TAS / CAS
TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

Arbitration CAS 2023/A/9230 Eduardo Musa Costa Bravo & Confederação Brasileira de Skate (CBSK) v. World Skate, award of 14 July 2023

Panel: Mr Andrew de Lotbinière McDougall KC (France), President; Prof. Thomas Clay (France); Mr Mark Hovell (United Kingdom)

Roller sports
Disciplinary sanctions for violation of the IF's Code of Ethics and Code of Conduct
Failure to name a witness in the Answer
De novo powers
Review of sanctions by a CAS panel

1. **Pursuant to Article 55 of the CAS Code, the Answer to the Appeal Brief shall contain *"the name(s) of any witnesses, including a brief summary of their expected testimony"*. As such, a respondent should name its witnesses in its Answer to the Appeal Brief in order to be able to call them as a witness at a later stage.**

2. **The *de novo* nature of the review undertaken by a panel cures any alleged procedural irregularities in the previous instance proceedings.**

3. **CAS panels are entitled to review sanctions imposed by international federations when there is no adequate justification of explanation by the international federation on the proportionality of the sanction imposed on the party which allegedly committed an offence. When the appealed decision does not explain why the sanction imposed should be considered proportionate, a panel will be therefore entitled to review the sanction imposed.**

I. PARTIES

1. Mr. Eduardo Musa Costa Bravo ("Mr. Musa" or the "First Appellant") is a Brazilian national who has served as President of the Confederação Brasileira de Skate ("CBSK" or the "Second Appellant").

2. CBSK is the national association governing the sport of skateboarding in Brazil. It is based in São Paulo, Brazil and is affiliated with World Skate.

3. World Skate (the "Respondent") is the international federation recognized by the International Olympic Committee governing all sports performed on skating wheels globally. It is based in Lausanne, Switzerland.

4. The First Appellant and the Second Appellant are jointly referred to as the "Appellants". The Appellants and the Respondent are jointly referred to as the "Parties".

II. FACTUAL BACKGROUND

A. Background Facts

5. Below is a summary of the main relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the parties' written submissions, pleadings and evidence 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 its Award only to the submissions and evidence it considers necessary to explain its reasoning.

6. In 2019, DC10 Economia Criativa Ltda. ("DC10"), STU Platform ("STU") and the Respondent hosted skateboarding championships in Rio de Janeiro, Brazil (Appellants' Exhibit 40).

7. On 3 July 2019, at the World Skate Ordinary Congress held in Barcelona, Spain, the affiliation of CBSK to World Skate was approved unanimously.

8. In keeping with their practices in previous years, DC10, STU and CBSK were engaged in discussions starting in early 2022 for the hosting of national street and park skateboarding championships in Brazil in the latter part of 2022 ("2022 Championships"). The Respondent approached DC10, STU and CBSK to join these discussions with a view to making these events world championships.

9. On 1 May 2022, Mr. Musa of CBSK emailed Mr. Francesco Jacopo D'Urbano ("Mr. D'Urbano") of World Skate and other World Skate representatives stating that *"it is very important to note and highlight that in the contract we [CBSK] will not assume any type of contractual or financial responsibility for the event (before, during and after the event), once we [CBSK] are figuring as a local approval authority and RDN is the real host with the contractual obligations"* (Appellants' Exhibit 4).

10. On the same date, 1 May 2022, Mr. D'Urbano replied to Mr. Musa's email stating that *"[a]s agreed, DC10 will be the main party in the hosting contract and will assume obligations"* and that *"CBSK will be a party to the contract as endorsing partner and to guarantee the compliance of the event to World Skate standards, rules and regulations"* (Appellants' Exhibit 4).

11. Also on 1 May 2022, DC10, STU and the Second Appellant (represented by the First Appellant, in his capacity as President of CBSK) (collectively the "Future Hosts"), concluded an instrument titled Acknowledgement of Commitment and Acceptance ("MOU") (Appellants' Exhibit 3; Respondent's Exhibit 1) relating to the organization and hosting of the World Skate Park World Championships from 3 October 2022 to 9 October 2022 and the World Skate Street World Championships from 10 October 2022 to 16 October 2022, both in Rio de Janeiro, Brazil (respectively, the "2022 World Park Championship" and "2022 World Street Championship"; collectively the "2022 World Championships"). According to the MOU, the

2022 World Championships would take place *"according to World Skate Guidelines / Handbook / Event Criteria"*.

12. The MOU provided, *inter alia*, that:

- *"The entire organizing fee shall be paid in advance, according to the following cash flow: (i) 50% at least 45 days prior to the beginning of the events; and (ii) 50% at least 15 days prior to the beginning of the events"*;

- *"The final Contract/s shall be shared and signed between the parties within 60 days from the date set for the event to begin"*; and

- *"The Future Host, in all of the events, undertakes to be respectful and compliant to World Skate Statutes, Rules and Regulations as well as World Skate Data Protection Policy, Sports Technical Rules, World Skate Anti-doping Rules and any other World Skate forthcoming rules and standards"*.

13. On 9 August 2022, *i.e.*, 55 days before the start of the 2022 World Park Championship and 62 days before the start of the 2022 World Street Championship, the Respondent sent the draft contract relating to the hosting of the 2022 World Championships to the Future Hosts ("Draft Contract") (Appellants' Exhibits 5 and 6).

14. On 14 August 2022, Mr. Otávio Vilarinho ("Mr. Vilarinho"), legal advisor to DC10, noted that the Draft Contract was *"far from what [the Future Hosts] understand to be reasonable for [them] to go ahead"* and proposed to use the *"version executed by everyone for the 2019 World Championship of Park, which is more balanced and has already been deeply reviewed by everyone"* (Appellants' Exhibit 5).

15. On 17 August 2022, Mr. D'Urbano stated that *"[a]s the years went by, we adjusted and improved our contract templates"* and that the Draft Contract *"represents [World Skate's] new standard"*. Mr. D'Urbano also invited Mr. Vilarinho to provide his comments on the Draft Contract and that World Skate was *"keen to accommodate [the Appellants'] needs in accordance with [World Skate's] new format"* (Appellants' Exhibit 5).

16. On 19 August 2022, according to the terms of the MOU, the first instalment of 50% of the organizing fee relating to the 2022 World Park Championship became due but remained unpaid.

17. On 27 August 2022, according to the terms of the MOU, the first instalment of 50% of the organizing fee relating to the 2022 World Street Championship became due but remained unpaid.

18. On the same date, the Executive Board of World Skate ("Executive Board") issued Resolution No. 4/2022 granting additional time for DC10 and the Second Appellant to pay the first instalment due to World Skate, in the amount of USD 400,000, and requesting that DC10 and the Second Appellant to provide formal guarantees for the payment of the second instalment (Respondent's Exhibits 2 and 3).

19. On 30 August 2022, Mr. Vilarinho sent an email to World Skate, citing several requirements and conditions set out in the MOU which were allegedly not met by World Skate, including the

sharing of detailed tax frameworks and regimes to which World Skate was subject in Switzerland. Mr. Vilarinho also mentioned World Skate's failure to share and sign the final contract within 60 days as stipulated in the MOU.

20. On 2 September 2022, World Skate issued an official statement informing that the 2022 World Championships were cancelled (Appellants' Exhibit 7, Respondent's Exhibit 4). The statement provided that the cancellation was a result of CBSK, DC10 and STU's *"organizational and financial inability to comply with the terms and conditions of the [MOU] signed between World Skate and the Organizers"*. It explained that *"[s]everal attempts were made by World Skate until the very last minute to stage the event"* and that it *"[would] do anything in its power to organize the 2022 Skateboarding World Championships"*.

21. On the same day, the Second Appellant published a statement regretting *"the World Skate's decision to no longer participate in the [2022 World Championships]"* and confirming that the 2022 Championships would take place without the Respondent's involvement (Appellants' Exhibit 8; Respondent's Exhibit 5). The Second Appellant made a number of assertions in its public statement, including that:

- It *"join[ed] STU and support[ed] the platform in holding the two competitions that will be the biggest events of skateboarding since the Tokyo Olympics"*;

- *"World Skate ha[d] only held one qualifying event for the Paris Olympic Games (Pro Tour, in Rome, for Street) up to now and there is no official confirmation of any other competitions"*;

- *"[A]ll the conditions negotiated and included in the memorandum were fulfilled by the two Brazilian entities"*; and

- *"World Skate presented new requirements that were not in accordance with the memorandum and that had not been previously agreed between the parties"*.

22. Also on 2 September 2022:

- CBSK (via its President, the First Appellant) shared the statement above on its Twitter account, noting that the 2022 Championships would take place in Rio de Janeiro as planned; and

- DC10 issued a note, published in a Brazilian news outlet, confirming that World Skate had withdrawn from the 2022 World Championships due to *"conceptual and commercial divergences, which go through the negligence, unpreparedness and arbitrariness of [World Skate]"* (Respondent's Exhibit 7).

