



Arbitration CAS 2014/A/3671 George Yerolimpos v. World Karate Federation (WKF), award of 12 February 2015

Panel: Prof. Michael Geistlinger (Austria), President; Mr Jean-Philippe Rochat (Switzerland); Mr José María Alonso Puig (Spain)

Karate

Disciplinary sanction against one of its members by an International Federation

Need of a legal basis for a sanction

In order to have a behavior sanctioned by a suspension of one year, an applicable legal norm must exist which declares this behavior a disciplinary offence and allows for ensuing a sanction upon the member of a sport governing body responsible for said behavior. It is not sufficient to identify a duty; it is necessary to stipulate that a breach of such a duty will attract disciplinary sanctions. Where the sport governing body cannot demonstrate the existence of any statutory norm, rule or regulation of the international federation or provision under the international federation's Statutes ruling on the procedure of transfer of the IF's website after the end of the function of the General Secretary and his respective obligations, and on his obligations at and after the end of his function, thus, there is no provision for a disciplinary offence.

I. THE PARTIES

- 1.1. Mr George Yerolimpos (hereinafter referred to as the "Appellant") is a former member of the Executive Committee of both the World Karate Federation and the European Karate Federation (hereinafter referred to as "EKF"). He is also an Executive director of SportAccord World Games. He served as Secretary General of the World Karate Federation and of the EFK between 1997 and 2013. He also holds the position of the Honorary President of the Hellenic Karate Federation (hereinafter referred to as "HKF") and is a member of the Hellenic Olympic Committee (hereinafter referred to as "HOC").
- 1.2. The World Karate Federation (hereinafter referred to as "WKF" and the "Respondent") is the world federation governing the sport of karate with its seat in Madrid (Spain). Mr Antonio Espinos, a citizen of Spain, is currently president of the WKF and has been re-elected for a further term on 4 November 2014. He is also president of the EKF.

II. FACTS

- 2.1. The elements set out below are a summary of the main relevant facts, as established by the Panel on the basis of the written submissions of the parties, and the evidence produced at the hearing held.
- 2.2. On 2 August 2013, following the circulation of emails considered to be defamatory to WKF members and officials, the WKF President provisionally suspended the Appellant from his function as WKF Secretary General. On 14 August 2013, the WKF Executive Committee decided by 16 votes to 1 to permanently remove the Appellant from his position as WKF Secretary General.
- 2.3. On 15 August 2013, the Appellant's counsel, Mr Andreas Zagklis, invited the Respondent in writing to *"inform us about the date on which a person assigned by the WKF/EKF will come to the General Secretary's office in Athens to pick up all WKF/EKF documentation and the remaining cash held by Mr. Yerolimpos on behalf of both federations. Given that Mr. Yerolimpos has served as General Secretary for 16 years you will appreciate that the amount of documentation is way too much to be sent by normal courier and that a protocol of delivery has to be prepared"*.
- 2.4. On 19 August 2013, the Respondent requested the WKF Secretary General's office in Athens to *"... forward us the information on RTP tests to be done in 2013, tests already done in 2013, tests pending, etc. with name and other details? Also the ADAMS files and operating instructions to further proceed from our office, this is, in general, all to do with the WKF AD management. We have consulted and it would be possible also to organize for you a trip to Madrid WKF HQ in order to make the adequate transfer of such important matter. (...)"*.
- 2.5. By an email of 20 August 2013, the Appellant answered that *"in regard to your email sent to Milos, we would like to inform you that we have already created DVDs with all the available electronic files as concerns the WKF/EKF Secretariat Office (including the files for the Anti Doping management) according to the WKF/EKF President's in general, please notice that the electronic files, the WKF/EKF website's content (including access) as well as the software (Nanos) are already available to be delivered to the WKF HW. Hence, please notify us in written the person authorized by the WKF/EKF President who is going to collect all mentioned data in electronic and hard copy format, as well as the possible date of his/her arrival in Athens for that purpose. Please take into account that for this transfer we need to sign a detailed protocol of delivery/ receipt which we will have it ready for this meeting"*.
- 2.6. On the same day, Mr Miltos Papadimitriou, WKF Secretary General's assistant, resigned from his position. His email of resignation addressed to the WKF HQ included a list of passwords as follows:

