

CAS 2004/A/704 Yang Tae Young v/FIG

ARBITRAL AWARD

Pronounced by the

COURT OF ARBITRATION FOR SPORT

Sitting in the following composition:

President: The Honourable Michael J. **Beloff**, MA QC, Barrister, London, England

Arbitrators: Mr Dirk-Reiner **Martens**, Attorney-at-law, Munchen, Germany
Mr Sharad **Rao**, Barrister-at-Law, Nairobi, Kenya

in the arbitration between

Mr Yang Tae Young ("Yang")
Represented by Allen & Overy, Hong Kong
&
Kim & Chang, Seoul, R.O.K

and

Korean Olympic Committee, Seoul, R.O.K ("KOC")

- the Applicants -

and

International Gymnastics Federation, Moutier, Switzerland ("FIG")

- the Respondent -

and

Mr George J. Beckstead ("Beckstead")

Represented by Mr John B. Swarbrick Jr, Baker & Daniels, Indianapolis, USA

Mr Oscar Buitrago Reyes ("Buitrago")

Represented by Mr William Bock, Kroger, Gardis & Regas LLP, Indianapolis, USA

Mr Benjamin Bango ("Bango")

Represented by Mrs Ana Ballesteros Barrado, Ballesteros Barrado Abogados, Madrid, Spain

Mr Paul Hamm ("Hamm")

Represented by Kelly C. Crabb, Morrison & Forester, Los Angeles, USA

Mr Kim Dae-Eun ("Kim")

United States Olympic Committee, Colorado Springs, USA ("USOC")

Represented by Mr Mark S. Levinstein, Williams & Connolly LLP, Washington D.C., USA

- Interested Parties -

International Olympic Committee, Lausanne, Switzerland ("IOC")

Represented by Mr Howard Stupp, Head of IOC Legal Department

- Invited Party -

* * * * *

1. Introduction

- 1.1. On 28 August 2004 (the penultimate day of the XXVIII Olympiad in Athens) at 17.40pm Yang, a Korean gymnast for the Republic of Korea, lodged an application with the CAS ad hoc Panel (“the ad hoc Panel”) complaining about a marking error made on 18 August 2004 in respect to the parallel bars in the context of the Men's Individual Gymnastics Artistic All-round Event Final (“the Event”). The start value for Yang was given as 9.9 instead of 10. It is asserted by Yang (and originally accepted by FIG) that but for the error, Yang would have received the gold medal and not the bronze, and the recipient of the gold medal, Hamm, a gymnast from the United States of America, the silver medal.
- 1.2. On the same day FIG informed the CAS ad hoc office that key persons would be unable to attend any hearing on the 29 August 2004 (the day of the closing ceremony) and that, in any event, a hearing scheduled for that date would leave it with inadequate time to prepare its defence.
- 1.3. Again on the same day, Morrison and Forester, US attorneys for Hamm, a vitally interested party, sent a fax to the CAS ad hoc office stating that Hamm intended "to aggressively protect his rights under the applicable rules of his sport" and wished to attend and be represented at any hearing. Accordingly, Hamm's lawyers asked for a substantial adjournment of the hearing.
- 1.4. In summary, while the ad hoc Panel was ready to hear the application on the 29 August 2004, the parties (save possibly Yang) were not in a position to proceed.
- 1.5. Accordingly, the ad hoc Panel acting under Article 20 of the CAS ad hoc Rules referred the dispute to arbitration by the (ordinary) CAS under the Code of Sports-related Arbitration ("the Code").

1.6. For the expeditious hearing of the case, required by its inherent urgency, the Panel through the President gave directions on 29 August 2004, [circulated on 3 September 2004] which were revised on 9 September 2004 and supplemented on 23rd September, for filing of submissions and associated matters.

1.7. The parties duly filed submissions with exhibits and declarations as follows:

4 September 2004	Yang	Appeal Brief
15 September 2004	FIG and USOC	Responses ¹
16 September 2004	Hamm, Buitrago, Beckstead	Responses
22 September 2004	Hamm and USOC	Supplemental Responses
23 September 2004	Yang	Reply

1.8. On 27 September 2004 between 9.30 am and 8.30 pm a hearing was held at the Hotel Beau Rivage at Lausanne.

1.9. The following persons gave evidence orally:

- Professor Kim Dong Min, B-Panel Judge
- Mr Lee Joo Hyung, Head Coach Korean Team
- Mr Adrian Stoica, President of the FIG Men's Technical Committee
- Mr Oscar Buitrago, Judge
- Mr George J. Beckstead, Chair of Judges on Parallel bars
- Mr Benjamin Bango, Judge
- Mr Miles Avery, Assistant Coach US Team
- Mr Robert Colarossi, CEO, USA Gymnastics

1.10. The following persons gave evidence by written statements:

¹ USOC also filed a motion to dismiss

- Mr Kim Dong Min
- Mr Lee Joo Hyung
- Mr Yoon Chang Soon
- Mr Jay Ashmore
- Mr Miles Avery
- Mr Harry Bjerke
- Ms Jackie Fie
- Mr Paul Hamm
- Mr Peter Kormann
- Mr Kevin Mazeika
- Mrs Slava Corn
- Mr Oscar Buitrago
- Mr Robert Colarossi

1.11. The following persons made submissions on behalf of the following parties:

- Mr Andrew Jeffries on behalf of the Appellants
- Mrs Sara Ellen Hübscher on behalf of the FIG
- Mr Mark S. Levinstein and Mr Gabriel A. Feldman on behalf of USOC
- Mr Kelly C. Crabb and Mr A. Max Olson on behalf of Mr Paul Hamm

1.12. The substantive part of the hearing commenced with the showing of a technical video made by and for FIG which showed, inter alia, Yang's performance on the parallel bars in the event.

2. Background

- 2.1. In the Event there were the 24 Competitors (with a maximum of 2 from each country) who included, among others, Yang and Kim, both of the Republic of Korea, and Hamm of the United States of America. These gymnasts were allocated in 4 groups of 6. During the competition, the groups rotated on the six pieces of apparatus. The parallel bars was the fifth, and the high bar the sixth (and last) piece of apparatus.
- 2.2. In gymnastics scores are awarded by a combination of start values based on the degree of difficulty in a particular routine and on execution (Code of Points (“CP”) Ch 4 Article 11 Rules 1-4). The assessment of start values is in part subjective and in part objective (CP Article 12.15). Elements to make up start values are objectively identified, eg: a Belle or a Morisue. Whether any element has been performed is a matter of subjective judgment (as a fortiori is execution). It is beyond argument that judges operate under conditions of great pressure when a routine compresses so many elements into so short a time frame. Unlike, for example, in diving or (in gymnastics) for gymnastic routines with multiple elements an evaluation of the start routine is made during not before performance of a routine, because gymnasts will frequently modify a planned routine in response to competitive circumstances, or will fail to execute a planned element.
- 2.3. The following judges served on the A Jury (in charge of determining the start value of the exercises, article 7.8.2 and 7.10.1 Technical Regulations (“TR”²) at the parallel bars :
- Buitrago (Columbia), designated as A2 judge based on a draw made before the final of the Event,

² (See also Code of Points “CP”) Ch.3 Article 8)

- Bango (Spain) designated as A1 judge before the Olympic Games,
 - Beckstead, Chair, (USA), designated as Chair of Judges Panel before the Olympic Games.
- 2.4. The judges of the B Jury consisted of 6 judges in charge of determining the execution scores for the parallel bars exercises (Articles 7.8.2 and 7.10.1 TR). One of these judges was Dong Min Kim, Korea ("Judge Kim")³.
- 2.5. The President of the Men's Technical Committee was Adrian Stoica (Rumania) ("Stoica"). By virtue of articles 7.9 and 7.8.1 of the TR, he presided over the Superior Jury, which has the power to take the necessary action in case of serious judging errors during the competition and, also, to control the judges' scores.
- 2.6. Immediately after a gymnast's routine in the All Round (although the big screen used for individual apparatus competitions was not in use), the marks given by the judges, including the start value, are published on three sided electronic score boards near the respective apparatus for a period of approximations 15 seconds (Article 4.11 5(c) TR). According to article 8.3 TR, the marks publicly shown on these score boards are the scores taken into account for the final competition scores (unless different from those officially entered in the computer by the Judge, which was not here the case)
- 2.7. Yang (bib number 185) performed on the Parallel Bars in the last position, during the fifth (5th) rotation. According to the Detailed Competition Activity Schedule (DCAS), the scheduled time for the start of the gymnasts' parallel bars routine was 22.13. The actual performance time for Yang was 22.12.50.
- 2.8. A start value of 9.9 (grade D) was given to Yang for his routine on the parallel bars: video analysis showed that the Start Value should have been 10.0 (grade E) (the value he had been given for the same routine in the team event, and in

³ (See also CP Ch 3 Article 8)

the individual apparatus competition for the parallel bars), A Belle had been misidentified as a Morisue⁴.

