



Arbitrations CAS 2022/A/8915 Russian Weightlifting Federation(RWF) v. International Weightlifting Federation (IWF) & CAS 2022/A/8918 Agapitov Maxim v. IWF & CAS 2022/A/8919 Chernogorov Dmitry v. IWF & CAS 2022/A/8920 Kishkin Aleksandr v. IWF, award of 17 January 2023 (operative part of 23 June 2022)

Panel: Mr André Brantjes (The Netherlands), President; Prof. Thomas Clay (France); Mr Bernhard Welten (Switzerland)

Weightlifting

Eligibility for election to the IWF executive board

Principle of interpretation of the rules and regulations of an International Federation

Competence of the IWF's Eligibility Determination Panel

1. The interpretation of the rules and regulations of international sports federation are subject to the method of interpretation applicable to statutory provisions rather than contracts. The starting point for interpreting is its wording (literal interpretation). There is no reason to depart from the plain text, unless there are objective reasons to think that it does not reflect the core meaning of the provision under review. Where the text is not entirely clear and there are several possible interpretations, the true scope of the provision will need to be narrowed by taking into account all the pertinent factors, such as its relationship with other legal provisions and its context (systematic interpretation), the goal pursued, especially the protected interest (teleological interpretation), as well as the intent of the legislator as it is reflected, among others, from the drafting history of the piece of legislation in question (historical interpretation). When called upon to interpret a law, the Swiss Federal Tribunal adopts a pragmatic approach and follows a plurality of methods, without assigning any priority to the various means of interpretation.
2. Pursuant to Article 37 and Schedule 11 IWF Constitution, the IWF's Eligibility Determination Panel (EDP) has only the task to *“determine whether [...] a person is eligible to stand as a Candidate for election to any position or office under the Constitution ...”*. Pursuant to the relevant rules of the IWF Constitution notably Article 13.12, the sanctioning of a member federation is the sole prerogative of the IWF Executive Board, the IWF Congress and/or the IWF Ethics and Disciplinary Commission.

I. PARTIES

1. The Russian Weightlifting Federation (the “RWF” or “Appellant 1”) is the national federation governing the sport of weightlifting in Russia. The RWF has its registered seat in Moscow, Russia, and is a member of the International Weightlifting Federation.
2. Mr Maxim Agapitov (“Mr Agapitov” or “Appellant 2”) is a Russian citizen and a representative of the RWF.
3. Mr Dmitry Chernogorov (“Mr Chernogorov” or “Appellant 3”) is a Russian citizen and a representative of the RWF.
4. Mr Aleksandr Kishkin, (“Mr Kishkin” or “Appellant 4”) is a Russian citizen and a representative of the RWF.
5. The RWF and Appellants 2, 3 and 4 are jointly referred to as the “Appellants”.
6. The International Weightlifting Federation (the “IWF” or the “Respondent”) is the international governing body for weightlifting. The IWF has its headquarters in Budapest, Hungary, but its registered seat is located in Lausanne, Switzerland.
7. The Appellants and the Respondent are hereinafter jointly referred to as the “Parties”.

II. INTRODUCTION

8. The present proceedings concern the question whether the candidates nominated by the RWF, i.e. Appellants 2, 3 and 4, are eligible for election to the IWF Executive Board, any IWF Commission and/or any IWF Committee (the “IWF Elections”) on the IWF Congress held on 25 and 26 June 2022.
9. The IWF’s Eligibility Determination Panel (the “EDP”) decided that Appellants 2, 3 and 4 were ineligible because the RWF is prohibited from nominating any candidates, which decision (the “Appealed Decision”) is being challenged by the Appellants in the present proceedings.

III. FACTUAL BACKGROUND

10. The elements set out below are a summary of the main relevant facts, as established by the Panel on the basis of the submissions of the Parties and the exhibits produced. Additional

facts and allegations found in the written submissions and at the hearing may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.

11. On 29 August 2021, the IWF Congress decided to include Article 13.12 in its IWF 2021 Constitution & Rules (the “IWF Constitution”). Article 13.12 states:

“In addition to any other provision of this Constitution, in any circumstance where persons representing a National Federation Member together incur at least six (6) or more Anti-Doping Rule Violation sanctions (where each of the Anti-Doping Rule Violation sanctions resulted in the person concerned having a period of ineligibility of at least three (3) months imposed under the operation of the Anti-Doping Rules or any other such other anti-doping policy which is in force in accordance with the World Anti-Doping Code or which is otherwise consistent with the requirements of the World Anti-Doping Code) during the period of four (4) years commencing from the day which is fourteen (14) days before the Opening Ceremony of the next-to-last Olympic Games (that is, not the Olympic Games in the same year as that of the Electoral Congress, but rather the Olympic Games of the previous Olympiad) and ending on the closing date for nominating candidates for election to the Executive Board at the Electoral Congress, the National Federation Member shall be prohibited from nominating any candidate for election to the Executive Board, any IWF Commission and any IWF Committee. The National Federation Member shall also be prohibited from being a signatory in accordance with rule 24.4(c) to any nomination made under rule 24.4”.
12. On 9 September 2021, the IWF publicly announced that the IWF Elections would be held on 20 December 2021.
13. On 3 November 2021, following a candidacy submitted by Mr Agapitov, the EDP determined that he was provisionally ineligible to stand in the IWF Elections to take place in December 2021, inviting him to file a response to such provisional determination. Similar decision were allegedly issued with respect to candidacies submitted by other RWF representatives.
14. On 19 November 2021, following a candidacy submitted by Mr Chernogorov and the provisional determination of ineligibility, the EDP confirmed his ineligibility to stand for election in the IWF Elections to take place in December 2021. Similar decisions were allegedly issued with respect to candidacies submitted by other RWF representatives.
15. On 25 November 2021, the IWF decided to cancel the IWF Elections scheduled to take place on 20 December 2021.