23. On 5 September 2022, STU issued an open letter confirming that the 2022 Championships would take place (Appellants' Exhibit 9, Respondent's Exhibit 8). It also stated, *inter alia*, that:

- World Skate had only held *"[one] world level event, of [one] single discipline, organized in the 18 months following the Olympic Games"* and it *"did not have (and still has not) any realistic calendar for*

the 2022, 2023 and 2024 seasons" and that it was *"inacceptable, after the huge success in Tokyo [of skateboarding]"*;

- Following a *"pressing and precarious negotiation"*, which World Skate had allegedly pushed *"to show to its stakeholders at least some kind of calendar"*, STU agreed to sign a *"generic"* memorandum of understanding;

- The MOU *"established some criteria, responsibilities and dates that were not fulfilled by [World Skate]"*, including the *"commitment to sign the definitive version of the contract, the latest, 60 days prior to the [2022 World Championships]"*;

- World Skate allegedly *"does not contribute with know-how, professionalism nor any money, and choses (sic.) to appropriate itself from all the tangible revenues rather than investing on skateboarding"* and *"drove away traditional events from the international skateboarding calendar […] due to its lack of understanding of what skateboarding is all about"*;

- It *"strongly believe[d] that the lack of professionalism, representativeness and legitimacy to skateboarding has come to the limit"*;

- It understood that *"international skateboarding must be led by an entity that has the proper knowledge of its challenges and opportunities, and that oversees skateboarding as a priority"*; and

- It could not *"accept antique, arbitrary and negligent leaders anymore"*.

B. Proceedings before World Skate

24. On 21 September 2022, Mr. Giuseppe Francesco Bonacci, acting as the World Skate Prosecutor ("Mr. Bonacci"), issued a letter to the Appellants to report on the commencement of an investigation procedure relating to *"several breaches of the [World Skate] Code of Conduct and Code of Ethics"* allegedly committed by the Appellants following the withdrawal of World Skate from the organization of the 2022 World Championships (Appellants' Exhibit 10, Respondent's Exhibit 9). In particular, Mr. Bonacci states that:

It has been brought to our knowledge through press reports and social media (Instagram, Whatsapp Groups, Digital Newspapers, Official CBSK website) that – after contraveining provisions contained in [the MOU] signed for the organization of the [2022 World Championships] – Mr. Eduardo Musa, both personally and on behalf of [CBSK] – made public statements against World Skate that are not supported by any evidence and that openly contradict the commitments undertaken by CBSK. Said conduct represents a serious violation of several principles and provisions included in World Skate Code of Conduct and Code of Ethics that Mr. Eduardo Musa (personally and on behalf of CBSK) accepted when CBSK joined World Skate as one of its members.

25. In the same letter, Mr. Bonacci indicated that the four alleged offences under investigation were (1) slander; (2) contract, bidding or agreements mystification, violation, breach and failure; (3) insulting or publicly expressing non-ethic opinions about World Skate or one of its member's

bodies, anthem, flag, logo or any other distinctive symbol; and (4) violation of ethics duties and values. Mr. Bonacci requested that the Appellants submit a *"written explanation"* on the allegations within 10 days from the reception of the letter.

26. On 26 September 2022, in reply to Mr. Bonacci's letter dated 21 September 2022, the First Appellant stated that Mr. Bonacci's letter was not accompanied or supported by any evidence in support of the commencement of the investigation (Appellants' Exhibit 11). Mr. Musa therefore requested *"all the [information] and documents that were base and ground to begin this investigation without any exception"* and to be granted an additional 10 days to respond once the documents were provided.

27. On 3 October 2022, Mr. Bonacci wrote to the Appellants to inform that a precautionary suspension had been imposed against the First Appellant for the entire duration of the investigation against the Appellants (Appellants' Exhibit 12; Respondent's Exhibit 10). Mr. Bonacci noted that the requirements for the suspension had been met, for example, because *"World Skate ha[d] acquired substantial materials corroborating the ongoing investigation"* and that there was a *"possibility of the [Appellants'] conduct being reiterated with subsequent further damages to be suffered by World Skate, in terms of its public image, honorability and credibility"*.

28. On 20 October 2022, the Appellants requested Mr. Bonacci to reconsider his decision on the precautionary suspension of Mr. Musa, and to close the investigation without imposing any disciplinary sanctions on the Appellants (Appellants' Exhibit 13). The Appellants based their request, *inter alia*, on allegations that Mr. Bonacci had failed to respect the principle of the presumption of innocence and that information relating to the investigation was not made available to the Appellants, which allegedly prevented the Appellants from presenting their defences. The Appellants also stated that *"[t]he Hon. Prosecutor [Mr. Bonacci] must work in an independent way, not serving the World Skate, nor the national Fee rations or athletes; otherwise he/she will be unable to prosecute the justice or the right application of rules and laws"*.

29. On 26 October 2022, in response to the Appellants' letter dated 20 October 2022, Mr. Bonacci stated that:

- He *"ha[d] always worked respecting the principle of complete and absolute independence"* and did not serve World Skate;

- The suspension imposed on the First Appellant was necessary to preserve the rights of national federations and athletes and the integrity of the investigation procedure and to protect World Skate from the *"risk of perpetration of reiterated conducts"*;

- He was not allowed to disclose any documents to the investigation party while the investigation was ongoing according to the Laws and applicable principles; and

- The Appellants' alleged allegation that Mr. Bonacci was serving World Skate *"constitutes a new violation of [World Skate's] Code of Conduct and Code of Ethics"* (Appellants' Exhibit 14).

30. On 30 October 2022, the World Skate Ordinary Congress was held in Buenos Aires, Argentina (a video of which was produced by the Respondent on 11 April 2023 and respective minutes produced by the Respondent on 1 May 2023).

31. On 16 November 2022, the Appellants filed their first Statement of Appeal before the Court of Arbitration for Sport (the "CAS") against Mr. Bonacci's decision to impose a precautionary suspension on Mr. Musa ("First Statement of Appeal") (Appellants' Exhibit 16).

32. On 28 November 2022, the Appellants filed an Appeal Brief further to their First Statement of Appeal (Appellants' Exhibit 17).

33. On 29 November 2022, Mr. Bonacci issued an indictment report with his conclusions on the investigations relating to the offences allegedly committed by the Appellants ("Indictment Report") (Appellants' Exhibit 18). In the Indictment Report, Mr. Bonacci found that the Appellants had committed all four offences which were the subject of the investigation. Mr. Bonacci's findings are summarized below:

- **Slander:** Mr. Bonacci found that the Appellants had committed slander on the basis of (1) CBSK's public statement dated 2 September 2022, reposted on CBSK's Twitter profile, in which it stated that CBSK and STU had complied with their obligations under the MOU; (2) the fact that the Appellants did not dissociate themselves from STU's note dated 2 September 2022 and open letter dated 5 September 2022.

- **Insulting of publicly expressing non-ethic opinions about World Skate or one of its members' bodies, anthem, flag, logo or any other distinctive symbol:** Mr. Bonacci found that the Appellants committed this offence by not dissociating themselves from the statements made by STU in its note dated 2 September 2022 and open letter dated 5 September 2022.

- **Contract, bidding or agreements mystification, violation, breach and failure:** Mr. Bonacci stated that the Appellants committed this offence by failing to make the payment of the first instalment due to World Skate within the time limit set out in the MOU.

- **Violation of ethical duties and values:** Mr. Bonacci found that the Appellants committed this offence by not dissociating themselves from the statements made by STU in its note dated 2 September 2022 and open letter dated 5 September 2022 and by allegedly failing to make the payment of the first instalment due to World Skate within the time limit set out in the MOU.

34. In light of the above, Mr. Bonacci concluded that the Appellants *"have not acted in compliance with the most basic principles of fairness by violating clear and specific legal and ethical commitments that govern World Skate"*. With respect to Mr. Musa's procedural objections to the investigation, Mr. Bonacci found that Mr. Musa *"mystified the clear procedural provisions included in World SKate (sic.) Statutes, By-Laws and Code of Ethics and Code of Conduct, unjustifiably accusing the undersigned Prosecutor not to have complied with the cross-examination by delivering the requested documentation"*.

35. In the Indictment Report, Mr. Bonacci also explained that the precautionary suspension of Mr. Musa was intended to remain in effect until the end of the investigation phase. Given that the Indictment Report put an end to the investigation, Mr. Bonacci stated that *"the precautionary suspension is lifted and Mr. [Musa] is currently back to full capacity in his office"*.

36. On 9 December 2022, the Appellants submitted their statement of defence to the Indictment Report, requesting the Executive Board to dismiss the findings set out therein (Appellants' Exhibit 19; Respondent's Exhibit 12). The Appellants noted, *inter alia*, that (1) CBSK and STU were independent institutions; (2) therefore, the statements made by STU could not be attributed to CBSK; and (3) CBSK had not undertaken any financial obligations in the MOU.

37. On 20 December 2022, the Respondent's Executive Board convened to review the proposals made by Mr. Bonacci in the Indictment Report and issued the Executive Board Resolution No. 5/2022 (the "Resolution No. 5/2022") (Appellants' Exhibit 50; Respondent's Exhibits 13 and 14). The Executive Board accepted the conclusions of the Indictment Report, finding in particular that Mr. Musa made statements that did not truthfully represent the reality and were detrimental to World Skate, remained involved with DC10/STU after their public statements regarding World Skate and that, in his capacity as the President of CBSK, Mr. Musa *"was a central contributor to [CBSK] and DC10/STU's refusal to fulfill their commitments provided for in the [MOU]"*. With respect to CBSK, the Executive Board found that its role as an 'endorsing partner' would only take effect once the hosting contract was signed, and that it therefore had contractual and financial obligations under the MOU that it refused to perform.

38. In light of the above, the Executive Board decided to:

- Suspend Mr. Musa as president of CBSK for a period of three years, in accordance with the following breakdown per offence: (1) six months for slander; (2) six months for insulting or publicly expressing non-ethic opinions about World Skate or one of its members' bodies, anthem, flag, logo or any other distinctive symbol; (3) one year for contract, bidding or agreements mystification, violation, breach and failure; and (5) one year for violation of ethics duties and values.