2.9. At 22.33.30 Yang also performed on the High Bar, in the 5th position during the sixth (6th) rotation. At 22.38 the competition (Rotation 6) concluded with Hamm's routine, he having been seeded to compete last as a result of his performance in the qualifying competition.

2.10. At approximately 22.40 the Judges exited the hall. The results were "signed off" by the Technical Delegate and distributed according to the ATHOC and FIG Policies and Procedures (scheduled time period 22:42 – 22:46).

2.11. They provided so far as material:

Rank	Bib Name	NOC	App.	SV	B1	B2	B3	B4	B5	B6	Pen	TOTAL	Rank by App.	
1	222 HAMM PAUL	USA	Floor	10.00	9.70	9.75	9.75	9.75	9.70	9.65		9.725	(1)	
			Pommel Horse	10.00	9.70	9.70	9.75	9.70	9.70	9.70		9.700	(5)	
			TOTAL 57.823	Rings	9.90	9.55	9.60	9.65	9.45	9.60	9.60		9.587	(8)
			Vault	9.90	9.00	9.10	9.05	9.30	9.20	9.20		9.137	(22)	
			P. bars	10.00	9.85	9.80	9.85	9.80	9.85	9.85		9.837	(1)	
			H. bar	10.00	9.90	9.80	9.85	9.85	9.75	9.85		9.837	(1)	
2	181 KIM Dae Eun	KOR	Floor	10.00	9.65	9.70	9.60	9.65	9.50	9.75		9.650	(3)	
			Pommel Horse	10.00	9.60	9.50	9.45	9.55	9.50	9.65		9.537	(11)	
			TOTAL 57.811	Rings	10.00	9.75	9.65	9.55	9.70	9.75	9.75		9.712	(4)
			Vault	9.90	9.50	9.40	9.40	9.40	9.45	9.35		9.412	(16)	
			P. bars	10.00	9.80	9.75	9.80	9.75	9.80	9.70		9.775	(3)	
			H. bar	10.00	9.75	9.70	9.70	9.75	9.80	9.70		9.725	(4)	
3	185 YANG Tae Young	KOR	Floor	10.00	9.60	9.70	9.60	9.65	9.55	9.60	0.1	9.512	(11)	
			Pommel Horse	10.00	9.75	9.60	9.60	9.65	9.65	9.70		9.650	(7)	
			TOTAL 57.774	Rings	10.00	9.75	9.70	9.75	9.55	9.80	9.70		9.725	(3)
			Vault	9.90	9.70	9.70	9.70	9.70	9.70	9.65		9.700	(3)	
			P. bars	9.90	9.75	9.70	9.70	9.75	9.70	9.65		9.712	(7)	
			H. bar	9.80	9.50	9.40	9.40	9.50	9.50			9.475	(11)	

⁴ Although in both Morisue and Belle, the gymnasts start with a handstand on the parallel bars and do two turns after which she hangs his shoulders on both bars, the physical position right before the two swings in the case of Morisue is propping up the body straight on the horizontal bar with the arms (that is, the head and the body are above the horizontal bar), (whereas in the case of Belle, the posture is to hand underneath from horizontal bar (that is, the head and the body are below the horizontal bar).

- 2.12. The Medal Ceremony began at 22:48 pm. At approx. 23:20pm, Hamm was awarded the gold, Kim, the silver, and Yang the bronze medal.
- 2.13. It is common ground that KOC protested about the Start Value attributed to Yang for the parallel bars. It is in issue as to when, where and to whom any such protest was made. Yang relies (in the alternative) on three incidents:
- (i) a dialogue between Judge Kim and Buitrago at the conclusion of the parallel bar rotation,
 - (ii) a meeting between the Korean coaches and FIG officials later in the evening,
 - (iii) written protests by the KOC from 19 August onwards.
- 2.14. Yang's case, as to the first, is as follows:

Judge Kim noticed that Yang's start value was lower than he had previously received for the same routine in the Team and Qualifying Competitions, and raised the matter with Buitrago and in earshot of Bango and Beckstead. Buitrago explained how he had reached his conclusion by reference to his contemporaneous notes. Buitrago says that Judge Kim appeared satisfied by the explanation. Judge Kim says that he was dissatisfied, indeed felt that he had been treated dismissively.

We, for our part, having watched both witnesses carefully conclude that, whatever may have been Judge Kim's inner state of mind, he gave no indication of continued dissatisfaction to Buitrago. The context in which the dialogue took place was significant. The arena was noisy as the gymnasts proceeded to their last apparatus – the climax of the event. A conversation between a Columbian and a Korean was fraught with potential for linguistic misunderstanding. Judge Kim was at that time unaware of the source of the lower start value i.e. a Belle being misidentified as a Morisue. As a Judge, Judge Kim was subject to regulatory inhibitions as to what he could or could

not properly do [CP Article 6(1) (j) (p)]. Most important, Judge Kim did not suggest to us that he asked Buitrago to take the matter further.

2.15. Yang's case as to the second incident is as follows:

2.15.1. Judge Kim informed Lee Joo Hyung, Head Coach of the Korean Gymnastics Team ("Lee"), straight after the end of the competition in the final 6th routine at about 11:00pm. He stated Yang's start value had been assessed at 9.9. Lee replied it should have been 10. [Such discussions were, of course, internal to the Korean team].

2.15.2. Lee, accompanied by Yoon Chang Soon (Senior Head Coach of the Korean Gymnastics Team) ("Yoon") and Jung Jin Soo (Assistant Coach of the Korean Gymnastics Team) ("Soo") raised the matter with the 'A' Judges and Stoica. There is a conflict of evidence between the testimony of the KOC and the FIG witness. In broad terms the KOC's case is that a protest was made inside the stadium around the time of the medal ceremony. The FIG's case is that no protest to Stoica was made until well after the medal ceremony and no protest was made to the Judge until at least half an hour after the medal ceremony during a confrontation in the car park where the Judges were boarding their bus to take them back to their hotel. It does not seem to us likely that at that juncture or at any time until the Judges had seen a video that they would have admitted a mistake although they might well have admitted that they had identified a Morisue. Neither side chose to explore the issue in cross-examination, no doubt because, as was conceded on behalf of Yang and KOC, the protest even if made before the Medal Ceremony was certainly made after the competition had ended with the conclusion of the sixth rotation. We do not seek for our part to resolve it: indeed without the benefit of oral evidence and cross examination it would be difficult to do so. It is sufficient for our purposes to note that there was a protest but made too late to affect the medal ceremony.

2.16. Yang's case as to the third incident is as follows.

2.16.1. At approx. 2:30am on 19 August 2004, by Mr. Shin Bark Jae, Chef de Mission of the Korean Delegation ("Shin"), sent a fax entitled "Official Request for Correction of Start Value" to Stoica. This fax expressly requested

"FIG's correction in start value misjudged."

and continued

During his parallel bars exercise, Mr Yang's Belle – E was recorded Morisue – D, thereby start value being scored 9.9.

As such, we at Korean Delegation to the Athens 2004, send in official application for video replay analysis and correction of start value for Mr. Yang : from 9.9 to 10.

2.16.2. There was no reply by Stoica to the fax. However, in a telephone call between Stoica and Mr Park (Member of the International Department of the Korean delegation) ("Park") Stoica stated it was not a case he could dispose of but must be submitted to a superior jury. Shin met with Stoica, who told Shin to write to the FIG President.

2.16.3. At about 12:00 pm on 19 August 2004 Shin sent a fax to Mr. Bruno Grandi, President of FIG ("Grandi"). This stated

"This is to request FIG's thorough analysis in judgment for Korean player Mr. Yang Tae Young (Bib 185) who played in Men's Individual All-Around Final, GA held in Olympic Indoor Hall on August 18, 2004.

During his parallel bars exercise, Mr. Yang's Belle – E was recorded Morisue – D, thereby being scored 9.9 points in start value. However, previous records for Mr Yang in Competition 1 (August 14) and 2 (August 16) prove that the same exercise of Belle scored 10 points each. When a Korean head coach Yoon Chang Soon pointed out an error in TA's judgement right after the competition, the TA admitted his misjudgement upon rechecking his judge's note that says D.

As such, we at Korean Delegation to the Athens 2004 request FIG to go through video replay analysis and to take any necessary measures according to the outcome of the analysis.

Your earliest action and feedback would be highly appreciated.”