16. On 8 December 2021, following an application for interim relief filed by Mr Agapitov and the RWF with the *Tribunal d'arrondissement de Lausanne* (the “Lausanne District Court”), the Lausanne District court issued a decision, with the following operative part (in a translation provided by the Appellants that remained undisputed):
- I. *prohibits the [IWF] from holding the electoral assembly of the Executive Board of the [IWF] until the matter is decided on the merits, under the threat of the fine provided for in art. 292 [Swiss Criminal Code (“CP”)] CP which punishes the non-compliance with an official order;*
 - II. *prohibits the [IWF] from excluding Mr. Maxim AGAPITOV from the electoral campaign within the framework of the elections to the Executive Board of the [IWF] until the matter is decided on the merits, under the threat of the fine provided for in art. 292 CP which punishes the non-compliance with an official order;*
 - III. *prohibits the [IWF] from excluding Mr. Maxim AGAPITOV from the forthcoming elections to the Executive Board of the [IWF] until the matter is decided on the merits, under the threat of the penalty of fine provided for in art. 292 CP which punishes the non-compliance with an official order;*
 - IV. *states that the costs will follow the fate of the interim measures;*
 - V. *declares this order immediately enforceable and says that it will remain in force until the decision on the request for interim measures is decided;*
 - VI. *rejects all other or further prayers”.*
17. On 20 December 2021, further to a proposal of the IWF Executive Board, the IWF Congress confirmed that the IWF Elections would be held on 25 and 26 June 2022.
18. On 30 January 2022, a Special IWF Congress was scheduled in order to implement the legal basis for valid IWF Elections in June 2022. Before the IWF Congress, the RWF requested to include a proposal to amend Article 13.12 IWF Constitution on the agenda, which request was denied by the IWF Executive Board, as such request was not covered by the purpose of the Special IWF Congress and not supported by at least 20% of the member federations, as required by Articles 15.6(b) and 42.3 IWF Constitution.
19. On 11 February 2022, counsel for Mr Agapitov informed the relevant state courts in Lausanne (with copy to the IWF) that he “*wishes to withdraw all of his applications against the IWF, including the application for provisional measures, as well as the application for conciliation filed in the present proceedings on the merits*”.

20. On 26 and 27 March 2022 respectively, the RWF filed candidacy forms for Appellants 2, 3 and 4 for the IWF Elections on 25 and 26 June 2022 with the IWF. Appellants 2, 3 and 4 completed and filed a “*Consent and Waiver Form*” in which they stated that the EDP was the competent body to decide on their eligibility and that they agreed to be bound by the IWF Constitution, Bylaws and to abide by decisions made in accordance therewith.
21. On 11 May 2022, the EDP issued a decision with the following operative part, inviting the RWF to file a response to such provisional determination:
- “Therefore, and based on Rule 13.12 of the IWF Constitution, the EDP has come to a provisional determination that all candidates from the National Federation Member of Russia (Russian Weightlifting Federation) are “ineligible” for the IWF Congress Elections 2022”.*
22. On 16 May 2022, the RWF filed a response on behalf of the Appellants with the EDP, requesting the EDP to set aside its provisional determination of ineligibility and admit the Appellants to the IWF Elections.
23. On 23 May 2022, the EDP issued four final and almost identical decisions with respect to each of the Appellants, confirming that Appellants 2, 3 and 4 were not eligible for election in the IWF Elections to be held on 25 and 26 June 2022 (the “*Appealed Decisions*”).
24. The operative parts of the RWF *Appealed Decision* provides as follows:
- “The EDP has come to the following final determination:*
- *the RWF shall be prohibited from nominating any candidate for election to the Executive Board, any IWF Commission and any IWF Committee for the IWF elections to be held in June 2022; and*
 - *the three candidates nominated by the RWF: Mr. Maxim Agapitov, Mr. Aleksandr Kishkin and Mr. Dimitry Chernogorov are ineligible for the IWF elections to be held in June 2022”.*
25. The operative parts of the three other *Appealed Decisions* were very similar, since they provide as follows:
- “The EDP has come to the following final determination:*
- *the RWF shall be prohibited from nominating any candidate for election to the Executive Board, any IWF Commission and any IWF Committee for the IWF elections to be held in June 2022; and the three candidates nominated by the RWF among them Mr. [name of the relevant Appellant] are ineligible for the IWF elections to be held in June 2022”.*

26. After having determined that Article 13.12 IWF Constitution was a valid provision and elaborating on the timeframe during which anti-doping rule violations (“ADRVs”) were to be counted, the EDP reached the following conclusion in its reasoning:

“Based on the above and pursuant to rule 13.12 of the IWF Constitution, the EDP determines that the RWF “... shall be prohibited from nominating any candidate for election to the Executive Board, any IWF Commission and any IWC Committee...” for the upcoming IWF Electoral Congress 2022”.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

27. On 31 May 2022 by email and on 1 June 2022 via e-Filing, the Appellants filed a combined Statement of Appeal/Appeal Brief with the Court of Arbitration for Sport (“CAS”) against the four Appealed Decisions in accordance with Articles R47 et seq. of the Code of Sports-related Arbitration (2021 edition) (the “CAS Code”). In the combined Statement of Appeal/Appeal Brief, the Appellants requested that the case be submitted to a Panel of three arbitrators and nominated an arbitrator. The Appellants also requested the CAS Court Office to expedite the proceedings in accordance with Article R52 CAS Code and proposed the following procedural calendar:
- Answer by 10 June 2022;
 - Constitution Panel by 10 June 2022;
 - Hearing at the latest by 17 June 2022;
 - Issuance operative part of the award by 22 June 2022.
28. On 2 June 2022, the CAS Court Office, *inter alia*, informed the Parties that since four separate decisions had been issued by the EDP, the Appellants should have filed four separate appeals and that four procedures had therefore been initiated and that these proceedings were not consolidated, but that, unless any objection would be raised, it would be considered that the four proceedings could be addressed in the same letters and written submissions and heard during the same hearing. No objections were filed by the Parties in this respect.
29. On 3 June 2022, the IWF indicated that it had not received the exhibits enclosed to the Appellants’ combined Statement of Appeal/Appeal Brief. The IWF also indicated it agreed on an expedited procedure, subject to the Appellants’ deadline to pay their share of the advance of costs to be shortened to 6 June 2022. Finally, the IWF requested that, given the urgency and the clear legal situation, a Sole Arbitrator be appointed.
30. On 6 June 2022, the Appellants informed the CAS Court Office they wished to proceed with a panel of three arbitrators and, considering the unavailability of the first arbitrator nominated

by the Appellants, nominated Prof. Thomas Clay, Professor of Law and Attorney-at-law in Paris, France.