- Order CBSK to pay a fine in the amount of USD 1,000.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

39. On 9 January 2023, the Appellants filed their Statement of Appeal before the CAS against the Resolution No. 5/2022, in accordance with Articles R47 and R48 of the 2022 edition of the CAS Code of Sports-related Arbitration (the "CAS Code"), including a request for a stay of the sanctions set out in the Respondent's Executive Board Resolution No. 5/2022 pursuant to Article R37 CAS Code. The Appellants appointed Mr. Mark Hovell, Solicitor in Manchester, United Kingdom, as arbitrator.

40. On 16 January 2023, the CAS Court Office informed the Parties about the commencement of an appeals arbitration procedure under the reference *CAS 2023/A/9230 Eduardo Musa Costa*

Bravo & Confederação Brasileira de Skate v. World Skate and invited the Respondent to file its position on the Appellants' request for provisional measures by 26 January 2023.

41. On 20 January 2023, the CAS Court Office invited the Respondent to comment on the Appellants' Appeal Brief within 20 days.

42. On 23 January 2023, the CAS Court Office informed the Parties that English would be the language of the proceedings.

43. On the same date, the Respondent provided the CAS Court Office with a Power of Attorney.

44. On 26 January 2023, the Respondent sent a letter to the CAS Court Office in which (1) it appointed Prof. Av. Thomas Clay as arbitrator; and (2) requested a 5-working-day extension to submit its Answer to the Appellants' request for provisional measures.

45. On the same date, the CAS Court Office extended the Respondent's deadline to submit the Answer to the Appellants' request for provisional measures until 27 January 2023, by 11am (CET).

46. On 27 January 2023, the Respondent requested the CAS Court Office to grant an urgent five-hour extension to file its response to the Appellant's request for provisional measures.

47. On the same day, the CAS Court Office extended the Respondent's deadline to submit its Answer to the Appellants' request for provisional measures by three hours.

48. Also on 27 January 2023, the Respondent submitted its position on the Appellants' request for provisional measures.

49. On 30 January 2023, the Deputy President of the CAS Appeals Arbitration Division issued an order in which it dismissed the Appellants' request for a stay. The Deputy Division President concluded that the Appellants failed to prove that the stay was necessary to protect the Applicants from irreparable harm, within the meaning of Article R37 of the CAS Code.

50. By letter of the same date, 30 January 2023, the CAS Court Office communicated the order issued by the Deputy President of the CAS Appeals Arbitration Division to the Parties. In the same letter, the CAS Court Office provided the Parties with a copy of the *"Arbitrators' Acceptance and Statement of Independence"* completed by Prof. Av. Thomas Clay.

51. On 6 February 2023, the Respondent filed a letter to the CAS Court Office requesting a 20-day extension to submit its Answer to the Appellants' Appeal Brief.

52. On the same date, the CAS Court Office granted Respondent a 10-day extension to submit the Answer to the Appeal Brief and invited the Appellants to inform, by 8 February 2023, whether they agreed to an additional 10-day extension of the Respondent's time limit.

53. On 8 February 2023, the Appellants' expressed their disagreement with the granting of an additional 10-day extension requested by the Respondent.

54. On the same date, the CAS Court Office advised the Parties that it would be for the President of the CAS Appeals Arbitration Division to decide on the additional deadline extension requested by Respondent.

55. Also on 8 February 2023, the CAS Court Office sent a letter to the Parties noting the absence of challenge to the nomination of Prof. Av. Thomas Clay within the deadline set out in Article R34 of the CAS Code.

56. On 9 February 2023, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division decided to dismiss the Respondent's request for an additional extension of the deadline to present the Answer to the Appellants' Appeal Brief.

57. On 21 February 2023, the Respondent filed its Answer to the Appeal Brief, in accordance with Article R55 of the CAS Code.

58. On the same date, the CAS Court Office invited the Parties to state whether they had interested in holding a hearing and a case management conference.

59. On 24 February 2023, the Respondent stated that it preferred no hearing or case management conference to be held in these proceedings.

60. On 28 February 2023, the Appellants stated their interest in a hearing, but not in a case management conference.

61. On 1 March 2023, the CAS Court Office informed the Parties that, pursuant to Article R54 of the CAS Code, the Panel had been constituted as follows:

President: Mr. Andrew de Lotbinière McDougall KC, Solicitor Advocate in Paris, France

Arbitrators: Mr. Mark Hovell, Solicitor in Manchester, United Kingdom

Prof. Av. Thomas Clay, Attorney-at-law in Paris, France

62. On 10 March 2023, the CAS Court Office sent a letter to the Parties requesting (1) that they confirm, by 17 March 2023, whether they would be available for a hearing in person in Lausanne on 10 May 2023; and (2) that the Respondent produce certain documents and materials by 20 March 2023.

63. On 13 March 2023, the Respondent requested an extension of the two deadlines set forth in the CAS letter of 10 March 2023.

64. On 14 March 2023, the CAS Court Office granted the Respondent's requests for the extension of the deadlines and invited the Respondent to comment on the hearing date by 22 March 2023 and to produce documents by 27 March 2023.

65. On the same date, the Appellants also requested the CAS Court Office for the extension of their deadline to comment on the hearing date.

66. On 15 March 2023, the CAS Court Office granted the Appellants' request for the extension of the deadline to comment on the hearing date until 22 March 2023.

67. On 21 March 2023, the CAS Court Office informed the Parties that Mr. Gustavo Gaspar Nogueira, attorney-at-law in Paris, France, had been appointed as *Ad hoc Clerk*.

68. Also on 21 March, the CAS Court Office provided the Parties with the *"Ad hoc Clerk's Acceptance and Statement of Independence"* of Mr. Gustavo Gaspar Nogueira.

69. On 22 March 2023, the Parties provided the CAS Court Office with their respective comments on the date of the hearing. On this occasion, the Appellants provided information regarding how its witnesses would attend the hearing and requested that World Skate's President attend the hearing in person.

70. On 23 March 2023, the CAS Court Office called the Parties to appear at the hearing to be held on 10 May 2023, in Lausanne, Switzerland, and invited the Parties to provide the names of all persons who would attend the hearing by 6 April 2023.

71. On the same date, the CAS Court Office invited the Respondent to comment, by 27 March 2023, on the requests raised by the Appellants in their letter of 22 March 2023.

72. On 27 March 2023, the Respondent requested the CAS Court Office a deadline extension 29 March 2023 to produce documents and respond to the Appellants' requests regarding the hearing.

73. On the same date, the CAS Court Office stated that it would grant the Respondent's request, if Appellants did not raise any objection by the end of that day.

74. On 29 March 2023, the Respondent (1) presented the video of its Executive Board Meeting on 20 December 2022; (2) opposed the production of the video of the World Skate General Assembly held in Buenos Aires, Argentina, in 2022; (3) provided its comments on the Appellants' requests regarding the hearing; and (4) listed the names of the persons that would attend the hearing on the Respondent's side.

75. By letter dated 3 April 2023, the CAS Court Office communicated the Parties that the majority of the Panel had decided not to admit the participation of Mr. Bonacci in the hearing. In the same letter, the CAS Court Office ordered the Respondent to present, by 11 April 2023, the draft minutes and videos of the World Skate Congress, held in Buenos Aires in 2022.

76. On 5 April 2023, the Appellants informed the CAS Court Office of the people who would attend the hearing in person and by videoconference.

77. On 11 April 2023, the CAS Court Office provided the Parties with an Order of Procedure, which was duly signed and returned by the Respondent on 11 April 2023 and by the Appellants on 17 April 2023.

78. On the same date, upon request of the CAS Court Office, the Respondent presented the video of the 2022 World Skate Congress and requested a 20-day deadline extension to produce and submit the minutes of the Congress.

79. Also on 11 April 2023, the CAS Court Office acknowledged receipt of the Respondent's letter of that date.

80. On 12 April 2023, the CAS Court Office acknowledged receipt of the Order of Procedure signed by Respondent and invited the Appellants to provide their views on the Respondent's request for a 20-day deadline extension to present the minutes of the 2022 World Skate Congress.

81. On 14 April 2023, the Appellants requested that the operative part of the award be communicated to the Parties prior to the reasons.

82. On the same date, the Appellants sent a letter to the CAS Court Office addressing the video of World Skate's 2022 Ordinary Congress and agreeing with the 20-day deadline extension requested by Respondent in its letter of 11 April 2023.

83. On 17 April 2023, the CAS Court Office ordered the Respondent to submit the minutes of World Skate's General Assembly by 1 May 2023, as well as to address the Appellants' request by 20 April 2023 that the operative part of the award be communicated to the Parties prior to the reasons.

84. On 18 April 2023, the CAS Court Office acknowledged receipt of the Order of Procedure signed by the Appellants on 17 April 2023 (see paragraph 76 above).

85. By letter dated 19 April 2023, the Respondent objected to the issuance of the operative part of the award before the reasons.

86. On 21 April 2023, the CAS Court Office shared, on behalf of the Panel, the tentative hearing schedule with the Parties.

87. Also on 21 April 2023, the CAS Court Office informed the Parties that the Appellants' request regarding the issuance of the operative part of the award before the reasons would be decided after the hearing.

88. By letter of 28 April 2023, the Appellants informed the CAS Court Office that their interpreter would attend the hearing.

