



Arbitration CAS 2012/A/2731 Brazilian Olympic Committee (BOC), Brazilian Taekwondo Confederation (BTC) & Márcio Wenceslau Ferreira v. World Taekwondo Federation (WTF), Comité Olímpico Mexicano (COM), Federación Mexicana de Taekwondo (FMT) & Damian Alejandro Villa Valadez, award of 13 July 2012

Panel: Mr Romano Subiotto QC (United Kingdom), President; Mr Olivier Carrard (Switzerland); Prof. Denis Oswald (Switzerland)

Taekwondo

Qualification for the Olympic Games

CAS jurisdiction

Decision (definition/ notion)

CAS scope of review regarding field of play decisions

1. Only “Olympic” athletes, *i.e.* athletes duly accredited by the International Olympic Committee, can rely on Article 61(2) of the Olympic Charter in order to submit an appeal to the CAS. On the other hand, athletes with a mere interest in taking part in the Olympic Games cannot rely on Article 61(2) to justify the jurisdiction of the CAS. In any event, pursuant to Article R47 of the Code, the CAS has the power to adjudicate appeals against a sports organization only if three conditions are met: (i) there must be a decision of a federation, association or another sports-related body; (ii) the internal legal remedies must have been exhausted prior to appealing to the CAS; and (iii) the parties have agreed to the competence of the CAS.
2. A decision is a unilateral act sent to one or more determined recipients and is intended to produce legal effects. The form of communication has no relevance to determine whether there exists a decision or not. A ruling issued by a sports-related body refusing to deal with a request can be considered a decision under certain circumstances. In this respect, a letter sent by the President of an International Federation (IF) refusing to entertain a National Olympic Committee’s request to review the IF’s position regarding the result of a contest in view of the qualification of an athlete for the Olympic Games is, in substance, a decision affecting the parties concerned.
3. CAS arbitrators do not review the determination made on the playing field by referees or other officials who are charged with applying the “rules of the game”. The exclusion of the possibility to review a decision taken by a field referee is not limited to the merits but also covers the procedural aspects. However, there are exceptions. Before a CAS panel will review a field of play decision, there must be evidence, which generally must be direct evidence, of bad faith or arbitrariness. The field of play decision doctrine prevents a panel from reviewing a field of play decision on the mere assertion that an applicant disagrees with it.

The Brazilian Olympic Committee (BOC), the First Appellant, is the National Olympic Committee for Brazil. The BOC is the governing body of Brazilian Olympic sports, and is responsible for enrolling Brazilian athletes in the Olympic Games. The national confederations whose sports are part of the Olympic Program are directly linked to the BOC.

The Brazilian Taekwondo Confederation (BTC), the Second Appellant, is the governing body of taekwondo in Brazil.

Márcio Ferreira Wenceslau, the Third Appellant, (the “*Brazilian athlete*” or “*Ferreira*”), is an international level taekwondo athlete from Brazil who was 31 years old at the time of the contest relevant for this case. Ferreira participated in the Pan-American Qualification Tournament for the London 2012 Olympic Games held in Querétaro, Mexico from November 18, 2011 to November 20, 2011 (the “*Tournament*”). Ferreira has been a professional taekwondo athlete since 2002, and is affiliated with the BTC. The First, Second, and Third Appellants are collectively referred to as the “*Appellants*”.

The World Taekwondo Federation (WTF), the First Respondent, is the International Federation (IF) governing the sport of taekwondo, and is based in Seoul, Korea. The WTF recognizes, as its members, national taekwondo governing bodies that are recognized by the National Olympic Committees (NOCs) of the relevant countries. The WTF oversees competitive taekwondo events internationally, including administration of the Tournament.

The Comité Olímpico Mexicano (COM), the Second Respondent, is the National Olympic Committee for Mexico. The COM is the governing body of Mexican Olympic sports, and has exclusive powers for the representation of Mexico at the Olympic Games.

The Federación Mexicana de Taekwondo (FMT), the Third Respondent, is the governing body of taekwondo in Mexico.

Damian Alejandro Villa Valadez (the “*Mexican athlete*” or “*Villa*”), is an international level taekwondo athlete from Mexico, who participated in the Tournament. Villa is affiliated with the FMT. The First, Second, and Third Respondents are collectively referred to as the “*Respondents*”. The Appellants and the Respondents are collectively referred to as the “*Parties*”.

