted by the Respondent, although its 25 May 2021 letter specifically took issue with other points in Ms Altizer's affidavit and it took the opportunity of a further response by its letter dated 15 June 2021. The

Panel therefore takes Mr Sorsa's resignation before the COA Decision as an established fact.

85. On the evidence before this Panel, the COA Decision was made only by Mr Björk and Mr Göb. Accordingly, even if the absence of Ms Altizer and Ms Sigurjónsdóttir from the deciding COA Hearing Panel is taken to have been procedurally regular (despite significant doubts on that point), the COA Decision taken by only two IPF COA members was contrary to the requirement in the IPC Constitution that the minimum number of the Hearing Panel must be three.
86. In its submissions by letter dated 4 May 2021, USAPL did not press this point, but wrote that "at most only three COA members could have been involved." However, this CAS Panel cannot ignore the fact that on the evidence there were only two members who made the COA Decision. The effect is that there was no valid exercise of the discretion whether or not to admit the late appeal. The Panel will therefore use its power under Article R57 of the CAS Code and consider whether itself to exercise the discretion under article 11.5.1 (5) by now extending the time for USAPL's appeal to the IPF COA against the COJ Decision.
87. This is what USAPL are asking the Panel to do. However, on consideration of all the evidence and submissions, the Panel exercises that discretion against extension of time for the appeal to the IPF COA.
88. The Panel has not been provided with any reason or argument justifying such an extension. The Panel notes that the USAPL points to the difficulties resulting from the COVID crisis. However, to the Panel's knowledge, this crisis has not warranted a general relaxation of filing deadlines. Furthermore, in the Panel's view, the circumstances at the time cannot explain why the USAPL failed to communicate with the IPF COA, even be it in the form of an email, to explain the reasons for the delay in filing its appeal, and raising contemporaneously the pandemic-related force majeure issues it has raised here.
89. The Panel sees no force in the USAPL contention that it had been given an assurance that its appeal would be accepted. It was always clear that the decision whether or not to grant an extension of time to allow the admissibility of the appeal to the COA was a decision for the IPF COA itself (and now by this CAS Panel). That assurance, if given, cannot have more legal weight than a decision that the COA Appeal was inadmissible.
90. The Panel therefore rejects the USAPL's appeal on the grounds that its appeal to the IPF COA was out of time and no extension has been or should now be granted for the filing of that appeal. The USAPL appeal to the IPF COA remains inadmissible. It follows that there is no need for this Panel to examine the merits of this appeal to CAS, which is therefore dismissed.

IX. COSTS

91. Article R64.4 of the CAS Code provides that:

At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include:

- the CAS Court Office fee,*
- the administrative costs of the CAS calculated in accordance with the CAS scale,*
- the costs and fees of the arbitrators,*
- the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale,*
- a contribution towards the expenses of the CAS, and*
- the costs of witnesses, experts and interpreters.*

The final account of the arbitration costs may either be included in the award or communicated separately to the parties. The advance of costs already paid by the parties are not reimbursed by the CAS with the exception of the portion which exceeds the total amount of the arbitration costs.

92. Article R64.5 of the CAS Code provides that:

In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.

93. The Panel rules that the USAPL shall bear all the costs of these proceedings, which the CAS Court Office will communicate to the USAPL, and that the USAPL shall make a contribution of CHF 5,000 (five thousand Swiss francs) towards the legal costs of the IPF.


ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by the USAPL against the decision of the Court of Appeal of the International Powerlifting Federation of 26 January 2021 is hereby rejected.
2. The costs of the arbitration, to be determined and served to the Parties by the CAS Court Office by separate letter, shall be borne in their entirety by the USAPL.
3. The USAPL shall pay to the IPF a total amount of CHF 5,000 (five thousand Swiss francs) as contribution towards the legal fees and expenses incurred in connection with these arbitration proceedings.
4. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 27 April 2022

THE COURT OF ARBITRATION FOR SPORT



Romano F. Subiotto QC
President of the Panel



Jeffrey G. Benz
Arbitrator



Nicholas Stewart QC
Arbitrator