89. On 1 May 2023, the CAS Court Office acknowledged receipt of the Appellants' letter dated 28 April 2023.

90. On the same date, the Respondent submitted the draft minutes of the 2022 World Skate Congress.

91. On 2 May 2023, the Appellants stated that their interpreter would also attend the hearing in person.

92. On 5 May 2023, the Appellants' sent a letter to the CAS Court Office informing that Mr. Carlos Eduardo Dias would participate in the hearing as CBSK's representative.

93. On 8 May 2023, the CAS Court Office acknowledged receipt of the Appellants' letter dated 5 May 2023.

94. On 10 May 2023, a hearing was held in the CAS Court Office Headquarters in Lausanne, Switzerland. The Panel was assisted at the hearing by Mr. Antonio de Quesada, Head of Arbitration at the CAS, and Mr. Gustavo Gaspar Nogueira, the *Ad hoc* Clerk. The following persons attended the hearing in person:

Mr. Eduardo Musa Costa Bravo	Appellant
Ms. Mariana Fortes	Counsel for the Appellants
Mr. Francisco Balbuena Dal Forno	Counsel for the Appellants
Ms. Marina Villas-Boas	Interpreter for the Appellants
Mr. Francesco Jacopo D'Urbano	Representative of the Respondent
Mr. Emanuel Cortada	Counsel for the Respondent
Mr. Basil Kupferschmied	Counsel for the Respondent

95. In addition, the following persons attended the hearing remotely:

Mr. Otávio Vilarinho	Witness called by the Appellants
Ms. Diogo Castelão	Witness called by the Appellants
Mr. Robert Dean Silva Burnquist	Witness called by the Appellants
Mr. Alexandre Alves Costa	Witness called by the Appellants

96. Although Mr. Carlos Eduardo Dias was initially scheduled to testify, neither Party requested his testimony at the hearing, the Parties and the Panel agreed that his presence was not required, and he did not attend.

97. All witnesses were invited by the President of the Panel to tell the truth subject to the sanction of perjury under Swiss law. Before the hearing was concluded, all Parties expressly stated that

they had no objection to the procedure adopted by the Panel and that their right to be heard had been respected.

98. On 31 May 2023, the CAS Court Office informed the Parties that the time limit for the arbitral award to be communicated to the Parties pursuant to Article R59 of the CAS Code was extended until 31 July 2023.

99. The Panel considered the Parties' positions related to the issuing of the operative part of this Award separately from its reasoning, and concluded that it was preferable to issue the Award in full (*i.e.*, including the Panel's reasoning) rather than issuing the operative part of the award at a first stage and the full award at a later stage.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellants

100. The Appellants' submissions, in essence, may be summarized as follows:

a. The Resolution No. 5/2022 is null and void

101. World Skate allegedly violated due process and the Appellants' right to be heard:

- The Appellants contend that, during its investigations, World Skate failed to provide any description of the offences allegedly committed by the Appellants or underlying evidence, thereby preventing the Appellants from presenting a proper defence.

- The Appellants claim that the Respondent did not provide Mr. Musa and CBSK with the opportunity to be heard in the World Skate Executive Board meeting on 20 December 2022 during which Resolution No. 5/2022 was discussed and approved.

- The breach of the Appellants' right to be heard justifies the annulment of Resolution No. 5/2022 according to CAS jurisprudence.

102. World Skate allegedly violated statutory rules:

- The Appellants allege that the fact that the World Skate Executive Board meeting on 20 December 2022 was scheduled only 11 days after the Appellants presented their statement of defense, on 9 December 2022, amounts to a violation of Article 8, paragraph 5, of the World Skate Statutes, which provides that Executive Board meetings must be scheduled with a 40-day notice period.

103. World Skate allegedly violated the principle of *ne bis in idem* (or double jeopardy):

- The Appellants submit that imposing two separate sanctions on both Appellants for the same acts constitutes a violation of the *ne bis in idem* principle and renders Resolution No. 5/2022 null and void.

104. The disciplinary sanction imposed on the First Appellant violated article 3.A (IV) of the World Skate Code of Conduct and Code of Ethics ("Code of Conduct and Code of Ethics"), which allegedly provides that the maximum period of suspension shall be one year.

b. The Appellants have not committed any of the offences attributed to them

105. The Appellants never committed any form of slander

- The Appellants argue that they did not commit any act of slander against World Skate within the meaning of item "C" in Special Part 2 of the Code of Conduct and Code of Ethics because the Appellants did not make any false allegations that caused damage to the Respondent.

- Any statements made by the Appellants regarding the Respondent were made in the exercise of the Appellants' right to freedom of speech under Article 10 of the European Convention on Human Rights.

- The fact that the Appellants supported the hosting of the 2022 Championships after World Skate's withdrawal cannot be construed as a statement that is damaging to World Skate's image because World Skate withdrew from the 2022 World Championships of its own will.

106. The Appellants never insulted or publicly expressed non-ethical opinions about World Skate:

- The Appellants claim that no statements they made about World Skate amount to an unethical opinion about it.

107. The Appellants did not violate ethical duties and values:

- The Appellants argue that the failure to sign the final contract cannot be considered a disciplinary infraction as there is no evidence implicating CBSK and Mr. Musa in DC10/STU's failure to sign the contract and pay the instalments provided for in the MOU.

108. The Appellants have not committed any contract, bidding or agreements mystification, violation, breach, and failure:

- The Appellants argue that the MOU was merely a framework agreement to facilitate the signing of the hosting contracts. Since the final contract provided for in the MOU was never concluded, World Skate was not entitled to charge the organization fee instalments.

109. The sanction imposed upon the First Appellant is disproportionate when compared to the sanction imposed upon the Second Appellant:

- The Appellants claim that the application of a three-year suspension upon Mr. Musa is disproportionately more severe than the USD 1,000 fine imposed upon CBSK.

c. The Appellants' request for relief

110. In their Statement of Appeal, the Appellants submitted the following request for relief:

Taking into account the facts and the legal arguments that shall be further explained and specified in the Appeal Brief, the Appellants hereby submit the present Statement of Appeal with the following pleas for relief:

(a) to grant the stay of the execution of appealed decision;

(b) to confirm the suspension of all effects of the appealed decision until the issuance of a proper Arbitral Award by the CAS regarding the matter at stake;

(c) to issue a new decision which replaces the decision challenged, in order:

(i) to declare the appealed decision null and void;

(ii) to dismiss the disciplinary infractions alleged committed by Mr. Eduardo Musa Costa Bravo and by Confederação Brasileira de Skate;

(iii) subsidiarily, in the event the CAS understands that the Appellants committed any disciplinary infraction, to reduce the Appellants' sanctions to a warning or reprimand.

(d) to condemn the Respondent to solely bear any eventual legal expenses or costs faced by the Appellants;

(e) to condemn the Respondent to solely bear the costs of the present arbitration;

(f) to order the Respondents to pay the Appellant a contribution towards the legal fees and other expenses incurred in connection with the present proceedings.

111. In their Appeal Brief, the Appellants submitted the following request for relief:

Taking into account the facts and legal arguments set out above, the Appellants request:

(a) a new decision is issued to replace the contested decision, in order to:

(i) declare the contested decision null and void;

(ii) extinguish the alleged disciplinary infractions committed by Mr. Eduardo Musa Costa Bravo and the Brazilian Skate Confederation;

(iii) alternatively, if CAS understands that the Appellants have committed any disciplinary infraction, reduce the Appellants' sanctions to a warning or reprimand.

(b) order the Respondent to bear exclusively any legal expenses or costs incurred by the Appellants;

(c) order the Respondent to bear exclusively the costs of this arbitration;

(d) order the Respondents to pay the Appellant a contribution towards attorneys' fees and other expenses incurred in connection with the present proceeding;

(e) produce all evidence in admitted law, including the hearing of witnesses and parties.

112. At the hearing, the Appellants confirmed that their revised request for relief was as follows:

*"**President of the Panel**: Thank you for your patience. Just one question. The Panel now wants to ensure it is on the same page as counsels. We think we are, but just to confirm. We understand the Appellants submission in terms of request for relief to be in the first instance the removal or lifting of the two sanctions. In the alternative, for the sanctions to be reduced to a warning or reprimand, and in the further alternative, for the sanctions to be reduced to something, if I may say, more appropriate, as determined by the Panel.*

We understand Respondent's position to be that the sanctions should be maintained, but we understand the most recent last submission by counsel for Respondent to be that, at the same time, counsel for Respondent is recognizing that this is a, and I will quote what I recall the words to be, 'very high or somewhat severe sanction on a scale of 0 to 4 years', if it's one year per violation, it is like a 3 out of a maximum of 4 years. We just wanted to confirm If we understood the Parties respective positions, and I will start with counsel for Appellants. Have we understood the Appellants position?

***Counsel for Appellants**: Yes"* (Hearing recording, time stamp 2:39:00 onwards) (emphasis added).

B. The Respondent

113. The Respondent's submissions, in essence, may be summarized as follows:

a. The investigation and disciplinary procedure relating to the Appellants' offences was compliant with the Code of Conduct and Code of Ethics and the World Skate Bylaws

114. The Respondent claims that, according to the World Skate Bylaws, the Prosecutor is equipped with discretionary powers and must start an investigation procedure if there is an alleged breach or violation of the Code of Conduct and Code of Ethics.

115. The Respondent asserts that, as soon as an investigation begins, the Prosecutor is equipped to inform the person, body or entity subject to the investigation, but the Prosecutor is not required to grant access to the case file while the investigation is ongoing pursuant to para. 8-C of Article 6 lit. D of the World Skate Bylaws. The Respondent also mentions that the Appellants were granted access to the complete case records once the investigation was completed and were given an opportunity to submit their defence in writing.