- 2.16.4. On 10 August 2004 Grandi and Mr. Norbert Bueche (Secretary-General of FIG) (“Bueche”) sent a reply to the two KOC faxes. This stated:

Our technical delegate has confirmed that the Parallel Bar routine of your Korean gymnast Yang Tae-Young was given a start value of 10 at the Qualifying Competition (I) and at the Team Final (competition IV). At the All Around Final (Competition II) the judges gave a start value of 9.9. Our rules do not allow a protest against judges' marks. The judges' marks have to be accepted as a final decision and cannot be changed.

We can assure you that we are analysing all the judges marks and that we will take severe sanctions against all judges who have not judged correctly and made serious mistakes...

We are very sorry that such an occurrence took place and regret not being able to give you a more favourable answer.

- 2.16.5. On 19 August 2004 FIG provided to KOC written confirmation of judge's start value scores.

- 2.16.6. On 20 August 2004 Shin sent a fax to Mr. Gilbert Felli, Executive Director IOC (“Felli”) (and copied to Mr. Jacques Rogge, President of the IOC) (“Rogge”) repeating the KOC version of events set out in the fax to Grandi requesting IOC to conduct a “*thorough investigation*” of the case “*to safeguard athletes from any form of misjudgement and to help the Olympic spirit of fairness*”.

- 2.16.7. On the 20 August 2004 after a first analysis of the scores, the TC president confirmed that the correct start value for Yang’s routine on the parallel bars was 10.00 not 9.9. At an emergency meeting of FIG Executive Council (“the emergency meeting”) Bango, Buitrago and Beckstead were temporarily suspended by FIG.

2.16.8. On 21 August 2004 Shin sent a further fax to Grandi requesting FIG to provide "*all relevant information*" regarding judging for Yang during the Olympic games.

2.16.9. On 22 August 2004 FIG provided to KOC the technical video of Yang's performance.

2.16.10. On 22 August 2004 USOC and KOC met with the IOC and proposed that two gold medals be awarded. Rogge confirmed that IOC would not issue two gold medals, but would respect a request from FIG to have the scoring error corrected and the medals re-allocated.

2.16.11. On 25 August 2004 Shin sent a fax to Grandi. He requested FIG's clarification

- (1) On FIG's reply of 19 August 2004 to the effect that FIG rules do not allow a protest against a judge's marks and that the judge's marks had to be accepted as a final decision and could not be changed;
- (2) As to why no corrective action was taken on site after objections were made by Mr. Kim and Mr. Lee; and
- (3) As to why three judges could not mark Yang's exercise correctly.

2.16.12. On 26 August 2004 a letter was sent by FIG entitled "Fair Play" to Hamm regarding comments allegedly made by him to American Press that he would return the Gold Medal if FIG requested him to do so. The letter stated that the

"FIG Executive Committee has admitted the error of judgement made on the Parallel bars and suspended the three responsible judges."

It continued "as a result the “*true winner*” of the Event was Yang".

It said that were Hamm to return the medal it would be regarded “*as the ultimate demonstration of fair play by the whole world. The FIG and the IOC would highly appreciate the magnitude of this gesture*”.

2.16.13. However, USOC rejected the proposal in FIG's letter of 26 August 2004 and refused to forward the letter to Hamm. USOC also requested a withdrawal of the FIG letter.

2.16.14. Thereafter Yang filed the application with the Ad Hoc Panel.

2.17. The sequence of events, which we have compendiously decided as the third incident appears to be uncontroversial, and is substantially evidenced by the documentation.

3. **The Law**

Applicable Law

3.1. The CAS Rules provide so far as material as follows :

“R58 Law Applicable

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

- 3.2. In our view the applicable Regulations are contained in the various FIG instruments set out below. We must also refer to the CAS jurisprudence on field of play decisions as part of the *lex sportiva* appropriate to the Olympic Games as to other competitions.

FIG Statutes

- 3.3. The relevant Articles of the FIG Statutes provide so far as material⁵:

Article 2.1 Objects

The objects of FIG are as follows :

To organize the gymnastics events of the Olympic Games.

Article 14.4 : Executive Committee

"the functions of the Executive Committees include

- *adopting ""the Code of Points for all Disciplines*
- *making "necessary decision in cases where there are no existing rules and to report this at the next meeting of the council"*
- *and taking "any necessary action to deal with matters of an urgent nature".*

Article 18 : Technical Committee and General Gymnastics Committee

Article 18.1 :

Composition " ... bodies are elected to administer and manage the ... discipline of FIG (Men's Artistic Gymnastic)

- *Article 18.3 – the functions of the Technical Committees include **controlling... the activities of judges in accordance with the Technical Regulations, the Code of Points and Judges Guidelines.**"*
- *Ensuring in conjunction with the Executive Committee the ... Technical Regulations ... are observed at the Gymnastics Competitions of the Olympic Games.*
- *Making "decisions on any technical matters of urgency subject to reporting this to the next meeting of the Executive Committee]*

Article 32.1 Official Events list :

The official events of the FIG are as follows :

a) Gymnastics competitions at the Olympic Games

...

Article 43 : Supremacy of Statutes

⁵ 'Material' means for this purpose either germane, directly or indirectly, to our conclusions or relied on by the parties.

Article 43.1 "The Statutes of the FIG are the final and paramount authority and nothing contained in any Regulations shall operate as to circumvent or lessen the force and purport of these Articles.

" Similarly nothing in the Code of Points adopted by the Executive Committee shall operate so as to supercede or challenge the authority of the Statutes or the Technical Regulations.

Article 43.2 Unforeseen Circumstances – "Cases not foreseen in the present Statutes are resolved by the Executive Committee and/or the council subject to ratification by the next Congress."

FIG Technical Regulations

- 3.4. The FIG Technical Regulations (2002 CD) provide, so far as material as follows :

SECTION 1 GENERAL REGULATIONS

INTRODUCTION

These "Technical Regulations" include Regulations for the following disciplines :

Artistic Gymnastics

These Technical Regulations conform with the Statutes of the International Gymnastics Federation. Consequently, if any unforeseen circumstances should arise where any Technical Regulation is at variance with the intent of any Article of the Statutes the intent and interpretation of the said Article shall prevail and the said Regulation shall be duly amended.

Where, in the Regulations, it is necessary to make particular provision for competitions or events the following order of reference is observed:

- *Olympic Games*
- *...*

The structure, functions and formation of the technical authorities of the Federation - the Technical Committees and the members of the Technical Committees - are set out in the Statutes as well as in these regulations.

INTERPRETATION

For the sake of brevity, the following rules shall apply in the interpretation of these Regulations. The words standing in the first column of the table below contained shall bear the meaning set opposite to them respectively in the second column thereof if not inconsistent with the subject or context:

a) FIG	<i>International Gymnastics Federation</i>
Statutes	<i>Statutes of the FIG</i>
Regulations	<i>Technical Regulations approved by the Council for the determination of the technical requirements of the FIG and for ensuring the observance and/or operation of such requirements</i>
...	
Council	<i>The Council of the FIG</i>
...	
Executive Committee (EC)	<i>Executive Committee of the FIG</i>
Technical Committee (TC)	<i>For the purpose of the Statutes and these Regulations, this refers to each of the six Technical Committees concerned with the disciplines in the definition of "Gymnastics" below</i>
Technical President (TC President)	<i>The Technical President concerned with activity referred to in the context of the Regulations</i>
Secretary General	<i>Secretary General of the FIG</i>
...	
Gymnastics	<i>The sports and/or activities of Artistic Gymnastics, ...</i>
Gymnast	<i>Any person participating in any of the activities described under "Gymnastics" above</i>
Discipline	<i>Any of the sports and/or activities defined in "Gymnastics" above</i>
	<i>Artistic Gymnastics Competitive Gymnastics performed on prescribed (MAG and WAG) pieces of apparatus</i>
...	
Codes of Points	<i>Codes, prepared by the respective Technical Committees and approved by the Executive Committee, for the following purposes:</i>
	<i>– the definition of the value of each element, or combination of elements in an exercise</i>

- *the classification of penalties for performance and execution errors*
- *the requirements relating to the composition of the routines, whether compulsory or optional*
- *the classification of errors of composition and the penalties applicable*
- *the deductions for misconduct, errors, contraventions of the Technical Regulations or any other provisions set out in the Codes of Points*
- *the provision of instructions and/or directives in amplification of the principles and basic rules contained in the Technical Regulations*

IOC *International Olympic Committee*

...

REG. 1 PURPOSE AND VALIDITY OF THE REGULATIONS

Reg. 1.1 PURPOSE

The purpose of the Regulations TR is to provide an authoritative medium for the control, organisation and operation of the technical requirements of the FIG and to provide for, and encourage, progressive development in all aspects of gymnastics in association with the Continental Unions, continental groups recognised under the Statutes and the federations.

Reg. 1.2 VALIDITY

The Regulations are made in accordance with the Statutes and may only be altered or amended in conformity therewith.