On November 18, 2012, Ferreira and Villa competed in the bronze medal contest of the Men’s –58 kg event (the “*Contest*”) at the Tournament. Ferreira defeated Villa 7 points to 6; however, in the last minute of the Contest, the judges awarded 3 points to Villa for a kick to the head, which then changed the final result of the Contest.

On November 25, 2011, the BTC requested, by letter, that the Pan-American Taekwondo Union (PATU) carefully review the Contest between Ferreira and Villa during the Tournament. The BTC requested issuance of a wild card for the Brazilian athlete in an attempt to rectify the alleged mistaken result.

On December 2, 2011, the BOC sent a letter to the President of the PATU stating that the Contest had been subject of an appeal by the BTC because of the alleged mistaken result. The BOC expressed its interest in the review of the Contest's result, and its support of the BTC's appeal for Ferreira to qualify for the London 2012 Olympic Games.

On January 24, 2012, the BOC's President sent a letter to the President of the WTF announcing its appeal of the results of the Contest, and requested the WTF to carefully review the Contest. The BOC's President alleged that the judges made a serious mistake during the last seconds of the Contest, which led to an unfair result. According to the BOC's President, Ferreira was in the lead when, with just three seconds left, Villa attempted a kick to Ferreira's head, and the judges wrongly considered it to be a valid kick when in fact the kick did not hit Ferreira. The BOC's President informed the WTF that both the BOC and BTC appealed to the PATU, but the PATU did not answer. The BOC requested Ferreira's qualification for the London 2012 Olympic Games men's -58kg division.

On February 9, 2012, the President of the WTF answered, by letter (the "*WTF Decision*"), explaining that: (i) following the receipt of the letter of complaint, he consulted with the Technical Delegate, the Referee Chairman, and the Sports Director to investigate the issue; (ii) there are two ways to review the judging of a taekwondo match, *i.e.*, to request a video review, and the judges' request for a review of the decision; (iii) the quota for coaches' review is limited to one appeal per athlete in each match; (iv) immediately after the Contest, three judges gathered together to review the score and confirmed the results; (v) the coach of the Brazilian athlete had used his quota for video review and could not make another appeal; (vi) the WTF has introduced technology after the Beijing 2008 Olympic Games to enhance a fair and transparent judging system; (vii) unintentional mistakes have been corrected immediately during the Contest either by the coach's request or by the judges themselves; and (viii) when the above mentioned two steps have been completed, there should be no further step to argue a judges' decision.

On February 10, 2012, the BOC expressed its disagreement, by letter, of the final decision taken by the WTF and requested that the WTF review its position by no later than February 24, 2012.

On February 24, 2012, the WTF acknowledged, by letter, receipt of the letter dated February 10, 2012 and considered that the issues surrounding the situation rested on the decision of the officials on the field of play, which cannot be made outside the rules of the sport, along with CAS precedents. The WTF therefore considered that the decision regarding the Brazilian athlete could not be challenged at this stage and that the Brazilian coach had already used his quota for appeal. The WTF further informed the BOC that it cannot give special consideration to one country in such a situation and that doing so would be a violation of its obligations under the Olympic Charter.

The BOC, the BTC, and the Brazilian athlete appealed against the WTF Decision by a Statement of Appeal and Appeal Brief of February 29, 2012, in which the WTF, the COM, and the FMT were identified as respondents.

The BOC, BTC, and the Brazilian athlete's Statement of Appeal and Appeal Brief contained the following Request for Relief:

The Appellants hereby respectfully request CAS to rule as follows:

- a. Declare the Appeal is admissible;*
- b. The appealed decision is set aside, in order to declare the victory of Brazilian athlete, and ensure his qualification for the London Olympics 2012;*
- c. Alternatively, determine that the Respondents give a wild card for the participation of Márcio Wenceslau Ferreira on the London Olympics games;*
- d. Declare that the competition judges incurred in an error in procedendo on this case;*
- e. The Respondents shall bear all costs of the proceedings including a contribution to Appellants legal fees.*

Along with their Statement of Appeal and Appeal Brief, the Appellants requested the procedure be expedited, in view of the London 2012 Olympic Games which start on July 27, 2012. The Respondents agreed that the procedure be expedited.

By letter dated March 22, 2012, the WTF requested a ten-day extension of the deadline to file its Answer. By letter dated March 27, 2012, the CAS informed the WTF that the deadline to file the WTF's Answer Brief was suspended until a determination on the extension's request was made by the President of the CAS. By letter dated March 29, 2012, the CAS informed the Parties that the President of the CAS Appeals Arbitration Division had rejected the First Respondent's request for extension of the deadline to file its Answer and that the deadline to file the Answer resumed upon receipt of the fax.