116. With respect to the Executive Board Meeting, the Respondent claims that its rules and regulations do not foresee an investigated party making oral submissions, the president of World Skate does not have any conflict of interest with the Appellants, and the scheduling of any urgent Executive Board meetings does not have to comply with any notice period requirements according to Article 8, para. 7, of the World Skate Statutes.

117. According to CAS jurisprudence, the *de novo* power of a CAS panel in an appeal from a decision of an international federation to review the matter afresh cures any procedural mistakes that may have been committed by an international federation.

b. The Appellants violated the Code of Conduct and Code of Ethics

118. The Appellants committed slander against World Skate:

- The Respondent submits that the Appellants have committed slander, as defined in Article 2, lit. c., of the Special Part of the Code of Conduct and Code of Ethics, by making false and prejudicial statements about the international federation.

- Specifically, the Appellants are alleged to have made false statements by asserting that CBSK and DC10/STU had complied with all conditions set out in the MOU for the 2022 World Championships to take place. As proof of the damage caused to World Skate's image and reputation, the Respondent cites press articles submitted by the Appellants (see, e.g., the Appellants' Exhibit 49) reporting on an alleged dissatisfaction of skateboarding athletes with World Skate's behaviour.

119. The Appellants insulted and publicly expressed non-ethical opinions about World Skate:

- As examples of the alleged insults or non-ethical opinions expressed about World Skate, the Respondent cites (1) DC10's note dated 2 September 2022 citing the *"negligence, unpreparedness and arbitrariness of [World Skate]"* as the reason for World Skate's withdrawal from the 2022 World Championships; and (2) DC10's open letter dated 5 September 2022, stating that World Skate *"does not contribute with know-how, professionalism nor any money"* to skateboarding and that World Skate *"drove away"* traditional skateboarding events due to its *"lack of understanding"* of the sport.

- The Respondent also cites the fact that the Appellants remained involved with DC10 after the statements above, instead of distancing themselves from it, and confirmed their full support to DC10 by means of the CBSK note dated 2 September 2022.

120. The Appellants violated ethical duties and values:

- The Respondent submits that the Appellants violated ethical duties and values by supporting DC10 and not dissociating themselves from the allegations made by DC10.

- The Respondent claims that Mr. Musa was required to adhere to the *"highest possible ethical values at all times"* due to his role as president of a national federation.

121. The Appellants committed breach of contract:

- The Respondent argues that the Appellants failed to comply with the commitments agreed upon in the MOU, in particular the obligation to make payments of the organizing fees to World Skate, in violation of the provision in the Code of Conduct and Code of Ethics that prohibits *"contract, bidding or agreements mystification, violation, breach and failure"*.

- The Respondent claims that Mr. Musa, as the person who signed the MOU on behalf of CBSK, was *"a central contributor"* to CBSK's refusal to comply with its obligations set out in the MOU.

c. World Skate disposes of a margin of discretion

122. The Respondent argues that CAS jurisprudence and Swiss law afford international federations a margin of discretion in interpreting their own rules. Accordingly, a CAS panel may only review a decision made by an international federation *"in cases of serious defects, notably if the decision is arbitrary, a clear misuse of discretionary powers, or in breach of mandatory legal principles"*.

123. The Respondent contends that the Panel should refrain from interfering in World Skate' discretion to impose sanctions on the Appellants because, in this case, the sanctions were neither grossly nor evidently disproportionate.

d. Sanction

124. The Respondent claims that the Appellants' reliance on the one-year limitation for any sanction of suspension under Article 3, lit. a., para. IV, of the General Part of the Code of Conduct and Code of Ethics is untenable because that limit applies for each sanction.

e. Respondent's request for relief

125. In the Answer to the Appeal Brief, the Respondent submitted the following request for relief:

"1. To reject the Appeal in full and to confirm the Appealed Decision;
2. To order the Appellants to bear any and all arbitration costs;
3. To order the Appellants to bear all legal costs and expenses incurred by World Skate".

126. At the hearing, the Respondent confirmed that its request for relief was as follows:

*"**President of the Panel**: Thank you for your patience. Just one question. The Panel now wants to ensure it is on the same page as counsels. We think we are, but just to confirm. We understand the Appellants submission in terms of request for relief to be in the first instance the removal or lifting of the two sanctions. In the alternative, for the sanctions to be reduced to a warning or reprimand, and in the further alternative, for the sanctions to be reduced to something, if I may say, more appropriate, as determined by the Panel.*

We understand Respondent's position to be that the sanctions should be maintained, but we understand the most recent last submission by counsel for Respondent to be that, at the same time, counsel for Respondent is recognizing that this is a, and I will quote what I recall the words to be, 'very high or somewhat severe sanction on a scale of 0 to 4 years', if it's one year per violation, it is like a 3 out of a maximum of 4 years. We just wanted to confirm If we understood the Parties respective positions, and I will start with counsel for Appellants. Have we understood the Appellants position?

[…]

Presiding arbitrator: *Thank you. And have we understood the Respondent's position?*

Counsel for Respondent: *I just wanted to add that …*

Presiding arbitrator: *Of course, please.*

Counsel for Respondent: *That I said in the end, it is an appropriate position Respondent took.*

Presiding arbitrator: *But otherwise, I have not misstated you, misquoted you?*

Counsel for Respondent: *No, you did not"* (Hearing recording, time stamp 2:39:00 onwards)

(emphasis added).

V. JURISDICTION

127. The jurisdiction of the CAS derives from Article R47 of the CAS Code, as well as from Article 2.4 of the World Skate Statutes and paragraph 6(b)(6) of the World Skate Bylaws.

128. Article R47 of the CAS Code provides as follows:

"An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body. An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned".

129. Article 2.4 of the World Skate Statutes provides:

"ARTICLE 2 – GOALS

[…]

(4) World Skate requires all its members to acknowledge and agree that any second instance dispute (please see Art. 8.14.1 below and World Skate By-Laws) as well as any other dispute which is not part of the sphere of competence of any World Skate body, shall be settled by the Court of Arbitration for Sport (CAS) of Lausanne (Switzerland). According to these Statutes, only the Federations that are lawfully member of World Skate shall have the right to appeal to the Court of Arbitration in seeking legal remedy against World Skate or any other Member Federation of World Skate".

130. Paragraph 6(b)(6) of the World Skate Bylaws provides:

"[…] 6. All the decisions of the Executive Board are final and binding. In case of a negative outcome, the unsuccessful party can submit an appeal to the Court of Arbitration for Sports (CAS/TAS) of Lausanne".

131. The Respondent has confirmed that it does not object to the jurisdiction of the CAS both (1) in its Answer to Appeal Brief dated 20 February 2023 and (2) by signing the Order of Procedure dated 11 April 2023.

132. It is therefore established that the CAS has jurisdiction over the present dispute.

VI. ADMISSIBILITY

133. Article R49 of the CAS Code provides 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 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".

134. Thus, according to Article R49 of the CAS Code, the Appellants had the right to appeal the decision within 21 days of the receipt of the decision against which the appeal is being lodged.

135. The Appellants received Resolution No. 5/2022 (Appellants' Exhibit 23) on 20 December 2022. The Statement of Appeal was filed on 9 January 2023, *i.e.*, 20 days after the receipt of Resolution No. 5/2022, and therefore within the time limit set out in Article R49 of the CAS Code.

136. It follows that the appeal is admissible.

VII. APPLICABLE LAW

137. World Skate submits that, in accordance with Article R58 of the CAS Code, the Panel shall apply the relevant World Skate rules and regulations to the dispute, and Swiss law applies on a subsidiary basis.

138. Article R58 of the CAS Code provides as follows:

"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".

139. The MOU, which was signed by the First Appellant on behalf of the Second Appellant but not by the Respondent, does not contain any specific choice-of-law clause. It only provides as follows:

"The Future Host, in all of the events, undertakes to be respectful and compliant to World Skate Statutes, Rules and Regulations as well as World Skate Data Protection Policy, Sports Technical Rules, World Skate Anti-doping Rules and any other World Skate forthcoming rules and standards".

140. The Appellants have not made any submissions regarding the law applicable to Resolution No. 5/2022 and the MOU. As discussed below, the Respondent argued at the hearing that the MOU is governed by Swiss law.

141. In view of the above, the Panel finds that the laws and rules applicable to Resolution No. 5/2022 are primarily the regulations of World Skate and, on a subsidiary basis, Swiss law. The issue of the law applicable to the MOU relates to the merits of this dispute and is therefore addressed in Section IX of this Award.

VIII. PROCEDURAL MATTERS

142. On 29 March 2023, the Respondent requested the attendance of a number of persons at the hearing scheduled for 10 May 2023, including that of Mr. Bonacci, *i.e.*, the World Skate Prosecutor.

143. On 30 March 2023, the Appellants objected to the participation of Mr. Bonacci at the hearing because, pursuant to Article R55 of the CAS Code, the Respondent did not name Mr. Bonacci as a witness in its Answer to the Appeal Brief.

144. On 3 April 2023, the CAS Court Office informed the Parties that *"the majority of the Panel has decided not to admit the participation of Mr. Giuseppe Francesco Bonacci, witness proposed by the Respondent, at the hearing"*. The CAS Court Office also stated that *"[t]he full reasoning behind the Panel's decision shall be communicated to the Parties in the Arbitral Award rendered in the present case"*.