*"Codes and information for wkf-web: **wkf_codes.pdf***
*Web access codes for EKF website in wkf-web.net/ekf: **wkf_codes.pdf***
*Web access for mirror in ekfkarate.com: **wkf_codes.pdf***
*EKF Website: **DVD***
*WKF Website: **DVD***

WKF competition / draw Program: DVD

Database Information:

Database Name: *wkf*

Type: *mysql*

Database server: *db9.papaki.gr:3306*

Database username: *wkf*

Database Password: *karate)(*Σt*

Website live access

www.wkf-web.net/administrator

Username: *admin*

Password: *karate!@#*

For EKF

Database name: *Europe*

Type: *mysql*

Database server: *db9.papaki.gr:3306*

Username: *ekf*

Password: *karate^*%o*

Website live access

www.ekf-web.net/ekf/administrator

Username: *admin*

Password: *karate%o\$#*

EKF in ekfkarate.com (mirror)

Website live access

www.ekfkarate.com/cp

Username: *ekfkarate*

Password: *karate6666*

Web access: <http://www.ekfkarate.com/administrator/>

Provider web page

You can change all the individual details once you log in or move to another provider)

www.papaki.gr

Username: manos@dius.net

Password: *karate\$o%^*

FTP Details:

Hostname: *wkf*

Password: *karate!@#*

FTP2 Details

Hostname: [ftp.wkf-web.net](ftp://www.wkf-web.net)

Login: *j35805mano*

Password: *S@q5*ζ*

Mail servers:

"Incoming mail" (POP3): mail.wkf-web.net

"Outgoing mail" (SMTP): mail.wkf-web.net

Mail Browser access:

Webmail.wkf-web.net

Web Details

Access to control panel

Username: j35805mano

*Password: S@q5*ζ*

Nameservers:

Primary Name Server: ns124.papaki.gr

Primary NS IP Address: 144.76.68.39

Secondary Name Server: ns224.papaki.gr

Secondary NS IP Address: 144.76.68.59

Username: admin

Password: karate6666

-Yahoo Email Address for Managing the WKF Social Media Accounts

Email: wkfsocialmedia@yahoo.com **password:** ABC123qwerty@

-WKF OFFICIAL WEBSITE PAGE

<https://www.facebook.com/pages/World-Karate-Federation/137957289677388>

Facebook page is managed by the facebook user account.

Login: wkfsocialmedia@yahoo.com

Password: karateqwerty!!

-WKF OFFICIAL TWITTER ACCOUNT

@wkf_tweet

Login: wkfsocialmedia@yahoo.com OR *wkf_tweet*

Password: karateqwerty!!

WADA-ADAMS

<https://adams.wad-ama.org/adams/>

World Karate Federation

ADMIN USER

login: wkf.admin

password: adminadams2

USER

login: milto.papadimitriou

password: wadawkf3".

Attached was a notification of delivery.

- 2.7. On 22 August 2013, the Respondent proposed instead that the handover takes place through a person designated by Mr Yerolimpos or by messenger and that these actions were to be taken before the end of the respective week, which means on this or the next day. The Respondent requested, in particular,

“Independently of this process, we ask you to urgently send the following documentation:

- *Management program software for the competition markers, via email and later on CD-ROM (it is essential that the WKF has this software before the 23 August).*
- *User names and passwords for the general administrator of the WKF/EKF web site and the access URL.*
- *Copy of a letter to the supplier hosting the WKF/EKF web site stating that the new administrator will be the company Enfoque 5 SL from 22 August 2014. If it is necessary to provide a name as reference, this should be Fernando Roman.*
- *Email address with the account passwords and access password to the WKF YouTube channel.*
- *User (e-mail address and account passwords) and passwords for the WKF on Twitter.*
- *Registration of the new administrator for the WKF Facebook account. The name of this new administrator is Fernando Roman.*

You are hereby informed on the need that these actions to be taken before the end of this week in order to prevent any incidents that may harm the normal functioning of the WKF. ...”.