On March 30, 2012, the First Respondent filed its Answer, which contained the following Request for Relief:

For all these reasons, Respondent 1 submits the following pleas in the CAS 2012/A/2731 proceeding:

- 1. That the Panel declares the appeal as non-admissible.*
- 2. That the Panel declares itself as not competent to judge the present proceeding.*
- 3. That the Panel confirms the decision issued by the World Taekwondo Federation.*
- 4. That the Panel rejects and dismisses the appeal in its entirety.*
- 5. That the Panel orders Appellants, jointly and severally, to pay any and all arbitration costs (administrative costs and fees and disbursements of the Arbitrators).*
- 6. That the Panel orders Appellants, jointly and severally, to fully compensate Respondent 1 for all its costs and expenses in connection with the present proceedings, including attorney's fees and such other costs as Respondent 1 may specify in due course.*

On March 28, 2012, the Second Respondent filed its Answer, which contained the following Request for Relief:

We kindly request to the Honorable Panel of Arbitrators:

- 1. To refrain from hearing the present Appeal due to a lack of jurisdiction as this is a controversy of technical nature.*
- 2. To take into consideration and to evaluate the causes not to proceed made valid in the present response to the Appeal.*
- 3. To absolve the Mexican Olympic Committee from being a part of the Demand, as supposed facts for that circumstance do not apply.*
- 4. To confirm the decision issued by the WTF.*
- 5. To condemn the Appellants to pay to the CAS and to the Respondents the total sum of the arbitration costs, as well as all other accessory costs.*

On March 30, 2012, the Third and Fourth Respondents filed their Response, which contained the following Request for Relief:

The Respondents hereby respectfully request CAS to rule as follows:

- a) To refrain from ruling on the present appeal due to the lack of jurisdiction.*
- b) To dismiss the appeal since it tries to revert a field of play decision and this Court's doctrine and jurisprudence have always stated that such type of opinions are out of scope of performance.*
- c) To confirm the decision issued by WTF.*
- d) To condemn the Appellants, jointly and severally, to pay any and all arbitration costs (administrative costs and fees and disbursements of the Arbitrators).*
- e) To condemn the Appellants, jointly and severally, to fully compensate Respondents 3 and 4 for all its costs and expenses in connection with the present proceeding, including attorney's fees and such other costs as Respondent 1 may specify in due course.*

In a letter dated June 8, 2012, the CAS informed the Parties that the hearing scheduled on June 13, 2012 was cancelled and, pursuant to Article R44.2 of the Code, the parties were advised that the Panel deemed itself to be sufficiently well informed with respect to the present matter and, therefore, decided not to hold a hearing.

LAW

Jurisdiction, Applicable Law, and Admissibility

A. Jurisdiction

1. Article R47 of the Code of Sports-related Arbitration (the “Code”) provides as follows:

Article R47 Appeal

An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Player has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body.

2. The Appellants claim that the CAS has jurisdiction mainly on the basis of Article 59 of the Olympic Charter of July 7, 2007, which provides that “*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, in accordance with the Code of Sports Related Arbitration*”. The Appellants argue that the WTF and the NOCs are bound by the Olympic Charter. In addition, the Appellants claim that Article 51 of the BOC Bylaws provides that CAS shall resolve disputes.
3. Former Article 59 of the Olympic Charter, which is, as of July 8, 2011, Article 61(2), provides as follows:
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.
4. According to CAS jurisprudence, only “*Olympic*” athletes, *i.e.* athletes duly accredited by the International Olympic Committee, can rely on Article 61(2) of the Olympic Charter in order to submit an appeal to the CAS. On the other hand, athletes with a mere interest in taking part in the Olympic Games, such as the Brazilian athlete, cannot rely on Article 61(2) to justify the jurisdiction of the CAS. As a result, the Panel cannot rely on Article 61(2) to declare itself competent in the present case (CAS 2000/A/297; CAS 2000/A/288).
5. The Second Respondent contests CAS’s jurisdiction mainly on the basis of Article 21(7) of the WTF Competition Rules.
6. The Third and Fourth Respondents argue that the CAS does not have jurisdiction because (i) the letter addressed to the President of the WTF in January 2012 was not a formal request for a dispute resolution pursuant to the WTF Statutes, and (ii) the Appellants failed to comply with the WTF Bylaws of Dispute Resolution & Disciplinary Actions of August 1, 2011 (the “2011 WTF Bylaws”), according to which the Appellants should have addressed their complaint to the Secretary General within 20 days with a \$500 processing fee. The Third and Fourth

Respondents therefore argue that the Appellants have not exhausted the legal remedies available to them prior to the Appeal.