145. Further to the CAS Court Office's letter dated 3 April 2023, the Panel submits the reasons why it has decided, by majority, to deny Mr. Bonacci's participation in the hearing.

146. As a preliminary matter, the Panel acknowledges the Respondent's right, invoked in its letter dated 29 March 2023 and set out in Article R30 of the CAS Code, to choose its own representatives. Article R30 of the CAS Code unequivocally states, in the relevant part, that *"[t]he parties may be represented or assisted by persons of their choice"*.

147. Mr. Bonacci however cannot be considered a party representative for the majority of the Panel. Indeed, as the Respondent itself explains, a World Skate prosecutor is *"independent"* and *"external"* to World Skate (see Answer to Appeal Brief, paras. 87-88). Therefore, Mr. Bonacci could in theory only attend the hearing in his capacity as a witness.

148. The majority of the Panel agrees with the Appellants' argument that the Respondent should have named Mr. Bonacci as a witness in its Answer to Appeal Brief in order to be able to call Mr. Bonacci as a witness.

149. Article R55 of the CAS Code clearly provides that the Answer to the Appeal Brief shall contain *"the name(s) of any witnesses, including a brief summary of their expected testimony"*. The Respondent did not name Mr. Bonacci as a witness, nor did it make any reservation of rights to name a witness at a later stage in the proceedings. For these reasons, the majority of the Panel rejected the Respondent's calling of Mr. Bonacci as a witness as untimely.

IX. MERITS

A. The main issues

150. The main issues to be resolved by the Panel are:

- Did the investigation procedure conducted by Mr. Bonacci and the disciplinary procedure before the Executive Board violate World Skate's rules and regulations or otherwise breach the Appellants' right to be heard and, in the affirmative case, does the alleged breach lead to the annulment of Resolution No. 5/2022?

- Did either of the Appellants mystify, violate, or otherwise breach a contract, a bidding or an agreement a set out in item "C" in Special Part of the Code of Conduct and Code of Ethics?

- Did either of the Appellants commit slander as defined under item "C" in Special Part of the Code of Conduct and Code of Ethics?

- Did either of the Appellants insult or publicly express non-ethical opinions about World Skate as set out in item "C" in Special Part of the Code of Conduct and Code of Ethics?

- Did either of the Appellants violate ethical duties and values as set out in item "C" in Special Part of the Code of Conduct and Code of Ethics?

- If the First Appellant did commit any of the offences set out in the second-fifth bullet points above, is the three-year suspension imposed on the First Appellant a proportionate sanction for the offences committed?

- If the Second Appellant did commit any of the offences set out in the second-fifth bullet points above, is the USD 1,000 fine imposed on the Second Appellant a proportionate sanction for the offences committed?

a. Did the investigation procedure conducted by Mr. Bonacci and the disciplinary procedure before the Executive Board violate World Skate's rules and regulations or otherwise breach the Appellants' right to be heard and, in the affirmative case, does the alleged breach lead to the annulment of Resolution No. 5/2022?

151. The Appellants invoked a series of procedural issues with the investigation undertaken by Mr. Bonacci and the disciplinary proceedings before the Respondent's Executive Board, including the following alleged issues:

- Mr. Bonacci did not grant the Appellants full access to the case records during the period of investigation;

- Mr. Bonacci's decision to suspend the First Appellant on a precautionary basis was arbitrary;

- The Executive Board did not comply with the minimum 40-day notice period set out in World Skate's Statutes when scheduling the Executive Board meeting to decide on which sanctions (if any) to impose on the Appellants; and

- The Appellants were not allowed to present their case in the Executive Board meeting.

152. The Respondent argues, in summary, that the Appellants were only entitled to access to the case records once the investigation conducted by Mr. Bonacci was completed, and that access was given to the Appellants in due time. Further, the Respondent states that the 40-day notice period cited by the Appellants does not apply to the Executive Board meeting at hand because the scheduling of any urgent Executive Board meetings does not have to comply with any notice period requirements according to Article 8, para. 7, of the World Skate Statutes. The Respondent also alleges that, in any event, the *de novo* review undertaken by this Panel 'cures' any possible deficiencies in the investigative and disciplinary procedures.

153. The Panel agrees with the Respondent's contention that the *de novo* nature of the review undertaken by this Panel cures any alleged procedural irregularities in the investigation procedure undertaken by Mr. Bonacci and the disciplinary procedure before the Executive Board.

154. The jurisprudence cited by the Respondent is apposite in this respect:

> *In this regard, the Panel first notes that the facts and the law are examined de novo by the Panel in accordance with the power bestowed on it by Article R57 of the CAS Code. The Panel is therefore not limited to the facts and legal arguments of the previous instance. <u>In relation to issues raised by the Appellant regarding the procedure at the lower instance, it is well-established in CAS case law that procedural defects in the lower instances can be cured through the de novo hearing before CAS</u> (see CAS 2015/A/4162 paras. 70 et seq., CAS 2014/A/3848 paras. 53 et seq., CAS 2013/A/3256 paras. 261 et seq. each with further references). In view of the above, the Panel holds that any possible procedural flaws in the proceedings before the FIFA DRC are cured in these de novo arbitration proceedings.* (see CAS 2016/A/4704, award of 6 April 2017) (emphasis added).

155. The Panel also notes that, at the hearing, and upon being questioned by the Panel, the Appellants agreed that the *de novo* nature of the review undertaken by the Panel cured any procedural irregularities.

156. Accordingly, the Panel concludes that any procedural irregularities invoked by the Appellants have been cured by the *de novo* review undertaken by this Panel. For the same reason, the Panel does not deem it necessary to address the procedural irregularities raised by the Appellants any further.

b. Offences

157. In the Subsections below, the Panel addresses each of the offences set out in the Indictment Report and in Resolution No. 5/2022. The Panel sets out its reasoning with respect to both Appellants jointly. To the extent that a differentiation between the First and Second Appellants is required, this Award will state so expressly.

i. Did either of the Appellants mystify, violate, or otherwise breach a contract, a bidding or an agreement a set out in item "C" in Special Part of the Code of Conduct and Code of Ethics?

158. The Appellants state that the Respondent's Executive Board's finding in Resolution No. 5/2022 that the Appellants mystified, violated, or otherwise breached a contract, a bidding or an agreement a set out in item "C" in Special Part of the Code of Conduct and Code of Ethics is wrong. The Appellants argue, in particular, that the MOU was a non-binding framework agreement aimed at facilitating the signing of the hosting contracts for the 2022 World Championships.

159. The Respondent argues that the Appellants failed to comply with the commitments agreed upon in the MOU, in particular the obligation make payments of the sanctioning fees to World Skate.

160. The Panel finds, by majority, that neither of the Appellants committed any act which amounts to a breach, mystification, or violation of the MOU.

161. The majority of the Panel also finds that the Second Appellant did not have any binding obligation to make any payment to the Respondent under the MOU.

162. As a preliminary matter, the majority of the Panel notes that the MOU was not signed by the Respondent at all or by the First Appellant in is personal capacity.

163. Moreover, while the Appellants have not made any submission with respect to the law applicable to the MOU, and although the Respondent briefly stated at the hearing that its position was that the MOU was governed by Swiss law, the Respondent did not provide meaningful particulars corroborating its position (*e.g.*, the Respondent has not explained why Brazilian law is not applicable despite the fact that the MOU was signed by two Brazilian parties only and relates to events which would be held in Brazil).

164. The majority of the Panel also notes that the only evidence submitted by either Party in these proceedings on the subject of whether an MOU provided for binding payment obligations was the testimony of Mr. Vilarinho and Mr. Costa, both Brazilian lawyers whose evidence at the hearing was that the MOU does not provide for binding payment obligations under Brazilian law.

165. Even if the Panel had been convinced that the MOU provided for binding payment obligations, the majority of the Panel finds that CBSK did not have a contractual obligation to make any payments to World Skate for four reasons.

166. First, Mr. Musa made clear at the time of the conclusion of the MOU that the Second Appellant would not assume any contractual or financial obligation related the 2022 World Championships. This is corroborated by evidence submitted by the Appellants:

- In an email sent by Mr. Musa to World Skate on 1 May 2022, Mr. Musa stated unequivocally that "it is very important to note and highlight that in the contract we will not assume any type of contractual or financial responsibility for the event (before, during and after the event)" (Appellants' Exhibit 4). The majority of the Panel is not persuaded by the Respondent's argument that this email constitutes evidence that the Second Appellant would only be discharged from financial obligations once the hosting contract(s) was (were) signed. If the Second Appellant were bound to make payments to the Respondent under the MOU, it would be counterintuitive for this obligation to disappear by virtue of the signing of the hosting contract(s).

- Consistent with the correspondence above, Mr. Musa stated at the hearing that CBSK did not have the financial means to meet the financial obligations under the MOU and World Skate was aware of this.

- Mr. Vilarinho and Mr. Costa confirmed at the hearing that DC10 was to assume the financial obligations under the MOU.

- Mr. Burnquist explained at the hearing that a promoter of skateboarding competitions such as DC10 is usually the driver of the event and responsible for its financing, including searching for sponsors. The role of the national federation (such as CBSK) is to ensure that the competition follows any applicable rules (for example, regarding judging and scoring).