31. On 8 June 2022, the IWF reiterated its preference for the appointment of a sole arbitrator, indicating that, in case the President of the Appeals Arbitration Division would decide to submit the appeal to a panel of three arbitrators, it nominated an arbitrator. It further requested an extension until 13 June 2022 of the time-limit for the filing of its Answer. This request was accepted on 9 June 2022.
32. On 10 June 2022, further to the unavailability of the arbitrator nominated by the IWF on 8 June, the IWF nominated an alternative arbitrator.
33. On 13 June 2022, the CAS Court Office informed the Parties the alternative arbitrator nominated by the IWF was not available, but that, pursuant to Article R50 CAS Code, the Deputy President of the CAS Appeals Arbitration Division had decided to submit the case to a sole arbitrator and that, pursuant to Article R54 CAS Code, the arbitral tribunal appointed to decide the present case was constituted as follows:

Sole Arbitrator: Mr André Brantjes, Attorney-at-law, Amsterdam, the Netherlands.
34. On 13 June 2022, the Respondent filed its Answer in accordance with Article R55 CAS Code.
35. On 13 June 2022, the Appellants objected to the decision to submit the case to a sole arbitrator and asked for a reconsideration thereof, arguing, inter alia, that the matter was extremely complex, that the IWF had agreed to appointment of a panel of three arbitrators and raising doubts as to the impartiality and independence of CAS.
36. On 14 June 2022, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had reconsidered her decision and had decided to submit the case to a panel of three arbitrators and that she wished Mr Brantjes to be the President of the Panel.
37. On 14 June 2022, the IWF nominated Mr Bernard Welten, Attorney-at-law in Bern, Switzerland, as arbitrator.
38. On 15 June 2022, the CAS Court Office, pursuant to Article R54 CAS Code, and on behalf of the Deputy President of the CAS Appeals Arbitration Division, informed the Parties that the Panel appointed to decide the present matter was constituted as follows:

President: Mr André Brantjes, Attorney-at-law, Amsterdam, the Netherlands;
Arbitrators: Mr Thomas Clay, Professor of law and Attorney-at-Law, Paris, France;
Mr Bernhard Welten, Attorney-at-law, Bern, Switzerland.

39. On 17 and 19 June 2022 respectively, the Appellants and the IWF returned duly signed copies of the Order of Procedure, which had been issued on 17 June 2022.
40. On 17 June 2022, the Appellants requested the IWF to provide the “Report of the Eligibility determination Panel 2022 IWF Elections” as an evidentiary measure, which request was duly complied with by the IWF on 20 June 2022.
41. On 20 June 2022, a hearing was held by video-conference. In addition to the Panel, Ms Pauline Pellaux and Ms Andrea Sherpa-Zimmermann, CAS Counsels, the following persons attended the hearing:

For the Appellants:

- 1) Mr Maxim Agapitov, Appellant 2;
- 2) Mr Mikhail Prokopets, Counsel;
- 3) Mr Ivan Bykonskiy, Counsel;
- 4) Ms Daria Lukienko, Interpreter.

For the Respondent:

- 1) Mr Simon Toulson, representative of the IWF;
 - 2) Dr Mirjam Koller Trunz, Counsel;
 - 3) Mr Olivier Ducrey, Counsel.
42. At the start of the hearing, following a question of the President of the Panel, the Parties confirmed that they agreed that the Panel would issue a single Award in the four separate proceedings.
43. The Parties were afforded full opportunity to present their case, submit their arguments and answer the questions posed by the members of the Panel.

44. At the end of the hearing, the Parties expressly stated that they had no objections with respect to their right to be heard and that they had been treated equally during the proceedings.
45. On 20 June 2022, following a discussion that unfolded during the hearing, the CAS Court Office, on behalf of the Panel, informed the Parties as follows:
- “Pursuant to Article R44.3 of the CAS Code, the Panel has decided to grant the Parties with the opportunity to submit any potential observations on Article 23 of the IWF Constitution and of its Schedule 6 as well as on the applicability of Article 13.12 by the EDP [...]”.*
46. On 21 June 2022, both Parties provided the CAS Court Office with their observations with respect to the Panel’s request dated 20 June 2022.
47. On 23 June 2022, the operative part of this Award was notified to the Parties.

V. SUBMISSIONS OF THE PARTIES

48. The Panel confirms that it carefully took into account in its decision all of the submissions, evidence, and arguments presented, even if they have not been specifically summarized or referred to in the present Award.

A. The Appellants

49. The Appellants’ submissions on the merits of the case, in essence, may be summarised as follows:
- This case concerns a significant mistake in applying the rules of the IWF. The IWF distorted the good intentions and purpose of Article 13.12 IWF Constitution by misinterpreting the arbitrary and selective application of the elections criteria.
 - The vetting process should have been terminated by 30 April 2022 according to the press release of 20 December 2021, but the EDP only issued its provisional decision on 11 May 2022 and its final decision on 23 May 2022.
 - The EDP erroneously considered that the Appellants insisted on the invalidity of Article 13.12 IWF Constitution. The Appellants do not dispute that this provision is valid. However, Article 13.12 is inapplicable to the situation at hand for various reasons, such as (i) the prohibition against retroactivity; (ii) *venire contra factum proprium* by the IWF; (iii)

the violation of the principle of the *contra proferentem* principle; and (iv) the lack of correlation between the wording of Article 13.12 and its spirit and purpose.

Absence of retroactive character of Article 13.12 IWF Constitution

- While the validity of Article 13.12 IWF Constitution is not disputed, it cannot be applied retroactively, as it does not expressly provide for the possibility that it can be applied retroactively, which is a requirement set forth by jurisprudence of the Swiss Federal Tribunal and CAS. Furthermore the retrospective effect should satisfy the following conditions: (i) it must be limited in time; (ii) it does not lead to a serious breach of the equality principle; (iii) it is justified by relevant grounds; and (iv) it does not infringe vested rights.
- Article 1.8 IWF Constitution provides that it shall come into force on 31 August 2021 and it thus does not provide for a retroactive effect.
- The prohibition of retroactivity does not only apply to government action, as argued by the EDP, but it applies universally to all institutions, independent of their nature. IWF is not exempted from Swiss order public.
- It is evident from the IWF website that no sanctions whatsoever were imposed on athletes affiliated with the RWF after 31 August 2021. Therefore, the decision to consider the RWF candidates ineligible based on Article 13.12 IWF Constitution contradicts the principle of non-retroactivity.

Venire contra factum proprium and contra proferentem

- The Appealed Decision is not even clear about what period is considered applicable under Article 13.12 IWF Constitution to determine eligibility.
- Pursuant to the principle of *venire contra factum proprium*, the IWF cannot introduce a new rule that shall be applied retroactively to the continuous period of 4 years and expect the members' compliance, while for the most time of this period no rule even existed.
- It is evident that the IWF Constitution contains a major *lacuna* with regards to the determination of the four years concept in Article 13.12. This ambiguity is to be interpreted against the drafter as per the *contra proferentem* principle.

- The only real and objective possibility for applying Article 13.12 IWF Constitution is the Electoral Congress of 2028, which coincides with the Olympic Games in Los Angeles, based on the fact that Article 13.12 entered into force on 31 August 2021. The first period for determination of eligibility and application is therefore from 2024 to 2028.