Reg. 1.3 SCOPE OF APPLICATION

Except where the text otherwise provides, the Regulations apply to the authorities of the FIG, as defined in the Statutes,

...

Reg. 1.4 RULES, GUIDELINES AND CODES

...

The Codes of Points - which are developed by the Technical Committees and adopted by the Executive Committee - deal with the assessment of exercises; the combination and content of exercises; deductions for faulty performance;

disciplinary measures for breaches by the coaches, gymnasts and judges and the details of the organisation and control of the competition.

REG. 2 FIG COMPETITIONS AND OTHER EVENTS

Reg. 2.1 OFFICIAL COMPETITIONS

Particulars of the requirements for qualifications, competitors, judging, organisations etc, are to be found under the following articles of this Section and under the Sections of the different disciplines.

Reg. 2.1.1 Olympic Games

In accordance with the Statutes and Regulations of the International Olympic Committee (IOC) the FIG, in collaboration with the federation of the country organising the Games, is responsible for the organisation and running of the Gymnastics competitions.

For competitions in Gymnastics at the Olympic Games, the programme, the manner in which the competitions are run, the designation of the winner, the formal ceremonies, together with the organisation are identical to the provisions made for the World Championships with a few exceptions.

Reg. 2.1.1.1 Artistic Gymnastics

*There are Qualifying Team and Individual Competitions (Competition I), **All-Around Finals (Competition II)**, Apparatus Finals (Competition III) and Team Finals (Competition IV) for men and women in the Artistic Gymnastics Programme of the Olympic Games.*

The duration of the event is from 6 to 8 days.

...

REG. 4 ORGANISATION OF COMPETITIONS

...

Reg. 4.11.4. Judging Requirements

Suitable provision must be made, in conjunction with the Technical President, for the seating of all those involved in the judging process.

The height of the stepped podiums for the judges must ensure that the judges seated on the first step must be able (under competition lightening conditions) to see clearly the back line

marking of the floor area for individuals, pairs, trios and groups.

A telephonic installation must be available to ensure requisite communication between these involved in the judging process (superior jury and competition jury).

Efficient means must be taken to ensure a prompt communication between the Technical President and Local Technical Director.

The following video equipment must be provided for the recording and showing of each gymnast's exercise: 6 for Men's competitions; ...

The Organiser must send a copy of these video films to the members of the Technical Committees, through the medium of the Secretary General, with as short a delay as possible.

...

Reg. 4.11.5. Scoring: Recording of Scores & Transmission of Information

Equipment must be provided, and maintained for the following purposes:

- a) *recording the marks given by each judge and transmitting them to the Superior Jury*
- b) *providing rapid inter-communication between the Superior Jury and the Judges Panels*
- c) ***displaying to the public the score given for each gymnast's exercise and the marks awarded by each Judge***

In Artistic Gymnastics, after each group's turn on an apparatus, federations having a complete team should receive a copy of the marks sheet. At the end of the competition, each federation must receive a complete copy of the results. These must show, in each case, the marks awarded by each Judge.

...

Lists of partial results are to be published during the competition and lists of complete results are to be published immediately after the end of the competition. Such lists must be readily supplied and/or available to those in charge of the competition, the heads of delegations and to representatives of the Media.

Two copies of all documents are to be sent without delay to the Secretary General.

For the above named purposes, a scoring and information office must be provided with the necessary equipment to ensure the correct and rapid recording and calculations of the scores. The office must be staffed with sufficient and competent personnel.

...

Reg. 4.11.15 Access to the Competition Area

The Competition area is accessible to the members of the various juries, competing gymnasts and their accredited coaches, to local group leaders, to the auxiliary personnel of the Jury, to the President of the FIG Medical Commission, to the official doctor, to the team doctors, and medical personnel, to persons concerned with the apparatus. All these persons must receive a special accreditation card.

...

Reg. 4.11.18 Specific Reference to Other Requirements

The particular attention of the Organisers is drawn to other organisational requirements set out in the following sections of these Regulations :

- *Judges' Instructions - Reg. 7.11*
- *Competition Apparatus & Auxiliary Installations - REG. 11*

...

Reg. 4.12 APPLICATION OF ORGANISATION REQUIREMENTS TO OTHER EVENTS

The foregoing Reg. 4.2 to 4.11.16 inclusive apply, as modified for the particular circumstances, to the organisation of the Olympic Games and to the World Games.

Specific additional organisational instructions are as follows:

a) *Olympic Games*

The FIG is responsible for the organisation of the Competition in liaison with the Organiser accredited by the Olympic Organising Committee. (See also Reg. 2.1.1).

...

REG. 7 JUDGES & JUDGING OF COMPETITIONS

Reg. 7.1 GENERAL PRINCIPLES

All exercises in Gymnastics' competitions should be evaluated by judges possessing the qualifications necessary for this function. They must be members of their national federations and motivated to judge honestly the exercises presented by the gymnasts (RG see 7.10.1).

The nationality of each judge must be displayed, in written form (IOC abbreviations), at the position occupied by the judge at any time.

Reg. 7.2. BASIS FOR JUDGING: CODES OF POINTS AND JUDGES RULES

The separate Codes of Points – for Men's ... - and the Judges Rules form the basis for judging.

Reg. 7.3 DEVELOPMENT, MODIFICATION AND INTERPRETATION OF CODES OF POINTS

The development of the Codes of Points is the responsibility of the appropriate Technical Committees and, thereafter, they are submitted to the Executive Committee for adoption. Nothing should be contained in the Codes of Points which contravenes the provision of the Statutes or the Regulations of the FIG or which has the effect of modifying such provisions.

When modifications are brought forth to the Code of Points, it is necessary to respect a deadline date of a minimum of 6 months prior to being applied in competition, and taking into account the date when the FIG sends the new instructions.

If on the part of the Technical Committees there is information concerning certain interpretations of the Codes of Points, proposed at the site of the same competition, this must be done in writing and be distributed to the federations at least 24 hour before the start of the competition.

The Codes of Points for Men's Artistic Gymnastics, ... are published in French, English, German, Spanish and Russian and are obtainable by purchase from the Secretary General.

....

In case of dispute, the French text applies.

Reg. 7.4 QUALIFICATION OF JUDGES FOR FIG OFFICIAL COMPETITIONS: BREVETS

In order to act in any of the judging capacities listed in Reg. 7.8 hereunder, it is necessary -except in the case of members of the Executive Committee acting on the Jury of Appeal to possess the judges' brevet of the FIG currently in force and,

where so required, the classification appropriate to the judging function in question.

The Technical Committees are empowered to deal with the procedure for the classification of judges.

The Technical Committee continually carry out the tuition, qualification and assessment of judges in order to maintain a sufficient number of qualified or "breveted" judges.

...

Reg. 7.7 REGISTRATION OF INTERNATIONAL JUDGES

All breveted judges are registered at the FIG Secretariat.

Reg. 7.8 ORGANISATION AND RESPONSIBILITY OF JURIES AT OFFICIAL COMPETITIONS OF FIG

The judging of official competitions of the FIG, and of the Olympic Games, is the responsibility of the under-mentioned personnel :

Reg. 7.8.1 Superior Jury

This consists of the Technical President and two experts appointed by the Technical Committee (Technical Committee members or highly experienced judges).

The functions of the Superior Jury are :

- 1. To supervise the competition and to deal with any breaches of discipline or any extraordinary circumstances affecting the conduct of the competition.***
- 2. Where there is a grave error of judgement on the part of one, or several, judges to take such action as they consider necessary.***
- 3. Continually, to review the marks awarded by the judges and to issue a warning to any judge whose work is considered to be unsatisfactory or showing partiality.***
- 4. Following the unsatisfactory result of any warning, to remove and replace any judging personnel.***

Reg. 7.8.2 Judges' Panels

Each judges' panel consists of

- two groups of judges (Artistic Gymnastics ...) ... selected in accordance with the particular method of drawing of lots. The two groups (A + B) Jury ... are***

responsible respectively for the evaluation of composition/ content and execution.

- *expert or control judges appointed by the TC's, responsible for the constant review of the judges work and report to the Superior Jury.*

No panel (with the exception of the chair of judges' panel) may include more than one member from a single federation.

...

The maximum number of members of the Judges Panels is

- *9 Judges for Artistic Gymnastics (Men ...) - including the TC Members not involved in the Superior Jury - per apparatus*
- ...

For each judges' panel one judge will be nominated to act as the Chairperson.

The detailed responsibilities and functions are set out in the respective Codes of Points.