167. Second, although the World Skate logo is in the heading of the MOU, the Respondent did not sign the MOU, nor is World Skate named as a party to the MOU. The preamble of the MOU states that the signatories to the MOU are DC10, STU (both represented by Mr. Castelão) and CBSK (represented by Mr. Musa):

"By means of this Acknowledgement of Commitment and Acceptance, the undersigned Mr. Diogo Castelão, acting director of DC10 Economia Criativa Ltda. and the STU Platform, and Mr. Eduardo Musa, President of the CBSK – Brazilian Skateboarding Confederation (hereinafter collectively referred to as 'Future Host') hereby commit to host, organize, stage and deliver, for the season 2022, the Events described below according to World Skate Guidelines/Handbook/Event Criteria (in attachment) which the undersigned acknowledge to have read, understood and accepted, always and in any case without prejudice to what is explicitly described in this MOU and/or in the future contract" (Appellants' Exhibit 3).

168. Third, the parties to the MOU expressly committed to *"sign[ing] the forthcoming Hosting Contract/s"* within 60 days before the 2022 World Championships began, *i.e.*, before any payment was due to be made. The signing of the hosting contracts, however, never took place. The parties to the MOU could not have been compelled to pay amounts supposedly due for the organization of the 2022 World Championships while an obligation which was due before the payments (*i.e.*, the signing of the hosting contracts) had never been fulfilled. Accordingly, the timeline

envisaged under the MOU for the hosting contracts to be signed and for the payments to be made further corroborates the understanding that any binding payment obligations would only arise after the signature of the hosting contracts.

169. Fourth, both Mr. Castelão and Mr. D'Urbano confirmed at the hearing that World Skate has not commenced any legal proceedings against DC10 and STU to seek compensation for the alleged losses suffered as a result of the alleged breach by DC10 and STU of the MOU. The Panel understands that this is further indication that World Skate never considered itself to be a contracting party entitled to enforce the MOU.

170. In light of the above, the majority of the Panel finds that World Skate was not entitled to require payment of fees from CBSK under the MOU. Accordingly, the majority of the Panel finds that any failure to make such payment does not amount to a breach by CBSK of the Code of Conduct and Code of Ethics.

171. With respect to Mr. Musa, the majority of the Panel notes that he signed the MOU in his capacity as the President of CBSK. Therefore, even if there had been a breach of an enforceable obligation under the MOU (as discussed above, no such breach existed), this breach would have been caused by and attributed to CBSK alone.

172. Accordingly, the majority of the Panel also finds that Mr. Musa did not commit any offence related to alleged breaches of the MOU.

ii. Did either of the Appellants commit slander as defined under item "C" in Special Part of the Code of Conduct and Code of Ethics?

173. The Appellants claim that they have not made any false allegations which caused damage to the Respondent and that any public statements made by the Appellants were made in exercise of their right to freedom of speech.

174. The Respondent alleges that the Appellants committed slander by asserting that CBSK and DC10 and STU had complied with all conditions set out in the MOU for the 2022 World Championships to take place.

175. The Panel notes that the Code of Conduct and Code of Ethics define slander as *"[m]ak[ing] false and damaging statements about someone or something"* (Appellants' Exhibit 15). Slander as defined in the Code of Conduct and Code of Ethics therefore requires that statements made be (1) false and (2) damaging.

176. The majority of the Panel finds that neither Appellant committed slander as defined in the Code of Conduct and Code of Ethics. The Panel addresses each of the public statements cited in the Indictment Report in turn.

177. First, the Panel does not find that the public statements made by DC10 and STU (*e.g.*, the note published by STU on a Brazilian news outlet on 2 September 2022 and the open letter issued by STU on 5 September 2022) can be attributed to either of the Appellants. The Panel found no indication in the case record or at the hearing that the Appellants were directly involved in,

or had any influence on, the preparation or publication of these statements. On the contrary, Mr. Vilarinho confirmed at the hearing that no member of CBSK had any influence on the wording of or on the decision to publish STU's public statements dated 2 September 2022 and 5 September 2022. Mr. Musa also stated at the hearing that he did not participate in the preparation of these statements.

178. Second, the statements made in the CBSK statement dated 2 September 2022 contain a number of allegations with respect to the cancellation of the 2022 World Championships and World Skate more generally. Mr. Musa confirmed at the hearing that CBSK's communications department was responsible for drafting the statement, which Mr. Musa reviewed and approved. The majority of the Panel finds, however, that the statements contained in CBSK's note dated 2 September 2022 do not meet the 'false' requirement set out in the Code of Conduct and Code of Ethics. The main statements made in this note are addressed in turn below:

- CBSK stated that it *"regret[ted] World Skate's decision to no longer participate in the [2022 World Championships]"*, *"reiterate[d] that both competitions are confirmed and [would] take place" and "join[ed] STU and support[ed] the platform in holding the two competitions"*. World Skate's decision to withdraw from the 2022 World Championships is undisputed, as is the fact that the DC10 and CBSK planned to move forward with – and indeed hosted – the 2022 Championships, as had been their original intention, before World Skate became involved.

- CBSK stated that, by that time, *"World Skate ha[d] only held one qualifying event for the Paris Olympic Games (Pro Tour, in Rome, for Street) […] and there [was] no official confirmation of any other competitions"*. On the basis of the evidence presented at the hearing, the Panel understands that World Skate indeed had only one event planned in their calendar by the time it sought to join the 2022 World Championships.

- CBSK stated that CBSK and STU *"reinforce that all the conditions negotiated and included in the memorandum were fulfilled by the two Brazilian entities"* and that *"World Skate presented new requirements that were not in accordance with the memorandum and that had not been previously agreed between the Parties"*. As discussed above, the majority of the Panel finds that CBSK did not have any binding payment obligations towards World Skate under the MOU.

- CBSK stated that *"at the moment there is no official calendar of any other qualifying events for Paris 2024"*. There is no indication in the case record to the contrary.

179. Accordingly, the majority of the Panel considers that CBSK's statement – which was reviewed and approved by Mr. Musa – does not contain false information. The Panel therefore finds by majority that neither of the Appellants committed slander by means of CBSK's statement dated 2 September 2022.

180. For the same reason, the majority of the Panel finds the fact that CBSK subsequently shared this same statement on its Twitter account does not amount to slander as defined in the Code of Conduct and Code of Ethics.

181. Further, the Panel notes that the online petition launched by Mr. Burnquist on 20 January 2023 (*i.e.*, after the Resolution No. 5/2022 was issued) against World Skate's decision to merge skateboarding and roller sports on level of the national federations, cited in the Respondent's Answer to the Appeal Brief, does not fall within the scope of the dispute currently before the Panel. For this reason, the fact that Mr. Musa shared this online petition on his personal Instagram account does not alter the majority of the Panel's conclusion that CBSK's statement dated 2 September 2022 does not amount to slander.

182. In light of the above, the Panel finds by majority that neither of the Appellants committed slander.

iii. Did either of the Appellants insult or publicly express non-ethical opinions about World Skate as set out in item "C" in Special Part of the Code of Conduct and Code of Ethics?

183. The Parties' allegations with respect to this offence are similar to those made with respect to slander, described above.

184. The Panel notes that the requirements for this offence to apply are less strict than those applicable to slander. In particular, this offence only requires that the Appellants *"insult"* or *"publicly express non-ethic opinions"* about World Skate, both of which are broadly worded requirements. Importantly, and unlike slander, this offence is not subject to a 'falsehood' requirement. It is in this light that the Panel will assess the public statements made by CBSK and/or Mr. Musa.

185. First, as discussed above, the Panel finds that statements made by STU cannot be attributable to either of the Appellants. The Respondent's argument that the Appellants chose not to dissociate themselves from STU after those statements were made does not alter the Panel's analysis. Mr. D'Urbano confirmed at the hearing that World Skate had not made any request at the time of its withdrawal from the 2022 World Championships that the Appellants dissociate themselves from DC10 and STU. Further, even before World Skate's involvement in the 2022 World Championships, STU and the Appellants were already engaged in negotiations relating to the 2022 Championships. CBSK should not reasonably have been expected to abandon the event – and fully dissociate itself from STU – merely because World Skate decided to withdraw from 2022 World Championships.

186. Second, the Panel finds that part of the statements made by CBSK on 2 September 2022 amount to *"insulting"* World Skate. In particular, the Panel notes that the statement that World Skate only had one event in their calendar apart from the 2022 World Championships and that there was no other event in the Olympic calendar prior to Paris 2024 can reasonably be understood due to the way it was phrased to aim at undermining the credibility of World Skate and the perception of the skateboarding and wider community of World Skate's ability to organize large-scale skateboarding events.

187. The Panel therefore concludes that the Second Appellant breached the Code of Conduct and Code of Ethics by insulting World Skate when it issued the public statement on 2 September 2022.

188. As discussed above, Mr. Musa reviewed and approved this public statement. Accordingly, and for the same reasons, the Panel also finds that Mr. Musa breached the Code of Conduct and Code of Ethics.

iv. Did either of the Appellants violate ethics duties and values as set out in item "C" in Special Part of the Code of Conduct and Code of Ethics?

189. The Parties' allegations with respect to this offence are similar to those made with respect to slander, described above. In particular, the Respondent claims that Mr. Musa, as the president of a national federation, is subject to the *"highest possible ethical values at all times"*.

190. The Panel notes that the Indictment Report, Resolution No. 5/2022, and the Respondent's Answer to the Appeal Brief do not particularize any actions or omissions by either Appellant – apart from those claimed under the other offences described above – which would qualify as a breach of *"ethics duties and values"*.