Interpretation of Article 13.12 IWF Constitution and its objective purpose

- In view of the EDP's admission that Article 13.12 IWF Constitution is ambiguous, there is no other alternative than that it requires interpretation. The most important guiding principle for interpretation is purpose. Articles of association should be interpreted in an objective way, in accordance with the same principles applicable to the interpretation of statutes. It is necessary to consider whether the spirit of the rule (in as much as it may differ from the strict letter) has been violated.
- The meaning of Article 13.12 IWF Constitution is clear – it prohibits persons who allow the use of practices related to doping from occupying managing positions in the IWF. It would go against the zero-tolerance policy to doping proclaimed by the IWF to prohibit a person who actively fights doping, such as the Appellants, from occupying managing positions in the IWF.
- The IWF did not provide the Appellants with the alleged list of ADRVs for which they have been denied eligibility. It is then clear that the IWF may only use the sanctions imposed in relation to international ADRVs (as referred to in the provisional notification on the eligibility), not sanctions imposed by the Russian Anti-Doping Agency ("RUSADA"). It would be outrageous if the national federation that sanctions athletes for ADRVs is punished. Only one ADRV was pronounced by the World Anti-Doping Agency ("WADA") against an athlete representing the RWF.
- Even checking the period before August 2021, all other sanctions applied in the previous four years condemn ADRVs committed before 2017.
- The current RWF officials (i.e. Appellants 2, 3 and 4) have nothing to do with the ADRVs committed between 2011 and 2017, as they were not employed by the RWF at the time.
- Mr Agapitov has a notable reputation in the fight against doping, as confirmed by another CAS panel and by Prof. Richard McLaren.

50. In their Appeal Brief, the Appellants submitted the following requests for relief:

- "1. Sets aside the decision of the EDP IWF on May 27, 2022.

2. *Allows the Russian Weightlifting Federation to register candidates for IWF Electoral Congress.*
3. *Confirms the eligibility of Mr. Agapitov Maxim, Mr. Chernogorov Dmitry, and Mr. Kishkin Aleksandr to file their candidacies for IWF Electoral Congress.*
4. *Orders IWF to bear all costs incurred with the present proceedings.*
5. *Orders IWF to pay the Appellants contribution towards their legal and other costs, in the amount to be determined at the Panel's discretion, however, no less than EUR 40,000”.*

51. In their post-hearing letter of 21 June 2022, the Appellants, *inter alia*, stated as follows:

- As correctly stated by the legal representatives of the IWF during the hearing, the RWF is neither barred nor suspended or prohibited in nominating candidates to the IWF managing positions. The applications by the RWF were submitted within the stipulated time limit, respecting all prerequisites, and the IWF never alleged any problems or defects concerning such candidates' applications.
- The list of criteria in Schedule 6 IWF Constitution is exhaustive and these criteria concern the character and personal circumstances of each candidate, unlike Article 13.12 IWF Constitution, which is not included in this exhaustive list of criteria and concerns the responsibility for actions of third parties (i.e. athletes whose ADRVs are to be counted under Article 13.12 IWF Constitution). Therefore, the position pronounced at the hearing is confirmed in that Article 13.12 IWF Constitution is a sanction in disguise and not an eligibility criterion. Nothing prevented the IWF from including Article 13.12 IWF Constitution in the criteria set forth in Schedule 6 IWF Constitution.
- Mr Agapitov was previously sanctioned for an ADRV in 1994. However, Schedule 6 IWF Constitution is a logical continuation and further development of Article 25.2 IWF Constitution, determining that only ADRVs committed in the last 25 years, which period has already lapsed. In any event, the EDP did not rely on these circumstances in disqualifying the RWF's candidates.
- Schedule 6.1(k) IWF Constitution does not apply to Mr Chernogorov or Mr Kishkin in any relation. They have never been determined guilty of any ADRV by any court or tribunal.
- The Appellants complied with all remaining prerequisites to be considered eligible candidates (with the only exception of Article 13.12 IWF Constitution, which is the

subject of the present appeal). Should the EDP cite any other criterion not fulfilled by the Appellants, that would logically conclude the appeal filed by the Appellants.

B. The Respondent

52. The IWF's submissions on the merits of the case, in essence, may be summarised as follows:

- With the implementation of Article 13.12 IWF Constitution the IWF fully complied with the Model Rules 2021 issued by WADA, which explicitly provide that a national federation should be prohibited from nominating candidates for the bodies of its international federation if a certain number of doping sanctions was imposed against its athletes during a period to be determined by the international federations.
- According to Schedule 11 IWF Constitution and the Consent and Waiver Form submitted by Appellants 2, 3 and 4, there is no doubt that the EDP was exclusively competent to issue the Appealed Decisions.

The conditions of Article 13.12 IWF Constitution are met

- The conditions to be met are the following: (i) during a specific period of time; (ii) at least six sanctions for ADRVs have been incurred against persons representing the same national member federation.
- The relevant period is between 22 July 2016 and 27 March 2022. This is more than four years, but guaranteed that the relevant period covers an "Olympiad", which was the clear intention of the IWF Congress. The longer period is solely due to the postponement of the Tokyo Olympic Games of 2020 and the IWF Elections. The only other conceivable calculation method is to take a fixed term of exactly four years calculated backwards from the end of the nomination process, i.e. from 27 March 2018 to 27 March 2022.
- As for the ADRVs, it is irrelevant when the ADRVs were committed, decisive is only when the sanctions were "incurred", meaning imposed.
- Furthermore, not only ADRVs of international nature but also the national ones count in the sense of Article 13.12 IWF Constitution. The open wording shows that beyond doubt it was the clear intention of the IWF to subsume all possible doping violations, which was confirmed by the IWF Legal Commission in its legal opinion of 24 February 2022.

- During the relevant period, far over six doping sanctions resulted in having a period of ineligibility of at least three months even if CAS would base its decision on another calculation method, in which respect reference is made to 28 international ADRVs between 22 July 2016 and 27 March 2022. If the relevant period were considered to be between 27 March 2018 and 27 March 2022, *quod non*, the requirement of at least six doping bans is still met, in which respect reference is made to 28 international ADRVs. Even if the CAS would surprisingly conclude that the relevant period would be from 22 July 2016 to 22 July 2020, still 10 international ADRVs would have been issued against representatives of the RWF. No reference is made to national ADRVs.
- It is completely irrelevant whether the concerned candidates have a doping history or had a function within the specific member federation at the time when the doping offences were committed. It is also irrelevant whether Appellants 2, 3 and 4 play an active role in the fight against doping in Russia.

Timeliness of the Appealed Decisions

- It is correct that the IWF press release of 20 December 2021 referred to the date of 30 April 2022 as “*Deadline for the completion of candidate vetting by the EDC*”. However, the dates mentioned were only indicative and not binding on the EDP. The only binding deadline for the EDP to issue its decisions was not 30 April 2022 but 25 May 2022, i.e. 30 days before the elections.