7. Article 21(7) of the WTF Competition Rules provides as follows:

The decision of the Review Jury is Final; no further appeals during the contest or protest after the contest will be accepted.

8. Pursuant to Article R47 of the Code, the CAS has the power to adjudicate appeals against a sports organization only if three conditions are met (*See e.g.*, CAS 2008/A/1583; CAS 2008/A/1584; CAS 2008/A/1699; CAS 2009/A/1869): (i) there must be a decision of a federation, association or another sports-related body; (ii) the internal legal remedies must have been exhausted prior to appealing to the CAS; and (iii) the parties have agreed to the competence of the CAS.

- a) The existence of a decision

9. The First, Third, and Fourth Respondents argue that the WTF Decision is an act of courtesy and not a decision amenable to challenge before the CAS.

10. According to CAS jurisprudence, a decision is a unilateral act sent to one or more determined recipients and is intended to produce legal effects (CAS 2004/A/659; CAS 2005/A/; CAS 2008/A/1634). In addition, the form of communication has no relevance to determine whether there exists a decision or not. In particular, the fact that the communication is made in the form of a letter does not rule out the possibility that it constitutes a decision subject to appeal (CAS 2008/A/1634). A ruling issued by a sports-related body refusing to deal with a request can be considered a decision under certain circumstances (CAS 2005/A/899; CAS 2007/A/1251; CAS 2008/A/1634).

11. According to Article 4(1)(b) of the 2011 WTF Bylaws, “*within ten working days the Secretary General shall determine whether or not to proceed with an investigation related to the complaint. The decision to proceed is solely at the discretion of the WTF. Once the decision is made, the WTF shall do one of the following: (i) decide not to proceed and issue a letter to the Complainant describing why the Complaint is not being investigated, and if appropriate request additional information in order to reconsider the action; or (ii) decide to proceed and give notice to the Complainant and the accused regarding the initiation of an investigation, and the details of the subsequent process, in compliance with Article 5 (Principles) below*”.

12. In the present case, by letter dated February 9, 2012, the President of the WTF decided not to proceed and described why the complaint was not being investigated. The Panel finds that by responding in such manner to the BOC, the WTF clearly manifested that it would not entertain the request, thereby ruling on the admissibility of the request and directly affecting the BOC, the BTC, and the Brazilian athlete’s legal situation. Thus, despite being formulated in a letter, the WTF’s refusal to entertain the BOC’s request was, in substance, a decision (*See.e.g.* CAS 2007/A/1251).

- b) The exhaustion of the internal legal remedies
13. Article 21(7) of the WTF Competition Rules provides as follows:
The decision of the Review Jury is Final; no further appeals during the contest or protest after the contest will be accepted.
14. Article 1(1)(b) of the 2011 WTF Bylaws provides as follows:
Unless otherwise provided herein resolutions or actions under these Bylaws are final.
15. As the First and Second Respondent argue, the WTF Decision is final and not subject to appeal – all available legal remedies within the WTF have thus been exhausted. But that does not mean that an appeal to CAS is excluded (*See e.g.* CAS 2008/A/1699).
- c) The consent to arbitrate
16. The Parties can agree to arbitrate either by submitting to the Statutes and Regulations of the body taking the contested decision, or by concluding an arbitration clause.
17. In the present case, Article 1 and 6 of the 2011 WTF Bylaws explicitly provide for the possibility of filing an appeal to the CAS.
18. Article 1(1) of the 2011 WTF Bylaws provides that:
(A) Unless otherwise provided herein appeal under these Bylaws are the sole means for resolution by any persons subject to WTF statutes, regulations, etc., of relevant WTF-related disputes or disciplinary actions.
(B) Unless provided herein resolutions or actions under these Bylaws are final.
(C) If provided for herein, appeal of resolutions or actions made under the Bylaws can be made only to the Court of Arbitration for Sport (CAS).
20. Article 6(1) of the 2011 WTF Bylaws adds that:
As provided in Article 1.1 (c) above, decisions and actions under these Bylaws are appealable to CAS unless:
(A) the dispute centers on the appropriate interpretation of a WTF Statutes, Competition Rules, or other codes or bylaws; or,
(B) the final decision expressly states that the issue(s) is(are) “deemed resolved and closed”.
21. The Panel considers that, in the present case, the dispute does not focus on the interpretation of WTF Statutes, Competition Rules, or codes or bylaws, but on whether they have been properly applied by the judges during the Contest. The Panel further notes that the Decision does not expressly state that the issue is “deemed resolved and closed”.