191. The Panel also notes that the Special Part of the Code of Conduct and Code of Ethics does not particularize, provide examples of, or otherwise define this offence. The Special Part of the Code of Conduct and Code of Ethics either provides a more specific wording to describe all other offences, or provides a definition or examples of actions which would amount to these offences. Given the broad and generic wording of the offence of *"violation of ethics duties and values"*, the majority of the Panel understands that this offence is intended to have a broader scope so as to capture behaviour detrimental to World Skate, national federations or athletes not already covered by other offences set out in the Special Part.

192. Therefore, the majority of the Panel understands that, in order for the Appellants to have committed this offence in addition to the other offences of which the Appellants were charged, the Appellants' actions would need to have been such that they could not be in theory encompassed by the other offences discussed above.

193. Considering that the Parties have not invoked any behaviour other than what is already described for the offences above, the majority of the Panel finds that the Appellants have not violated *"ethics duties and values"* within the meaning of the Code of Conduct and Code of Ethics.

194. In light of the above, the Panel finds by majority that each of the Appellants have committed an offence under the Code of Conduct and Code of Ethics by insulting or publicly expressing a non-ethical opinion about World Skate. The Panel also finds by majority that the Appellants have not committed the other offences set out in the Indictment Report and Resolution No. 5/2022.

c. Sanctions

195. In their written submissions, the Appellants requested that the Panel *"extinguish the […] disciplinary infractions committed by [Mr. Musa] and [CBSK]"* or, alternatively, *"if the CAS understands that the Appellants have committed any disciplinary infraction, reduce the Appellants' sanctions to a warning or reprimand"* (Appeal Brief, p. 36). At the hearing, the Appellants stated that they also requested,

in further alternative, for the sanctions to be reduced to another alternative sanction, as deemed appropriate by the Panel (see paragraph 112).

196. The Respondent requests that Resolution No. 5/2022 be upheld in its entirety (see paragraph 126).

197. As discussed above, the majority of the Panel has found that each of the Appellants has committed only one of the offences of which it was accused. The Panel also recalls that Resolution No. 5/2022 has sanctioned Mr. Musa with a three-year suspension and CBSK with a USD 1,000 fine.

198. Against this background, the Panel reviews the Parties' submissions with respect to the sanctions to be applied to each of the Appellants below.

i. Sanctions imposed on the First Appellant

199. The Panel notes that the offences committed by Mr. Musa and CBSK relate to the same facts and behaviour. This is corroborated by the Indictment Report, which contains similar language for the offences of which Mr. Musa and CBSK were being accused.

200. The Code of Conduct and Code of Ethics leaves ample margin of discretion in ascertaining what and how sanctions are to be applied. In this regard, Article 4(b) of the Code of Conduct and Code of Ethics establishes that:

"In the absence of a clear quantification, all sanctions shall be applied in compliance with the inspiring principles of World Skate Code of Conduct and Code of Ethics, according to the level of responsibility or, finally, by equity".

201. CAS jurisprudence entitles CAS panels to review sanctions imposed by international federations when there is no adequate justification or explanation by the international federation on the proportionality of the sanction imposed on the party which allegedly committed an offence.

202. For example, in CAS 2016/A/4558, the panel found that, although CAS jurisprudence affords discretion to international federations when imposing sanctions, the panel was entitled to review the sanction imposed in that case because the appealed decision *"lacks any reasoning as to how the [sanctioning body] arrived at a suspension of one year"*, which prevents the sanctioned party from knowing *"which circumstances influenced the severity of the sanction imposed"*. The panel further found that *"a first instance body is required to explain why the sanction imposed should be considered proportionate in order to benefit from the deference usually applied in CAS jurisprudence"* (see also CAS 2011/A/2645).

203. The Panel notes that Section 2(B) of the Special Part of the Code of Conduct and Code of Ethics explicitly states that *"[s]anctions shall be imposed discretionally, equally, fairly and without any kind of discrimination"* (emphasis added). The Indictment Report and Resolution No. 5/2022 do not however provide any meaningful explanation as to why the sanction imposed on Mr. Musa was significantly more severe than that imposed on CBSK. Accordingly, the Panel finds that the Executive Board did not *"explain why the sanction imposed should be considered proportionate"* and the Panel is therefore entitled to review the sanction imposed on Mr. Musa in the circumstances.

204. Turning to the assessment of the proportionality of the sanction imposed on Mr. Musa, the majority of the Panel finds that a suspension of any duration is a disproportionate sanction to be imposed on Mr. Musa. As a starting point for its analysis, the Panel recalls that neither Party has submitted legal authority on the issue of the proportionality of the sanction imposed on Mr. Musa.

205. CAS jurisprudence shows however that suspensions lasting between two to eight years were given for bribery offences (see CAS 2017/A/5086, award of 9 February 2018, with further references), which are much more serious offences than the public statements made by the Appellants.

206. The Panel also recalls, with respect to the proportionality of the sanction imposed on Mr. Musa, that:

- Resolution No. 5/2022 provides that the suspension imposed on Mr. Musa specifically for the offence of insulting or publicly expressing non-ethical opinions about World Skate was a six-month suspension;

- The Code of Conduct and Code of Ethics does not provide guidance on which sanctions would be proportional to each type of offence under the Code of Conduct and Code of Ethics, nor does it provide general guidelines as to the dosing of sanctions; and

- Mr. Musa's actions which amount to insulting or expressing non-ethical opinions about World Skate were to review and approve the public statement issued not by himself, but by CBSK, which mentioned in its public statement dated 2 September 2022 that World Skate had only organized one event in their calendar apart from the 2022 World Championships and that there was no other event in the Olympic calendar prior to Paris 2024.

207. The majority of the Panel is comfortably satisfied that, although the statements made by CBSK on 2 September 2022 can reasonably be understood to aim at undermining the credibility of World Skate, they do not give rise to a potential damage to World Skate's reputation that is serious enough so as to justify a sanction of suspension. Further, the fact that Mr. Musa only reviewed and approved the public statements, instead of making the statements himself, mitigates his responsibility for any potential damage for World Skate's reputation. The majority of the Panel therefore finds that the sanction to be applied to Mr. Musa has, at the very least, to be comparable to that applicable to CBSK. On the basis of the available sanctions set out in Section 3(A) and 3(B) of the General Part of the Code of Conduct and Code of Ethics, the majority of the Panel is comfortably satisfied that a *"[w]arning ([w]ritten [n]otice)"* is a more appropriate sanction on Mr. Musa.

208. Accordingly, the majority of the Panel decides to replace the sanction of a three-year suspension on Mr. Musa by the sanction of a warning, as provided in Section 3(A)(I) of the General Part of the Code of Conduct and Code of Ethics.

ii. Sanctions imposed on the Second Appellant

209. The Panel finds that the fine in the amount of USD 1,000 is an appropriate sanction on CBSK.

210. Indeed, during the Executive Board meeting of 20 December 2022, which led to Resolution No. 5/2022, the President of World Skate stated that the financial sanction imposed on the Second Appellant *"should not be more than a couple thousand euros"* and that this sanction should be seen as a tool to *"prove that [World Skate] are serious"* about the prosecution of the alleged offences (Executive Board meeting video, time stamps 41:24, 52:46, 56:16). In light of these statements, the Panel understands that the USD 1,000 fine had a symbolic nature, and therefore, the Executive Board did not measure the quantum of the fine taking into account each offence individually.

211. This conclusion is further confirmed by the fact that Resolution No. 5/2022 does not provide a breakdown setting out which portion of the USD 1,000 fine is imposed in relation to each of the four offences allegedly committed by the Appellants.

212. Given the symbolic nature of the fine, the Panel concludes that no reduction of the fine is warranted to take account of the fact that the majority of the Panel found that CBSK committed only one of the four offences of which it was accused.

213. Accordingly, the Panel decides to uphold the sanction imposed on CBSK in Resolution No. 5/2022.

B. Conclusion

214. Based on the foregoing, and after taking into due consideration all the evidence produced and all arguments made, the majority of the Panel finds that:

i. The First Appellant insulted or publicly expressed non-ethical opinions about World Skate, and has not committed the other offences of which it was charged in the Indictment Report;

ii. The Second Appellant insulted or publicly expressed non-ethical opinions about World Skate, and has not committed the other offences of which it was charged in the Indictment Report;

iii. The three-year suspension imposed on the First Appellant by Resolution No. 5/2022 is disproportionate and should be reduced to a warning in accordance with Section 3(A)(I) of the General Part of the Code of Conduct and Code of Ethics; and

iv. The fine in the amount of USD 1,000 imposed on the Second Appellant by the Resolution No. 5/2022 shall be upheld.

215. All other and further motions or prayers for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the Appellants on 9 January 2023 against Resolution No. 5/2022 issued by the Executive Board of World Skate on 20 December 2022 is partially upheld.

2. Resolution No. 5/2022 issued by the Executive Board of World Skate on 20 December 2022 is set aside insofar as it:

   i. Found that the Appellants committed slander, a violation of ethics duties and values and mystification, violation or breach of a contract, a bidding or an agreement under the World Skate Code of Conduct and Code of Ethics.

   ii. Imposed a three-year suspension on Mr. Eduardo Musa Costa Bravo.

3. Mr. Eduardo Musa Costa Bravo is to be sanctioned with a warning pursuant to Section 3(A)(I) of the General Part of the Code of Conduct and Code of Ethics.

4. The sanction imposed by Resolution No. 5/2022 issued by the Executive Board of World Skate on 20 December 2022 on CBSK shall remain unchanged.

5. (…).

6. (…).

7. All other motions or prayers for relief are dismissed.