No violation of the principle of non-retroactivity

- The dispute is not about retroactivity but concern eligibility criteria for future elections. By their nature, eligibility criteria have to be linked to past circumstances. For example, it cannot be seriously argued that candidates need only to be crime-free since the introduction of the eligibility criteria and that past conduct is irrelevant. This has also been confirmed by CAS.
- If at all, only a so-called non-genuine retroactivity comes into question. Swiss law distinguishes between a genuine retroactivity, which is permitted only under certain conditions, and a non-genuine retroactivity, which is generally allowed (except if the case concerns “*woblerworbene Rechte*”, meaning proprietary rights). The present case would be a case of genuine retroactivity if Article 13.12 IWF Constitution would be applied in such a way that already elected candidates would be retroactively declared ineligible based on the mentioned provision. However, this is not the case in the present disputes. A non-genuine retroactivity is based on circumstances that arose under the rule of the “old law”,

but are still ongoing when the new provision comes into force. However, as no “wohlerworbene Rechte” of the candidates are concerned by Article 13.12 IWF Constitution, its immediate application is fully in line with Swiss law and the jurisprudence of the Swiss Federal Tribunal. Based on the great autonomy of associations and considering the recommendations of the IOC and the Model Rules 2021 of WADA, the IWF was allowed to enact Article 13.12 IWF Constitution with immediate effect.

- The Appellants’ line or argumentation, according to which Article 13.12 IWF Constitution can only be applied regarding the elections in 2028 at the earliest, is not convincing at all. If the Appellants disagreed with the immediate application, they should have challenged the decision of the IWF Congress in August 2021 based on Article 75 of the Swiss Civil Code.

No violation of the principle venire contra factum proprium

- It would be nonsensical if the eligibility criteria did not cover actions that occurred prior to their introduction. It was the sole decision of the IWF to enact Article 13.12 IWF Constitution with immediate effect and link the ineligibility criteria of candidates to a past period of time. This has nothing to do with an alleged contradictory behaviour of the IWF.
- The RWF’s proposed modification of Article 13.12 IWF Constitution before the Special Congress in January 2022 shows clearly that the RWF itself wanted to define the relevant period exactly in the same manner as in the current version of the provision. Therefore, if someone acted contradictory, it is the RWF.

Principle of contra proferentem not applicable

- Since Article 13.12 IWF Constitution is clear, the *contra proferentem* principle should not be applied.
- Even if CAS would conclude that Article 13.12 IWF Constitution is not entirely clear and needs to be interpreted, *quod non*, the application of the principle would, at most, result in CAS applying the calculation method of the relevant period that is most favourable to the Appellants. The conditions of Article 13.12 are clearly met even if the CAS would base its decision on another calculation method of the relevant period.

Eligibility of Mr Agapitov

- Mr Agapitov argues that his eligibility for the elections has already been confirmed by an order of “superprovisional” measures issued by the District Court of Lausanne. This allegation is wrong, because (i) he withdrew his requests, as a consequence of which the District Court of Lausanne never confirmed its decision, which, therefore, has no binding effect; (ii) CAS is not bound by a previous decision of a State Court if the proceedings do not deal with exactly the same facts, subjects and rules, which is not the case; (iii) by signing the “Consent and Waiver Form”, Mr Agapitov confirmed that the EDP (and not the District Court of Lausanne) is competent to decide about his eligibility for the IWF Elections.

53. In its Answer, the Respondent submitted the following request for relief:

- “(1) *to dismiss the appeals and confirm the decisions of the Eligibility Determination Panel of the International Weightlifting Federation of 23 May 2022;*
- (2) *to confirm that*
 - a) *the Russian Weightlifting Federation is prohibited from nominating any candidate for election to the Executive Board, any Commission and any Committee of the International Weightlifting Federation for the upcoming elections to be held on 25 and 26 June 2022;*
 - b) *Messrs. Maxim Agapitov, Dmitry Chernogorov and Aleksandr Kishkin are ineligible for the elections of the International Weightlifting Federation to be held on 25 and 26 June 2022;*
- (3) *in any event, to order that the Appellants shall bear the entire costs of this arbitration proceeding;*
- (4) *in any event, to order the Appellants to contribute to the Respondent's legal fees and other expenses related to this arbitration. The Respondent thereby reserves the right to submit its cost statement shortly after the hearing”.*

54. In its post-hearing letter of 21 June 2022, the IWF stated, *inter alia*, as follows:

- Generally speaking, while Article 23 and Schedule 6 IWF Constitution list eligibility criteria that a candidate must personally fulfil (e.g. age requirement, not an employee of the IWF, etc.), Article 13.12 IWF Constitution concerns the capability of the national federations to nominate candidates. Neither Article 23 nor Schedule 6 IWF Constitution contain an exhaustive list of eligibility criteria, several other provisions (e.g. Articles 21, 22, 24 and 25 IWF Constitution) also include eligibility criteria. In addition to the

eligibility criteria listed in such provisions (i.e. the personal criteria), the requirement that the national federation is entitled to nominate must also be met (Article 23.2 IWF Constitution: “*A Member entitled under this Constitution to nominate a candidate*”; Schedule 6 IWF Constitution: “*A Full Member authorized by the Constitution to nominate a candidate*”).

- Article 23.2 IWF Constitution explicitly reserves other requirements and criteria (“*Subject to the provisions of this Constitution*”). In case the Panel would surprisingly come to the conclusion that the requirements for a national federation to nominate candidates are conclusively regulated in Article 23 IWF Constitution (*quod non*), it has to be emphasised that it only relates to the candidates for the IWF Executive Board, while Article 13.12 IWF Constitution concerns the elections for the IWF Executive Board, any IWF Committee and any IWF Commission. The EDP had full jurisdiction to decide on the eligibility of the candidates, namely with regard to Articles 21 *et seq.* and Schedule 6 IWF Constitution, as well as to the requirements of a national member federation to nominate candidates stipulated for example in Article 13.12 IWF Constitution. This results explicitly from Schedule 11.3 IWF Constitution.
- The Appellants’ argued at the hearing that Article 13.12 IWF Constitution is not an “eligibility criteria” but rather a “sanction” against the RWF and its officials. This argumentation is unfounded for the following reasons:

“First, the RWF has not been sanctioned, excluded or suspended due to the numerous doping cases of Russian weightlifters. The RWF will be entitled to participate and vote during the upcoming Congress.

Second, Article 13.12 of the IWF Constitution is drafted as an “eligibility criteria” and not as a “sanction”. This results in particular from the last sentence, according to which concerned national federation is not eligible to support the nomination of a candidate (“The National Federation Member shall also be prohibited from being a signatory in accordance with rule 24.4. [d] to any nomination made under rule 24.4”).