22. In addition, the Panel notes that Article 1(1)(c) of the WTF Bylaws of Dispute Resolution & Disciplinary Actions, provides, as of April 2, 2012, that “*Except as provided herein, appeal of resolutions or actions made under these Bylaws can be made only to the Court of Arbitration for Sport (CAS)*”. Article 6(1)(f) adds that “*(F) Appeal of the decision of the Appeal Panel (or the decision by the WTF to not consider a timely-filed appeal) may be made only to the CAS*”. Article 7(4) further provides that: “*For the avoidance of doubt it is hereby confirmed that decisions made under the WTF Competition Rules and Interpretations are directly appealable to the CAS under the provisions of those rules*”. The Panel acknowledges that these provisions are not applicable to the present case. However, the Panel considers that these may usefully guide the Panel as to the CAS’ jurisdiction to hear WTF-related disputes.
23. However, the BOC and the COM have not submitted themselves to the Statutes and Regulations of the WTF. Neither did they conclude an arbitration agreement with the Respondents to arbitrate matters such as the current one. The Panel therefore considers that it does not have jurisdiction to the extent that the appeal is filed by the BOC, and the appeal is dismissed to the extent that it is addressed against the COM.
24. Given that the Contest aimed at determining the athletes’ qualification for the London 2012 Olympic Games, the Panel considers that it has jurisdiction to hear the appeal of the BTC and Ferreira to the extent that it is filed against the WTF, the FMT, and Villa. Nevertheless, in exercising such jurisdiction, the Panel has to verify whether and to what extent the “field of play” decision doctrine applies, so as to preclude the examination of the merits of the dispute.

Applicable law

25. Article R58 of the Code provides as follows:

Article R58:

This Panel shall decide the dispute according to the applicable regulations and 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, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.

26. The Decision, against which the appeal was brought, was issued under the WTF rules and regulations, and there is no dispute as to the applicability of the WTF rules and regulations.

Admissibility

27. The WTF argues that the appeal is not admissible because it was filed 80 days after the deadline. According to the WTF, pursuant to Article 21(7) of the WTF Competition Rules, the decision of the review jury is final and the latter decision is thus the necessary starting point of the admissibility of the appeal.

28. The Third and Fourth Respondents argue that the Appellants presented their statement to the CAS after the period provided by the Code. According to the Third and Fourth Respondents, the Contest took place in November 2011 and, in January 2012; they sent a letter to the president of the WTF. The Third and Fourth Respondents allege that, given that the Appellants have not followed the procedure provided in the 2011 WTF Bylaws, the starting date is November 18, 2011 and the Appeal was therefore filed after the deadline.
29. Article R49 of the Code provides as follows:
Article R49
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. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late.
30. The Panel finds that the starting date to take into consideration regarding the admissibility of the appeal to the CAS is the date of the appealable decision, i.e., the WTF Decision.
31. The Decision was taken on February 9, 2012. The Statement of Appeal was filed on February 30, 2012. The appeal was therefore filed within the deadlines provided by Article R49 of the Code. It complied with all other requirements of Article R48 of the Code. It follows that the Appeal is admissible.

Merits

32. According to the Appellants, the Decision is incorrect given that (i) the three judges did not gather together to watch the videotape and confirm the match's results; (ii) the results of the match can be changed pursuant to the WTF Competition Rules and the Olympic Charter; (iii) a fair and transparent judging system was not implemented; and (iv) mistakes committed by the referees have not been corrected. The Appellants also submit that the WTF Decision is not a field of play decision because the last kick of Villa did not touch Ferreira's head and that there was an *error in procedendo*.
33. The First, Third, and Fourth Respondents argue that the Panel should not review the Decision because the Appeal runs afoul the principle of "*field of play*" doctrine.
34. Before discussing the substance of the case, the first issue to be addressed in this case is the scope of review entrusted to the CAS in matters of this nature.
35. According to well-established jurisprudence of the CAS, "*CAS arbitrators do not review the determination made on the playing field by judges, referees, umpires, or other officials who are charged with applying what is sometimes called 'rules of the game'*" (CAS OG 96/006, CAS OG 00/013; CAS 2001/A/354; CAS 2001/A/355; CAS OG 02/007; CAS 2004/A/727; CAS 06/006; CAS 2008/A/1641; CAS 2008/O/1483). In other words, CAS arbitrators should not interfere with