In Artistic Gymnastics (MAG ...) the Judges' panels are composed as follows:

- 1 *Chair of Judges Panel*
- 2 *A-Panel Judges (Technical Value)*
- 6 *B-Panel Judges (Execution)*

Reg. 7.8.3 Jury of Appeal and Competitions' Supervisory Board

The Jury of Appeal consists of two members of the Executive Committee appointed by the Presidential Commission (one of them acting as President), the Technical President concerned or his deputy if necessary, one member of the Technical Committee concerned (but not involved in the decision of the Superior Jury or the judging at the apparatus in question) or an expert judge designated by the relevant Technical Committee. The details of tasks and competences are worked out by the EC in a separate document.

The members of the Executive Committee are appointed by the Executive Committee and the member of the Technical Committee by the Technical Committee concerned.

The Jury of Appeal deals at an appropriate time following the conclusion of each session with any appeals made by judges who have been warned or excluded by the Superior Jury.

The Jury of Appeal also monitors that the requirements of the Statutes, Technical Regulations, Rules and Guidelines are observed. In case of any offence the Jury of Appeal reports to the responsible body for taking any action.

Reg. 7.9 DUTIES OF TECHNICAL PRESIDENTS RELATING TO COMPETITIONS

These are as follows:

- *To ensure that all the requirements for judging a competition are satisfied*
- *To preside over the Superior Jury*
- *To issue a warning to any person acting in any judging capacity who is considered to be unsatisfactory or to have broken his oath, such warning to be given following a decision of the Superior Jury*
- *To deal with the replacement of any person, acting in a judging capacity, following a decision of the Superior Jury*
- *To record the circumstances under which any person has been warned or replaced*
- *To direct, with the assistance of the Technical Committee members, the instructional meeting and the judges' meetings preceding the competitions.*
- *To supervise the drawing of lots for the selection of judges in the different competitions and at the different apparatus*
- *To ensure that all requirements with respect to the conduct of judging personnel, coaches, gymnasts and officials are observed*

Reg. 7.10 SELECTION OF JUDGES, APPOINTMENTS, NOMINATIONS, PROCEDURE OF THE DRAW

Reg. 7.10.1 Olympic Games

For the Olympic Games the number of Judges will be determined following an agreement by the IOC and the FIG.

a) *Artistic Gymnastics*

Judges in good standing are appointed by the FIG taking into account the degree of the brevet, the experience and the quality of the judges as well as the particular demands of the Olympic Regulations and the requirements of the National Olympic Committees.

...

Reg. 7.11 JUDGES' INSTRUCTIONS BEFORE OFFICIAL CHAMPIONSHIPS OF FIG, THE OLYMPIC GAMES AND THE WORLD GAMES

At official competitions of the FIG, the Olympic Games ... a course of instruction is organised under the direction of the Technical Committees. The principal aim is to insure an

exact and uniform interpretation of the Code of Points and of the assessment tables.

All the judges are required to take part in this instruction and at subsequent meetings.

....

During these courses the Technical Committees have the right to test the knowledge of the judges and to dismiss those who prove to be incompetent.

Reg. 7.12. THE JUDGES' OATH

At the World Championships, and other important international events, juries and judges together pledge to respect the terms of the Judges' Oath which is as follows: "I declare on my honour that, in my judging capacity, I will allow myself to be guided only by the spirit of sporting loyalty and dignity and I pledge to judge the work presented conscientiously and without regard to person or nation."

Reg. 7.13 COMPORIMENT OF JUDGES AND PARTICULAR REQUIREMENTS

Members of Juries are required to be acquainted with, and have in their possession, the Code of Points, the Technical Regulations and the directions relating to the particular competition.

They are required strictly to observe the instructions concerning dress, seating arrangements, comporiment and other disciplinary and organisational matters provided for in the Code of Points.

REG. 8 SCORING

Reg. 8.1 METHODS OF DETERMINING SCORES

The method of determining scores and evaluating exercises is set out in the appropriate Code of Points.

Reg. 8.2 SCORE SHEETS

Sample score sheets, comprising one form per apparatus and one recapitulation form, will be sent to the organising federation upon notification of a competition given to the Secretary General. These forms are intended for:

<i>Sheet No 1</i>	<i>Secretary General (FIG)</i>
<i>Sheet No 2</i>	<i>Calculations Office (of competition)</i>
<i>Sheet No 3</i>	<i>Organising Federation</i>
<i>Sheet No 4</i>	<i>Invited national federations</i>

Results of all phases of the competition with detailed scores given by each judge and the names of the judges must be sent by the organizing federation to the Secretary General, by registered letter, within the 10 days following the competition. The results must be signed by the Chair of Judges Panels or the Superior Judge.

...

The results must be signed by the Chair of Judges Panels of the Superior Judge.

Reg. 8.3 VALIDITY OF SCORES

In cases where the mark shown on the public electronic scoreboard differs from that officially entered in the computer by the judge the mark registered on the judge's electronic command desk is the one taken into account

REG. 9 PROTOCOL

Reg. 9.1 GENERAL OBSERVATION

The formal ceremonies of the World Championships, the Four Continents Championships, the Olympic Games, and other manifestations constitute the grand finale of the competitions and must be conducted with dignity according to the directions of the Executive Committee.

The President, or another representative agreed by the Executive Committee, establishes a list of the persons designated to award the medals or distinctions. The list, which is transmitted to the Organiser, is determined by protocol prescribed by the Executive Committee.

For each competition, a solemn ceremony is conducted in the presence of all the gymnasts, delegations of the federations, the judges, the members of the Organising Committee and the public. The Organiser is required to decorate the Competition Hall, to display correctly the flags of the participating federations.

Following the declaration of results, the Organiser is obliged to provide the national flags of the gymnasts, who have gained the first three places, to be hoisted and for the national anthem of the victors (for example, two first places) to be played.

The Organiser has to play the national anthem of his country at the Opening Ceremony.

In case of the Olympic Games the rules of the IOC must be observed.

REG. 10 AWARDS

Reg. 10.2 TIMING OF AWARD CEREMONIALS

In all disciplines, the ceremonies take place immediately after the competitions and, in finals, in principle after the competition on each apparatus or category.

Organizers are responsible for a quick procedure for these ceremonies.

The FIG reserves the right to alter these arrangements in exceptional circumstances.

REG. 13 FINAL PROVISIONS

In those cases, which are not foreseen in these Regulations, the Statutes of the FIG apply if.

- unforeseen problems arise during big events*
- the existing Regulations do not provide for them*
- an immediate solution is required,*

it rests with the respective Technical Committee to take the responsibility and to decide the matter.

FIG Code of Points (“CP”)

- 3.5. FIG Code of Points 2001 applicable to the Men's Artistic Gymnastic Competitions at the Olympic Games provided as follows :

Chapter 1 Purpose and Goal of the Code of Points

Article 1

1 The primary purpose of the Code of Points is to provide an objective means of evaluating men's gymnastics exercises at all levels of regional, national, and international competition.

- a) To assure the identification of the best gymnast in any competition*
- b) To guide coaches and gymnasts in the composition of competition exercises.*
- c) To provide information about the source of other technical information and regulations frequently needed at competitions by judges, coaches, and gymnasts.*

Chapter 2 Regulations for Gymnasts, Coaches, and Judges

Article 2

Rights and Responsibilities of the Gymnast

1. Among other things, the gymnast has the right :

- a) **To have his performance judged correctly, fairly, and in accordance with the stipulations of the Code of Points.**

...

2. Among other things, the gymnast has the responsibility :

- a) *To know the Code of Points and conduct himself accordingly.*

...

Article 3

Rights and Responsibility of the Coach

...

3. Among other things, the coach has the responsibility :

- a) **To know the Code of Points and conduct himself accordingly.**

...

Article 5

Rights and Responsibilities of the Men's Technical Committee

1. All official FIG Competitions, the members of the FIG Men's Technical Committee will serve as follows :

- a) **The President of the Men's Technical Committee or his representative will serve as Chair of the Competition Jury. His Responsibilities include :**

I. To deal with competition related appeals in accordance with the Technical Regulations that apply to that competition.

II. To call and chair all judges' meeting and instruction sessions.

III. To apply the stipulations of the Judges' Regulations and Technical Regulations that apply to that competition.

Article 6

Rights and Responsibilities of the Judges

1. Among other things, each member of the Apparatus Jury has the Responsibility :

- a) *To have possession of and thoroughly know the Code of Points*

...

- c) *To be an expert in contemporary gymnastics and to understand the intent, purpose, interpretation, and application of each rule.*

- d) *To evaluate each performance objectively, accurately, consistently, ethically, fairly, and quickly, and when in doubt, to give the benefit of that doubt to the gymnast.*

...

- i) *To be competent to fulfil the various necessary mechanical duties which include*

- *correctly completing required score sheets*
- *using any necessary computer or mechanical equipment*
- *facilitating the efficient running of the competition, and*
- *communicating effectively with other participants.*

j) **To remain in his assigned seat and to refrain from having contact or discussions with gymnasts, coaches, or other judges during the competition.**

..