Third, the EDP applied Article 13.12 of the IWF Constitution as “eligibility criterion” as it concluded “the three candidates nominated by the RWF (...) are ineligible for the IWF elections to be held in June 2022”. Unlike the IWF Executive Board or the IWF Congress, the EDP would not be authorized anyway to “sanction” a national federation but only to decide on the eligibility of the candidates.

Fourth, as mentioned above, there are good reasons to anchor the rule of Article 13.12 where it is now and not in Article 23 or Schedule 6 of the IWF Constitution.

Fifth, the CAS already confirmed the validity of an eligibility criteria, according to which athletes of a national member federation were not eligible to participate in the next Olympic Games due to the fact

that the national federation had a certain number of doping sanctions in a certain period of time in its records. The CAS concluded that this rule is not another sanction against the athletes: “In circumstances where an athlete is suspended from competing following an antidoping violation committed by him and later on, the same athlete is prevented from taking part in the ensuing Olympic Games due to the fact that he is affiliated to a National Federation that has been banned from entering athletes for the Olympic Games because that National Federation has not been able to effectively fight doping within its organisation, no additional sanction is imposed on the respective athlete; this is because the athlete's ban is not a direct consequence of the fact that he, individually, had committed an anti-doping rule violation. Put differently, the fact that the individual athlete is prevented from participating in the Olympic Games is a mere 'collateral damage' that is justified by the overarching objectives to protect the values of sport and to ensure that general education is provided by National Federations to its affiliated members”.

- Hence, the application of Article 13.12 IWF Constitution by the EDP is not a sanction against the RWF.

VI. JURISDICTION

55. Article R47 CAS Code determines as follows:

“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 Appellant 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”.

56. In the absence of a specific arbitration agreement, in order for the CAS to have jurisdiction to hear an appeal, the statutes or regulations of the sports-related body from whose decision the appeal is being made must expressly recognise the CAS as an arbitral body of appeal.

57. The jurisdiction of the CAS derives from Section C Rule 10 of Schedule 11 IWF Constitution, which provides, *inter alia*, as follows:

“A determination of the Eligibility Determination Panel which is made in accordance with section 9 of these Eligibility Determination Panel Rules of Procedure, and these Eligibility Determination Panel Rules of Procedure generally, may be exclusively appealed to the Court of Arbitration for Sport in Lausanne, Switzerland, by the person concerned and/or the nominating National Federation Member, including for provisional measures, to the explicit exclusion of submissions to state courts. The proceedings shall be conducted on an expedited basis (Expedited Procedure in accordance with the Code of sports-related arbitration). The time limit for appeal is ten (10) days from receipt of the determination of the Eligibility Determination Panel”.

58. Both Parties also confirmed the jurisdiction of CAS by signing the Order of Procedure.
59. The Panel, therefore, finds that the CAS has jurisdiction to hear this matter.

VII. ADMISSIBILITY

60. Article R49 of the CAS Code provides – in its pertinent parts – as follows:

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

61. According to Section C Rule 10 of Schedule 11 IWF Constitution, the time limit to file an appeal before CAS is 10 days.
62. The Appealed Decisions were rendered on 23 May 2022 and the Appellants filed their Statement of Appeal on 31 May 2022, i.e. within the time limit prescribed in the IWF Constitution. The Appellants also complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.
63. The IWF also did not object to the admissibility of the Appellants’ appeals.
64. The Panel, therefore, finds that the appeals are admissible.

VIII. APPLICABLE LAW

65. Article R58 CAS Code provides the following:

“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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

66. The Appellants rely on Article R58 CAS Code and submit that the Panel primarily should apply the IWF Constitution and any other pertinent IWF regulations and subsidiarily Swiss law.
67. The IWF submits that the disputes shall be adjudicated on the basis of the applicable IWF regulations and subsidiarily on the basis of Swiss law.

68. The Panel is satisfied to accept application of the various IWF rules and regulations, in particular the IWF Constitution and, subsidiarily, Swiss law.

IX. MERITS

69. The Panel observes that this case is about whether or not the candidates nominated by the RWF, Appellants 2, 3 and 4, are eligible for the IWF Elections on 25 and 26 June 2022. According to the Appealed Decisions, the RWF was “*prohibited from nominating any candidate for election to the Executive Board, any IWF Commission and any IWC Committee*”, rendering Appellants 2, 3 and 4 ineligible for the IWF Elections. The Appealed Decisions are solely based on Article 13.12 IWF Constitution, which provision plays a pivotal role in these proceedings and provides as follows:

“In addition to any other provision of this Constitution, in any circumstance where persons representing a National Federation Member together incur at least six (6) or more Anti-Doping Rule Violation sanctions (where each of the Anti-Doping Rule Violation sanctions resulted in the person concerned having a period of ineligibility of at least three (3) months imposed under the operation of the Anti-Doping Rules or any other such other anti-doping policy which is in force in accordance with the World Anti-Doping Code or which is otherwise consistent with the requirements of the World Anti-Doping Code) during the period of four (4) years commencing from the day which is fourteen (14) days before the Opening Ceremony of the next-to-last Olympic Games (that is, not the Olympic Games in the same year as that of the Electoral Congress, but rather the Olympic Games of the previous Olympiad) and ending on the closing date for nominating candidates for election to the Executive Board at the Electoral Congress, the National Federation Member shall be prohibited from nominating any candidate for election to the Executive Board, any IWF Commission and any IWF Committee. The National Federation Member shall also be prohibited from being a signatory in accordance with rule 24.4(c) to any nomination made under rule 24.4”.

70. In interpreting Article 13.12 IWF Constitution, the Panel considers it necessary to analyse the position and competences of the EDP within the IWF and whether it had jurisdiction to apply Article 13.12 IWF Constitution. Related to this issue is the question whether Article 13.12 IWF Constitution is to be regarded as a sanction or if it is part of the vetting process and thus contains eligibility criteria for the Appellants.
71. Regarding the interpretation of rules and regulations of international sports federation like the IWF in the present matter, it is generally admitted that such rules, e.g., the IWF Constitution, are subject to the method of interpretation applicable to statutory provisions rather than contracts (CAS 2020/A/7356). Pursuant to CAS jurisprudence, this means the following:

“The Panel notes that it is well-established under CAS jurisprudence, making reference to the case law of the Swiss Federal Tribunal that, “[a]ccording to the SFT, the starting point for interpreting is indeed its wording (literal interpretation). There is no reason to depart from the plain text, unless there are objective reasons to think that it does not reflect the core meaning of the provision under review. This may result from the drafting history of the provision, from its purpose, or from the systematic interpretation of the law. Where the text is not entirely clear and there are several possible interpretations, the true scope of the provision will need to be narrowed by taking into account all the pertinent factors, such as its relationship with other legal provisions and its context (systematic interpretation), the goal pursued, especially the protected interest (teleological interpretation), as well as the intent of the legislator as it is reflected, among others, from the drafting history of the piece of legislation in question (historical interpretation) (SFT 132 III 226 at 3.3.5 and references; SFT 131 II 361 at 4.2). When called upon to interpret a law, the SFT adopts a pragmatic approach and follows a plurality of methods, without assigning any priority to the various means of interpretation (SFT 133 III 257 at 2.4; SFT 132 III 226 at 3.3.5)” (see CAS 2013/A/3365 & 3366 at para. 139, emphasis added)” (CAS 2020/A/7008 & 7009, at para. 61).