the application of the rules governing the play of the particular game—this is to be left to field officials, who are specifically trained to officiate the particular sport and are best placed (being on-site) to settle any questions (CAS 2008/A/1641). CAS arbitrators are not, unlike on-field judges, selected for their expertise in officiating the sport concerned (CAS 00/013). This position is consistent with traditional doctrine and judicial practice which have always stated that rules of the game, in the strict sense of the term, should not be subject to the control of judges (CAS 2004/A/727).

36. The rationale underlying the CAS' scope of review regarding "*field of play*" decisions include supporting the autonomy of officials; avoiding the constant interruption of the game by appeals to the judge; seeking to ensure the certainty of the outcome of competition; and, the relative lack of perspective and/or experience of appellate bodies compared to that of match officials (CAS 2004/A/704; CAS 2004/A/727; CAS 2010/A/2090).
37. In the present case, the Panel is of the view that the decision taken by the referees during the Contest, and confirmed by the WTF Decision is a purely technical one pertaining to the rules which are the responsibility of the federation concerned. Indeed, the Appellants' main request concerns the alleged errors of the referees while applying the WTF Competition Rules. In particular, the Appellants insist on the alleged wrong computation of points regarding a last kick from the Mexican athlete that changed the outcome of the Contest and on an alleged *error in procedendo*. The Panel takes the view that the WTF Decision was clearly a field of play decision falling within the WTF competence during the course of an event under its exclusive control.
38. In line with CAS jurisprudence, the exclusion of the possibility to review a decision taken by a field referee is not limited to the merits thereof and also covers the procedural aspects leading thereto (CAS 2008/A/1641; CAS 2010/A/2090). As a result, the procedural arguments invoked by the Second, the Third and the Fourth Respondents as to the procedural errors regarding the first appeal to the WTF fall within the field of play decision doctrine and thus outside the Panel's scope of review.
39. However, according to CAS jurisprudence, there are exceptions allowing a revision of "*field of play*" decisions. Before a CAS Panel will review a field of play decision, there must be evidence, which generally must be direct evidence, of bad faith or arbitrariness (See *e.g.*, CAS OG 00/013; CAS 2001/A/354; CAS OG 02/007; CAS 04/005; CAS 2004/A/727; CAS 2004/A/704; CAS 2008/A/164). Different wording, such as "*arbitrary*", "*bad faith*", "*breach of duty*", "*malicious intent*", "*committed wrong*" and "*other actionable wrongs*" are used to express the same test (CAS OG 96/006; CAS OG 00/013 and CAS OG 02/007). There must be evidence of preference for, or prejudice against, a particular team or individual. In line with CAS jurisprudence, the Panel acknowledges that this places a high hurdle on the applicant seeking to review a field of play decision. However, if the hurdle were to be lower, the flood-gates would be opened and any unsatisfied participant would be able to seek the review of a field of play decision (CAS OG 00/013; CAS 02/007; CAS 2001/A/354; CAS 2004/A/727).

40. The Panel takes into account that the BTC acknowledged, in its letter dated November 25, 2011 that *“we are not putting the responsibility on WTF referees, which, in our sincere opinion, have always acted with great proficiency and responsibility”*. In addition, the Appellants do not contest the judges and the referee’s faith and mention, within their Statement of Appeal that they *“prefer not to believe in bad faith”*. The Panel therefore finds that the Appellants have not discharged them of their heavy burden in proving that the referee and judges acted in bad faith.
41. The Panel wishes to emphasize that every participant in a sport, where judges and referees have to make decisions about events on the field of play, must accept that the judge or the referee sees an incident from a particular point of view, and makes his decision on the basis of what he sees. The Panel acknowledges that mistakes can be made by judges and referees but not every mistake can be reviewed. The field of play decision doctrine prevents the Panel from reviewing a field of play decision on the mere assertion that an applicant disagrees with it.

The Court of Arbitration for Sport rules that:

1. The appeal filed by the Brazilian Olympic Committee, the Brazilian Taekwondo Confederation and Márcio Wenceslau Ferreira is dismissed.
2. The decision dated February 9, 2012 of the World Taekwondo Federation’s President is upheld.
- (...)
5. Any further claims for relief are dismissed.