2. *Penalties for inappropriate evaluation and behaviour by judges will be in accordance with the current version of the Judges' Regulations and/or the Technical Regulations that apply to that competition.*

...

Article 7

The Judges' Oath

At official FIG Competitions and at other important competitions, juries and judges will together pledge to respect the terms of the Judges' Oath which is as follows :

"I declare on my honour that, in my judging capacity, I will allow myself to be guided only by the spirit of sporting loyalty and dignity and I pledge to judge the work presented conscientiously and without regard to person or nation."

Chapter 3 The Organization of the Apparatus Jury

Article 8

The Composition of the Apparatus Jury

1. *For all official FIG Competitions (World Championships, Olympic Games, World Cup Final), the Apparatus Jury will consist of :*

- a) *A Chair of the Apparatus Jury who has jurisdiction over both the A-Jury and the B-Jury and who is a member of, or is appointed, by the FIG Men's Technical Committee.*
- b) *An A-Jury consisting of two judges, of which at least one is named by the FIG Men's Technical Committee in accordance with the most current FIG Technical Regulations.*
- c) *A B-Jury consisting of six judges.*

...

Article 10

Functions of the Apparatus Jury during Competition

1. ***The Chair of the Apparatus Jury has, among others, the following functions :***

- a) *To coordinate and control the work of all members of the Apparatus Jury*
- b) *To serve as liaison between the Apparatus Jury and the Chair of the Competition Jury.*

...

d) *To actively and accurately judge each aspect (Start Value and Exercise Presentation) of each competition exercise on the apparatus for which he is responsible and to do so under the same requirements that apply to the A-jury and the B-jury (see Article 10.2 and 10.3)*

- e) *To control the total evaluation and the Final Score for each exercise.*
- f) ***To assure that the gymnast is given the correct score for his performance by taking action, with the approval of the Chair of the Competition Jury and as outlined in the current Technical***

Regulations, to change an extremely incorrect score. Such action may result in penalties to one or more judges.

g) *To mediate between the two judges of the A-jury and to determine the Start Value if the A-judges cannot agree.*

...

j) *To fulfil the responsibilities as outlined in Article 6.*

2. *The judges of the A-jury have, among others, the following functions :*

a) *Judge A1 (Technical Assistant) (named or drawn by FIG-MTC))*

I. *Assist the Chair of the Apparatus Jury and is both coordinator and member of the A-Jury*

...

III *Enters or submits the agreed upon Start Value or informs the Chair of the Apparatus Jury if the A-judges could not agree on the Start Value.*

...

b) **Judge A1 and A2 have the function :**

I. *To evaluate the content of the exercise. This task includes :*

...

- Calculating the correct Start Value

II. *To evaluate all aspects of the Start Value in accordance with the regulations outlined in Chapter 3*

III. *Each judge of the A-Jury will evaluate the content of the exercise independently but may consult with the other.*

...

V *To fulfil the responsibilities as outlined in Article 6.*

...

Part II – The Code of Points

Chapter 4 The Evaluation of Competitions Exercises

Article 11

General Rules

1. *On all apparatus, the maximum score for an exercise is 10 points and this forms the basis for all deductions, which are applied only in tenths of a point. The Final Score of an exercise will be established by an A-Jury and a B-Jury.*

2. *Exercises are evaluated on the basis of the following four factors, subdivided for the A- and B-juries :*

A-Jury

Difficulty 2.80 points

Special Requirements 1.00 points

Bonus Points 1.20 points

5.00 points

B-Jury

Exercise presentation

(technique and positions) 5.00 points

3. ***The A-jury establishes the Start Value of an exercise and the B-jury registers the execution errors related to technique and body position. The highest and the lowest sums of execution errors are eliminated. The***

average of the four remaining sums is subtracted from the Start Value in order to determine the Final Score for an exercise.

4. The rules governing the evaluation of the exercises and the determinations of the Final Score are identical for all sessions of optional competition (Qualification, Team Final, All Around Final, Apparatus Finals) except Vault, which has special rules in Apparatus Finals (see Chapter 10)

...

7. Qualification for, and participation in, the Team Final, the All Around Final, and the Apparatus Finals will occur in accordance with the current Technical Regulations that govern that competition.
8. The Final Score is normally calculated by the competition scoring personnel but must be confirmed by the Chair of the Apparatus Jury before it is made public.
9. At official FIG competitions, the single Start Value from the A-jury and the sum of execution deductions from each judge of the B-jury will appear on the main results form. The Start Value, the sum of execution deductions from each judge of the B-jury (or those deductions subtracted from the Start Value), and the Final Score for the exercise must be displayed to the public. At other competitions, the Start Value, the sum of execution deductions for each judge of the B-jury and the Final Score of the exercise will appear in the competition results. At such competitions, the Start Value for the exercise may be displayed and the Final Score must be displayed.

Chapter 5

Regulations Governing Difficulty and the Start Value

Article 12

Difficulty Requirements

1. Exercises ... require the following difficulties in all competitions

	A	B	C	Value
Number	4	3	3	2.80 points
Value	0.1	0.3	0.5	

2. In the evaluation of Difficulty, only its actual maximum value, of 2.80 points may be awarded. If an exercise does not contain the required number of value parts, a deduction equivalent to the value of the missing value parts is taken. The performance of additional A, B or C value parts does not increase the total 2.80 value for Difficulty.

...

Article 15

Evaluation by the A-jury

1. The A-Jury is responsible for evaluating the content of the exercise and determining the correct Start Value on each apparatus as defined in Chapters 7 to 12. Except in the circumstances defined in Article 15.5. the A-Jury is obligated to recognize and credit each legal element that is correctly performed.

...

*Chapter 11 Parallel Bars**Article 41 : Description of a Parallel Bar Exercise*

A contemporary parallel bar exercise consists predominantly of swing and flight elements selected from all available Element Groups and performed with continuous transitions through various hang and support positions in such a way as to reflect the full potential of the apparatus.

Article 42 : Information about Exercise Presentation

4. *The gymnast must initiate his Parallel Bar mount or his run-up from a still stand with legs together. The exercise begins the moment one or both hands contact the apparatus but the evaluation begins the moment the feet leave the ground. Swimming with one leg or stepping into the mount is not permitted (the feet must leave the ground simultaneously.):*
5. *A vaulting board placed at the height of the regulation landing mats is permitted for the mount.*
6. *Pre-elements are not permitted. This means that any element that rotates more than 160° about any body axis may not be performed prior to grasping the rail or rails with the hands.*
7. *The gymnast must include only elements that he can perform with complete safety and a high degree of aesthetic and technical mastery.*

Article 42:

8. *Additional execution and exercise construction expectations are:*
 - (a) *The exercise may contain at most three stops. Additional pauses of 21 seconds are not permitted*

Article 44: Table of Specific Errors and Deductions for Parallel Bars

- (a) *More than 3 pauses of 21 seconds*

...

- 3.6. There is no doubt that a mechanism exists for reversing judging errors, although there did not appear to be universal familiarity with it even among those responsible for its operation, in particular, there was an unresolved issue as to whether special forms had to be used for the purposes of protest. The Chair of the Apparatus Jury has the power, with the approval of the Chair of the Competition Jury, to change “*an extremely incorrect score*” (CP Article 10.1.(f)). (See also CP Article 5(1)(a) which states that the President of the Men’s Technical Committee will double up as Chair of the Competition Jury.) The TR Reg. 7.8.1 & 2 provides also for the Superior Jury, on which the same person also sits, to supervise the competition where there is a grave error of judgment on the part of one or several judges to take such action as they consider necessary – (words large enough to embrace reversing marks as well

as disciplining judges) – and continually to review the marks awarded by judges.

- 3.7. It is, however, notable that all the provisions we have recited refer to the role of the persons/bodies **vis a vis a competition**; the heading to Article 10(1) CP refers expressly to '*functions during competition*' and TR Reg. 7.8. to responsibilities "*at official competitions*". We consider that this sufficiently identifies that any appeal must be dealt with during, not after a competition. After a competition, the person/body is effectively *functus officio*. This interpretation conforms with the natural expectation of both participants, spectators and the public at large that at the close of a competition in any sport, gymnastics included, the identity of the winner should be known, and not subject to alteration thereafter save where exceptionally, for example, the purported winner is proved to have failed a drug test and so been disqualified.
- 3.8. Moreover we do not consider that Yang has established that the rules anywhere contemplate an appeal being made after the competition has ended. The functions of the Executive Committee under the Statutes to take necessary decisions '*where there are no existing rules*' cannot be performed where such rules exist (Article 14.4); nor can the ancillary or related powers to take any '*necessary action to deal with matters of an urgent nature*' (ditto) be stretched to cover acting as an appellate body for a completed competition. The functions of the Technical Committee under the statutes to control the activities of judges in accordance with the TR and CP Article 18.3 do no more than point to the role it enjoys under those other instruments; it does not enlarge it. Nor does the Technical 'committee's power under TR 13 to deal with "*unforeseen events when the existing regulations do not provide for them*" apply to a situation where the Regulations do provide for appeal during the competition. Under the TR the role of the jury of appeal Article 7.8.3 appears to be confined to appeals **by** judges, not **against** judges decisions, and to monitoring judges performance with a view to possible sanctions against the judges, not to reversing the decisions which provoked such sanctions.