72. The Panel agrees with this analysis of the legal framework against which Article 13.12 IWF Constitution is to be interpreted.
73. The Panel primarily engages in a systematic interpretation of the IWF Constitution, which it considers to be the most compelling method of interpretation in the matter at hand and that prevails over the literal, teleological and historical interpretation, from which the Panel finds that little to nothing can be derived.
74. The wording of Article 13.12 IWF Constitution corresponds generally to the WADA Model Rules 2021 prepared for NADOs as the IWF has confirmed in its Answer. Article 13.12 IWF Constitution entered into force on 31 August 2021 with immediate effect since, pursuant to Article 1.8 IWF Constitution:

“This Constitution shall immediately come into force on and from 31 August 2021, upon the adoption of this Constitution by the Congress. Thereafter the date of 31 August 2021 shall be referred to as the Effective Date”.

75. The Panel finds that Schedule 11 IWF Constitution provides the EDP with the power to decide on the eligibility of candidates for the IWF Elections:
- “1. The Eligibility Determination Panel is comprised in accordance with rule 37 of the Constitution.*
- 2. It is the primary function of the Eligibility Determination Panel to determine whether, in the opinion of the Eligibility Determination Panel, a person is eligible to stand as a Candidate for election to any position or*

office under the Constitution to which eligibility is a prerequisite to becoming a Candidate, including without necessary limitation any:

- (a) *Any elected position on the Executive Board.*
- (b) *Any elected position on any IWF Commission.*
- (c) *Any elected position on any IWF Committee”.*

76. Articles 13.1, 13.5 and 13.8 IWF Constitution respectively provide as follows:

“Subject to rule 13.2 and any recommendation or decision of the Ethics and Disciplinary Commission made in accordance with the powers of the Ethics and Disciplinary Commission specified in Schedule 1, the Executive Board may by Special Resolution provisionally suspend a National Federation Member’s Membership and the rights associated with that Membership of the Federation (noting the powers of the Congress specified in rules 13.5 to 13.12) if the Executive Board forms the opinion in its reasonable discretion that the National Federation Member: [...]”.

“Where the Executive Board has decided to, and has provisionally suspend [sic] a National Federation Member in accordance with rule 13.1 and where that provisional suspension has not been revoked pursuant to rule 13.3, the Congress may by Ordinary Resolution suspend the subject National Federation Member and that National Federation Member’s Membership rights, during a vote conducted at the next Congress that is held after the date on which the provisional suspension commences. [...]”.

“Nothing in this rule 13 shall in any way limit, restrict or hinder the jurisdiction and powers of the Ethics and Disciplinary Commission to sanction Members, including whatsoever in relation to any:

- (a) *Breach of the Ethics and Disciplinary Code;*
- (b) *Breach of the IOC Corruption and Manipulation Code; or*
- (c) *Any breach of any part of this Constitution or any Policy or other rule or provision, where jurisdiction is conferred on the Ethics and Disciplinary Commission; and [...]”.*

77. The Panel finds that Article 13.1 IWF Constitution provides the IWF Executive Board with the power to provisionally suspend the membership of a national federation and the rights associated with that membership, thereby specifically referring to Article 13.12 IWF Constitution. Furthermore, pursuant to Article 13.5 IWF Constitution, the IWF Congress is competent to definitely suspend a member, amongst others based on Article 13.12 (as indicated in Article 13.1). Finally, the IWF Ethics and Disciplinary Commission is competent to sanction member federations for, *inter alia*, “Any breach of any part of this Constitution”.

78. The Panel notes that the EDP is not provided with any competence under Article 13 IWF Constitution to sanction a member federation of the IWF.
79. Article 15.13 IWF Constitution provides as follows:
“Each Full Member in Good Standing has the rights in relation to Each Congress which are specified in rule 9.1(a)”.
80. In turn, Article 9.1(a) IWF Constitution provides, *inter alia*, the following:
“Subject to the provision of this Constitution and the Policies:
(a) *Each Full Member has the right to:*
[...]
(ii) *Nominate candidates in accordance with this Constitution for the election of President, the General Secretary Treasurer, each Vice President and each other elected position on the Executive Board.*
(iii) *Nominate candidates in accordance with this Constitution for election to elected positions IWF Committees [sic].*
(iv) *Nominate candidates in accordance with this Constitution for election to elected positions on IWF Commissions”.*
81. The Panel infers from the above-cited legal framework that “*Full Members*” of the IWF in principle have the right to nominate candidates for the IWF Elections, unless such membership right is (provisionally) suspended by the IWF Executive Board or the IWF Congress, or potentially, by the IWF Ethics and Disciplinary Commission, as part of a disciplinary procedure. The EDP is not vested with any such disciplinary authority.
82. It was explicitly confirmed by the IWF at the hearing that the RWF is neither (provisionally) suspended, nor lacks “*Good Standing*” on the basis of the definition set forth in the IWF Constitution.
83. The role of the EDP is defined in Article 37 and Schedule 11 IWF Constitution. Nowhere in these provisions the power is granted to the EDP to decide on the “*Good Standing*” of a national member federation of the IWF. The EDP has only the task to “*determine whether [...] a person is eligible to stand as a Candidate for election to any position or office under the Constitution ...*”.