- 3.9. We accept that there was no unanimity among the witnesses, as to whether the right to appeal was further confined in point of time so that even an appeal made within the framework of the competition might be ineffective. On the USA side persons experienced in gymnastics, e.g. Jay Ashmore, Peter Kormann and Kevin Mazeika emphasised that in a multi rotation event, it was necessary for the athletes to know before a fresh rotation was embarked upon what their target should be in the light of the subsisting points score of themselves and of their competitors. It was urged upon us in particular that the value of the seeding would be undermined if the top seed could not perform last with an exact appreciation of what he must score to win the competition overall. However it was accepted, for example, by Hamm's coach Milo Avery that even if appeals had to be made within the scope of a single rotation, athletes might not know with certainty where they stood (if for example the first athlete on any apparatus did not appeal until the second athlete 'had completed' his routine, and only won an appeal thereafter). FIG appeared to work on the basis that an appeal before the end of the competition overall was possible: (see e.g. Jackie Fie, President of the Women's Technical Committee and Stoica) and Robert Colarossi, President of USA Gymnastics, appeared to agree. This may represent a trade off between the ideal and the realistic, and between justice and certainty, but it seems to us that, whatever may be the merits of alternative views, FIG's approach is consistent with the text of the rules themselves.
- 3.10. We must add, however, that the matter would be outside the realm of debate if the 1982 version of the Technical Regulations, had been still in place in 2004. These provided, so far as material to the rules in the 1982 as follows:

“Each Technical Committee forms a Jury of Appeal which functions during or after the competitions provided that those directing the competition cannot settle the case ... The rights, duties and powers of the Jury of Appeal, of the Director of the Competition and of Arbitrators and Judges are set out in the Technical Regulations and the Codes of Pointage. Exceptional and unforeseen cases will be dealt with by the Technical Committees of the FIG.” (Article 27-3 of the Technical Regulations).

“Decisions of the Jury of Appeal are irrevocable. The Jury of Appeal is entitled to maintain, increase or decrease a gymnast’s marks.” (Article 27-4 of the Technical Regulations)

“Complaints, written in French or German, are to be handed over personally to the President of the Jury, or his replacement, at the latest 15 minutes after the incident. A complaint may only concern the team or the gymnast of the complainant’s own federation. Only the heads of delegation or of the teams have the right to lodge complaints. All other interventions by other people will be refused.”

“Each complaint must be examined by the Jury of Appeal and the decision is to be communicated in writing to the federation which complained specifying the reasons for the decision”. (Article 27-5)

- 3.11. FIG were not able to enlighten us as to why the TR had been changed – or even when – although US advocates informed us that the amendments appear to date from 1989. Nor was there any indication in the material before us that the purpose of the change was to enlarge the time for appealing. We were consoled to hear from FIG that, as a result of the focus which this dispute has placed on the limitation issue, the rules may be revised and thus attain their previous clarity.
- 3.12. The TR and CP do not identify who may make a protest which may result in the reversal of a judging error. In our view a judge, whether or not from the same country as the gymnast whose marks are controversial, cannot do so, to make a protest would be inconsistent with his judicial functions. (TR Article 7.13 CP Article 6.7(g)). The gymnast himself could in theory properly do so: but the prime candidate is surely the coach. He has an obligation to be familiar with the points scoring system (CP Article 3.3): he has privileged access to the arena (TR Article 4.11). There was copious unchallenged evidence from coaches from the USA (Jay Ashmore, Miles Avery, Peter Kormann, Kevin Mazeika) that this is one of a coach’s prime responsibilities, supplemented by detailed and convincing evidence as to how US coaches are pre-prepared for the possibility of an appeal. It is notable that, as and when apprised of the start value accorded to Yang’s performance on the parallel bars by Judge Kim, it was the two Korean coaches who indeed took the matter up with the FIG

judges and officials: indeed on an earlier occasion during the team competition they had made a protest (albeit unsuccessfully) to Stoica about a score given to one of their athletes, Cho Seong Min (“Cho”) for his performance on the parallel bars.

General Law

3.13. The extent to which, if at all, a Court including CAS can interfere with an official's decision is not wholly clear. An absolute refusal to recognize such a decision as justiciable and to designate the field of play as “*a domain into which the King's writ does not seek to run*” in Lord Atkin's famous phrase⁶ would have a defensible purpose and philosophy. It would recognize that there are areas of human activity which elude the grasp of the law, and where the solution to disputes is better found, if at all, by agreement. It would contribute to finality. It would uphold, critically, the authority of the umpire, judge or referee, whose power to control competition, already eroded by the growing use of technology such as video replays, would be fatally undermined if every decision taken could be judicially reviewed. And, to the extent that the matter is capable of analysis in conventional legal terms, it could rest on the premise that any contract that the player has made in entering into a competition is that he or she should have the benefit of honest “field of play” decisions, not necessarily correct ones.

3.14. Sports law does not, however, have a policy of complete abstention. In *Mendy v/AIBA* where the challenge was to a referee's decision to disqualify a boxer for a low blow (CAS OG 96/06) the CAS ad hoc Panel accepted jurisdiction, even over a game rule, but considered it inappropriate to exercise it. It said

12. *The Panel is competent. However, exercising this competence must, in our view, be tempered by the respect due to the particularities of each sport as defined by the rules established by the sports federations.*

13. *In casu, the referee's decision, is a purely technical one pertaining to the rules which are the responsibility of the federation concerned. It is not for the ad hoc Panel to review the application of these rules. This restraint is all the more necessary since, far from where the action took*

⁶ *Balfour v Balfour* 1919 2 KB at p919

place, the ad hoc Panel is less well-placed to decide than the referee in the ring or the ring judges. The above-mentioned restraint must be limited to technical decisions or standards; it does not apply when such decisions are taken in violation of the law, social rules or general principles of law which is not the case in this particular instance.

- 3.15. In *Segura v/IAAF (CAS OG 00/013)* where the challenge was to a referee's decision that a walker had "lifted" contrary to the rules of walking, the Panel said:

[17] CAS arbitrators do not review the determinations made on the playing field by judges, referees, umpires, or other officials who are charged with applying what is sometimes called "rules of the game". (One exception among others would be if such rules have been applied in bad faith, e.g. as a consequence of corruption.) If they happen to have been present at the relevant event, CAS arbitrators were mere spectators with no official role. Moreover, they are not, unlike on-field judges, selected for their expertise in officiating the particular sport.

[18] The Respondents are therefore correct when they assert that this Panel does not have the function of reviewing, as a technical matter, the determination that Mr. Segura on three occasions failed to comply with the rules of racewalking.

- 3.16. In the case *Korean Olympic Committee (KOC) v/ International Skating Union (ISU) [CAS OG 02/007]*, when ("KOC") appealed from a decision of the ISU Council denying a protest in respect of the disqualification of a Korean skater, Kim Dung-sung in the final of the men's 1,500 metre short track skating event, the Panel said expressly :

[5] It is clear that CAS Panels do not review "field of play" decisions made on the playing field by judges, referees, umpires or other officials, who are responsible for applying the rules or laws of the particular game.

- 3.17. In short Courts may interfere only if an official's field of play decision is tainted by fraud or arbitrariness or corruption; otherwise although a Court may have jurisdiction it will abstain as a matter of policy from exercising it.

4. **Analysis**

- 4.1. Contrary to FIG's preliminary point, we do not consider that Yang had failed to exhaust his internal remedies. He sought to persuade FIG to alter the results of the event. FIG would not do so. Therefore there was nothing further that he could do internally to FIG, before appealing to CAS.
- 4.2. The essence of the defence mounted on behalf of all the Respondents is that whether the subject matter of the appeal is justiciable at all, the protest was made too late, by the wrong person and not in conformity with the rules.
- 4.3. We uphold that defence:
 - (i) for reasons already set out at paragraph 3.7.9 above, we consider that any protest to be effective within the ambit of the FIG rules had to be made before the end of the competition.
 - (ii) For reasons already set out at paragraph 2.14 – 2.16 above we consider that the first effective protest was made after the competition ended. The first incident relied on by Yang did not constitute a protest.
- 4.4. In our view it was for Lee, as Yang's coach, to set the appeal machinery in motion. Unfortunately Lee did not protest the controversial start value during the competition. He says – and we do not doubt – that he was unaware of it until apprised by Judge Kim. He did not see the arena screen at the time when the start value was displayed, as his view was blocked by TV cameramen. However he realistically and candidly accepted that he could have put himself in a position to see that the start value at the material time had he either asked the cameramen to move, or moved himself. We conclude that since he had no reason to believe that Yang would be accorded a start value for the exercise which differed from that which it had received on previous occasions during the Olympics, and had other duties to perform such as carrying Yang's bags to the next apparatus and preparing him for his performance on it, he did not give this function (which he accepted) of checking the start value the priority it

deserved. We do not wish to be unduly critical of Lee, but had he been alert to the difference between the previous and the present start values accorded to Yang's performance on the parallel bars, events might – we stress might – have taken a different turn.

- 4.5. It was argued also on Yang's behalf that the Judges field of play decision was arbitrary or in breach of duty thus engaging CAS's supervisory powers. The basis for this contention was that in truth the 3 judge decision was the decision of one. Bango had, through his head being lowered at the start of Yang's routine, missed a second of the initial sequence. He had had to consult with Buitrago. His failure to see the entire routine had not been communicated to Beckstead. Beckstead for his part did not have any reason to dispute what appeared to be a joint view of the A Judges.
- 4.6. We consider that this argument devalues the concept of arbitrariness. As was said in *KOC v ISU*:

5. Discussion

- 5.1. *The jurisprudence of CAS in regard to the issue raised by this application is clear, although the language used to explain that jurisprudence is not always consistent and can be confusing. Thus, different phrases, such as "arbitrary", "bad faith", "breach of duty", "malicious intent", "committed a wrong" and "other actionable wrongs" are used, apparently interchangeably, to express the same test (M. v/AIBA, CAS OG 96/006 and Segura v/IAAF, CAS OG 00/013).*
- 5.2. *In the Panel's view, each of those phrases means more than that the decision is wrong or one that no sensible person could have reached. If it were otherwise, every field of play decision would be open to review on its merits. Before a CAS Panel will review a field of play decision, there must be evidence, which generally must be direct evidence, of bad faith. If viewed in this light, each of those phrases means that there must be some evidence of preference for, or prejudice against, a particular team or individual. The best example of such preference or prejudice was referred to by the Panel in Segura, where they stated that one circumstance where a CAS Panel could review a field of play decision would be if a decision were made in bad faith, eg. as a consequence of corruption (See Para, 17). The Panel accepts that this places a high hurdle that must be cleared by any Applicant seeking to review a field of play decision. However, if the hurdle were to be lower, the flood-gates would be opened and any dissatisfied*

*participant would be able to seek the review of a field of play decision.
[?]*

...

5.3 *Accordingly, the onus is on the Applicant who challenges that decision, to prove that in making the decision on technical matters specific to short track speed skating, the Respondent, by its appointed referees acted in bad faith in the sense described above (para 5.3).*

5.4 *It is not simply the making of a decision that Mr. Kim disagrees that is a wrong against him which would entitle the Panel to overturn Mr. Hewish's decision. When the CAS jurisprudence speaks of the commission of a wrong in this context, it is speaking of a breach of duty and not merely the making of a decision with which the Applicant disagrees.*

Consultation between judges is expressly provided for in CP Article 1a 2(b) III. At worst (and this is unproven) Bango's unsightedness for the initial sequence was the cause of – at any rate – his error. But neither Buitrago nor Beckstead were affected or infected by it: each properly had his own view.

4.7. While in this instance we are being asked, not to second guess an official but rather to consider the consequences of an admitted error by an official so that the 'field of play' jurisprudence is not directly engaged, we consider that we should nonetheless abstain from correcting the results by reliance of an admitted error. An error identified with the benefit of hindsight, whether admitted or not, cannot be a ground for reversing a result of a competition. We can all recall occasions where a video replay of a football match, studied at leisure, can show that a goal was given, when it should have been disallowed (the Germans may still hold that view about England's critical third goal in the World Cup Final in 1966), or vice versa or where in a tennis match a critical line call was mistaken. However, quite apart from the consideration, which we develop below, that no one can be certain how the competition in question would have turned out had the official's decision been different, for a Court to change the result would on this basis still involve interfering with a field of play decision. Each sport may have within it a mechanism for utilising modern technology to ensure a correct decision is made in the first place (e.g. cricket with run-outs) or for immediately subjecting a controversial decision to a process of review (e.g. gymnastics;) but the solution for error, either way, lies

within the framework of the sport's own rules; it does not licence judicial or arbitral interference thereafter. If this represents an extension of the field of play doctrine, we tolerate it with equanimity. Finality is in this area all important: rough justice may be all that sport can tolerate. As the CAS Panel said in *KOC v IOC*:

“There is a more fundamental reason for not permitting trial, by television or otherwise, of technical, judgmental decisions by referees. Every participant in a sport in which referees have to make decisions about events on the field of play must accept that the referee sees an incident from a particular position, and makes his decision on the basis of what he or she sees. Sometimes mistakes are made by referees, as they are players. That is an inevitable fact of life and one that all participants in sporting events must accept. But not every mistake can be reviewed. It is for that reason that CAS jurisprudence makes it clear that it is not open to a player to complain about a “field of play” decision simply because he or she disagrees with that decision.”

- 4.8. There is another and powerful consideration, well articulated on behalf of Hamm. Had the competition been on one apparatus only ie the parallel bars, then the conclusion that the judging error led to a disarray in the medal positions would follow as night follows day. (We put on one side the contention supported, in inter alia by Buitrago, Beckstead and Harry Bjerke (a B Judge) that Yang had the benefit of the error – a failure by AB Judges to deduct points for a gymnastic fault exceeding the stipulated number of pauses during his exercise [CP Article 42 5(9) Article 44] as well as the burden of another – the misidentification of the proper start value, because CAS is in no position to adjudicate upon its merits). But the event was not a single apparatus event, but an all around one. After the parallel bars there was one more apparatus on which the competitors had to perform ie the high bar. We have no means of knowing how Yang would have reacted had he concluded the competition in this apparatus as the points leader rather than in third position. He might have risen to the occasion; he might have frozen (his marks on the high bar were in fact below expectation and speculation is inappropriate. So it needs to be clearly stated that while the error may have cost Yang a gold medal, it did not necessarily do so.

- 4.9. We would respectfully suggest that FIG itself, in what may be inferred from the minutes of the earlier emergency meeting an understandable anxiety to maintain public confidence in the judging of Olympic competitions, can be shown with the benefit of hindsight, to have made three mistakes, albeit, we are certain in entire good faith. Firstly, they publicly accepted without qualification that there was an error in the judging of their own officials. True it is that there was an error in the start value identifiable when Yang's performance was analysed with the aid of the Technical Video. However, an error identified only after a competition is complete is immaterial to the result of the competition under FIG's rules: only an error identified during it, and successfully appealed, can affect such a result. Secondly, they publicly said that, but for such error, Yang would have won the event. This, for reasons we have already discussed, is something in realm of speculation, not of certainty. Thirdly, they sought to persuade Hamm to surrender his gold medal to Yang when there was no reason for him to do so.
- 4.10. There was an instance drawn to our attention where in the World Trampoline Championship of 2001 an error in judging was made and the beneficiary of it, Ms Ka Aeva gave her gold medal "in the spirit of friendship and fair play" to the runner up Ms Dogonadze. She did so because there was, as was perceived, no way other than by an act of grace that the consequences of the error could be corrected. Hamm was invited to do the same by FIG. He declined to do so. He is, in our view, not to be criticized for this. He was not responsible for the judges' error; and, as we have already observed, he can be no more certain than we as to what the outcome would have been had the judges not made the mistake.
- 4.11. There are two victims of this unusual sequence of events, Hamm and Yang. Hamm because, as he eloquently explained a shadow of doubt has been cast over his achievement in winning the sport's most prestigious prize. Yang because he may have been deprived of an opportunity of winning it. Both Hamm and Yang are superb athletes at the pinnacle of their sport: neither was in any way responsible for the Judge's error: each has comported himself with

dignity which this controversy has subsisted. Nonetheless the Court of Arbitration is not Solomon: nor can it mediate a solution acceptable to both gymnasts or their respective NOCs. CAS must give a verdict based on its findings of fact viewed in the context of the relevant law.

- 4.12. For the reasons set out above, we dismiss this appeal.
- 4.13. Pursuant to Art. R64.5 of the Code, the arbitral award shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. In their oral or written submissions, the parties have not substantiated their respective requests for the payment of costs. As a consequence, we will issue a separate award on costs after the parties will have made written representation on that specific issue.