84. On this basis, the Panel finds that it was not up to the EDP to determine whether the RWF violated Article 13.12 IWF Constitution, as this was the sole prerogative of the IWF Executive Board, the IWF Congress and/or the IWF Ethics and Disciplinary Commission. The Panel finds that, by applying Article 13.12 IWF Constitution, the EDP at least implicitly sanctioned the RWF and thereby exceeded its mandate. Indeed, it was acknowledged by the IWF in its post-hearing letter that the EDP is not authorised to “sanction” a national federation.
85. The vetting process is described in detail in Article 23 and Schedule 6 IWF Constitution, entitled “*Candidate Eligibility Rules*”. Neither Article 23 nor Schedule 6 IWF Constitution refers to Article 13.12 IWF Constitution. It is therefore clear to the Panel that Article 13.12 IWF Constitution concerns the sanctioning of a member and is not part of the EDP’s vetting process. This position is further supported by the title of Chapter 13 IWF Constitution: “*Sanctioning of Members*”.
86. Furthermore, Article 13.12 IWF Constitution starts with the text “*In addition to any other provision of this Constitution [...] the National Federation Member shall be prohibited from nominating*”. The wording “*In addition*” suggests that the prohibition to nominate only applies if another sanction is imposed, which is not the case with the RWF.
87. The sole ground invoked by the EDP in the Appealed Decisions to determine that the Appellants were ineligible is based on a violation of Article 13.12 IWF Constitution. The Panel considers this to be illegitimate in the absence of any decision rendered by a competent IWF body to (provisionally) suspend the RWF or its membership rights.
88. Article 23 IWF Constitution includes the prerequisite that a “*Full Member*” nominating a candidate is not (provisionally) suspended. The Panel finds that this provides for a logical nexus between the sanctioning of member federations pursuant to Articles 13 and 23.1 IWF Constitution and the vetting process of the EDP and delineates the competence between the IWF Executive Board, the IWF Congress and the IWF Ethics and Disciplinary Panel on the one hand, and of the EDP on the other, as the latter provides as follows:
- “*Subject to the provisions of this Constitution, a candidate for election to the office of any of the President, the General Secretary Treasurer, the First Vice President, the four (4) additional Vice Presidents and the ten (10) Ordinary Executive Board Members on the Executive Board can only be nominated by a Full Member that is, at the time that the nomination is made in accordance with the time requirements of this Constitution, a Member in Good Standing and not under any provisional suspension or suspension*”.
89. If the IWF’s interpretation of Articles 13.12 and 23 IWF Constitution would be followed, the wording of Article 23.1 IWF Constitution would be incomplete, as being a “*Full Member*” that is in “*Good Standing*” and not under any “*provisional suspension or suspension*” would not be enough

to nominate candidates, since the RWF complies with all such prerequisites, but the IWF still maintains that the RWF cannot nominate candidates. The Panel is of the opinion that the IWF's interpretation cannot be followed and has to be rejected.

90. The IWF further maintains that Article 13.12 IWF Constitution is a general rule applicable to all candidates and that Article 23 IWF Constitution only applies to candidates for the IWF Executive Board. The IWF argues (*quod non*) that even in case the vetting requirements are exhaustively regulated in Article 23 IWF Constitution, this only relates to Mr Agapitov, but not to Mr Chernogorov and Mr Kishkin.
91. While it is true that Article 23.1 IWF Constitution only refers to candidates for the IWF Executive Board, the Panel finds that there is no indication in the IWF Constitution warranting a distinction between nominating members for the IWF Executive Board on the one hand, and members for the IWF Committees and Commissions on the other. The fact remains that, also for positions in IWF Committees and Commissions, “*Each Full Member in Good Standing*” has the right to nominate candidates, pursuant to Articles 15.13 and 9.1(a) IWF Constitution, unless such membership rights are suspended by a competent body pursuant to Article 13 IWF Constitution.
92. The Panel notes that the EDP took a decision on the eligibility of the Appellants exclusively based on Article 13.12 IWF Constitution. While the EDP can indeed review if candidates fulfil the relevant eligibility criteria provided for under Articles 21ff IWF Constitution, it cannot sanction the RWF on the basis of Article 13.12 IWF Constitution.
93. The IWF relies on Schedule 11.3 IWF Constitution, which provides as follows:

“Nothing in the Constitution or these Eligibility Determination Panel Rules of Procedure shall be interpreted to prevent or restrict the jurisdiction of the Eligibility Determination Panel to determine whether, on the balance of probabilities, a person remains eligible to be a Candidate, an Executive Board Member, an IWF Commission Member or an IWF Committee Member, having regard to the requirements of the Constitution, the EDC Rules, and also the position or office concerned”. (emphasis in original).
94. The Panel finds that, particularly considering the emphasis on the word “remains”, the fore-cited provision does not concern the “*primary function of the Eligibility Determination Panel to determine whether [...] a person is eligible to stand as a Candidate*”, as provided for in Schedule 11.2 IWF Constitution, but rather its secondary function “*to determine whether [...] a person remains eligible to be a Candidate*” and is therefore of no relevance to the matter at hand.
95. In their respective written submissions, the Parties extensively discussed the alleged non-genuine retroactivity of Article 13.12 IWF Constitution, the interpretation of the time window

relevant for Article 13.12 IWF Constitution, the flawed wording of Article 13.12 IWF Constitution and its purpose. However, since the Panel finds that the RWF is not (provisionally) suspended by the IWF Executive Board and its membership rights have not been suspended by a competent body of the IWF, a discussion on these issues is obsolete since no other arguments have been advanced in the Appealed Decisions or in the Answer that would render Appellants 2, 3 and 4 ineligible to stand for election and because they, in any event, do not trump the systematic interpretation of Article 13.12 IWF Constitution applied by the Panel.

96. As a consequence, the Panel finds that the RWF was illegally deprived from exercising its membership right to nominate candidates for the IWF Elections by the EDP, leaving the RWF a "*Full Member in Good Standing*" of the IWF and, as a consequence, RWF is allowed to nominate Appellants 2, 3 and 4 as candidates for the IWF Election Congress 2022.
97. In conclusion, the Panel determines that the appeals filed by the Appellants are to be upheld and that the Appealed Decisions are to be set aside.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeals filed by the Russian Weightlifting Federation, Mr Maxim Agapitov, Mr Dmitry Chernogorov and Mr Aleksandr Kishkin on 31 May 2022 against the four decisions rendered on 23 May 2022 by the Eligibility Determination Panel of the International Weightlifting Federation are upheld.
2. The four decisions rendered by the Eligibility Determination Panel of the International Weightlifting Federation in relation to the Russian Weightlifting Federation, Mr Maxim Agapitov, Mr Dmitry Chernogorov and Mr Aleksandr Kishkin on 23 May 2022 are set aside.
3. The Russian Weightlifting Federation is allowed to register candidates for the Electoral Congress of the International Weightlifting Federation in June 2022.

4. Mr Maxim Agapitov, Mr Dmitry Chernogorov and Mr Aleksandr Kishkin shall no longer be declared ineligible for the Electoral Congress of the International Weightlifting Federation in June 2022.
5. (...).
6. (...).
7. All other and further motions or prayers for relief are dismissed.