- 2.8. On 23 August 2013, the Appellant having requested from his former assistant, Mr Miltos Papadimitriou, and the WKF IT technician responsible for the operation, maintenance and support of the WKF website and social media accounts, Mr Manos Nanos, to prepare all the documentation and information, which they prepared and sent by courier delivery on that day, sent the following email with nine attachments to the Respondent:

“Dear Sirs,

Following your below e-mail we transfer to you by courier today the following items:

1. *The draws/results software for the competitions as well as the data base in 1 dvd, named as “WKF Manager” (the size of the data is around 1,37 G with 24.364 files and cannot be transferred by e-mail as you proposed).*
2. *Usernames and password for the WKF/EKF sites (4pages) including access and content. Any appointment of new administrator must be done by you as you will have the full access. Accordingly, we send you 2 dvds, named as “WKF website” and “EKF website” respectively.*
3. *Usernames and passwords for the WKF Twitter and Facebook account (1 page). Any appointment of new administrator must be done by you as you will have the full access.*
4. *Usernames and passwords for ADAMS (WADA online system-1 page) so that you can monitor the anti-doping procedures. We also send you the WKF Athletes RTP lists of 2012 and 2013, the WKF Athletes’ ADAMS IDs and the Successful Missions of the WKF Out of Competition Tests Program*

for 2012 and 2013 in 1 cd. Accordingly we send you 1 cd, names as “Anti-Doping OOCT” and a pdf file with the cd contents (anti-doping cd contents.pdf).

Attached you will find a pdf with photos proving the above.

Also I attach to you the full list of the remained documents as concerns the WKF secretariat in the Hellenic karate federation offices and I kindly ask you to send somebody to receive them and sign the respected protocol of delivery and receipt. (List of FILES.pdf, dvd1.pdf, dvd2.pdf)

As concerns the transferred to you programs and codes, we declare that we accept no responsibility in the event of incorrect installation.

I copy also to you the letter of mr Papadimitrou for your information.

Regards

G. Yerolimpos

Ps. Please take note that I will be travel(l)ing from today until the 1st of September and I will not be in a position to answer my e-mails. Any delivery of the rest items must take place f(r)om the 2nd of September and in any case no later than the 5th of September 2013”.

- 2.9. The Appellant listed the material delivered to the WKF, which was not contradicted by the Respondent, as follows: one CD with anti-doping data named “Anti-Doping OOCT) (by courier) which included the files ADAMS passwords.txt, wkf_ooct_samples collected.xlsx, WKF_RTP_2012_A DA MS IDs.xlsx, WKF_RTP_2013_A DA MS IDs.xlsx, WKF_RTP_List_2012_final.xls, and WKF_RTP_List_2013_final.xlsx; one CD on the EKF website (by courier); one CD on the WKF Manager (by courier); one CD on the WKF website (by courier) and 9 pdf files, which were attached to his email of 23 August 2014 (wkf-ekf.pdf, facebook-twitter.pdf, wad-adams.pdf, anti-doping cd contents.pdf, photos.pdf, List of FILES.pdf, dvd1.pdf, dvd2.pdf, letter.pdf, which included the resignation letter of Mr Papadimitriou).
- 2.10. On 26 August 2014, the Respondent received the material sent by the Appellant. The Appellant considers that, from this date, the Respondent had full control over the website and was able to make any updates or changes needed.
- 2.11. On 9 September 2013, the Respondent, acting through its lawyer, informed the Appellant of the problems observed in the material returned by the latter. The email reads as follows:

“Dear sir,

I am writing you as the World Karate Federation lawyer and explicitly following their instructions.

The aim of this claim refers to the documentation belonging to the WKF, which has received at the Headquarters last 26th August.

The password to enter the WKF Website was included in a document, this domain can also be found at www.wkf-web.net and, according to my client, it does not correspond to the one considered as the official website of the WKF until last 2nd August: www.wkf.net.

On the other hand and upon consulting this accordingly at the web domains registration, we could find that:

- 1. www.wkf.net domain was registered in your name, George Yerolimpos, when the legal holder's domain is the World Karate Federation.*
- 2. www.wkf-web.net, recently created, whose access passwords have been provided by you, has been registered in the name of an "unknown" holder, when the holder should be the W.K.F.*

*Therefore, I ask you, within the next 72 hours and **no later than that**, to proceed to change the holder's names of the WWW.wkf-web.net and www.wkf-web domains in favour of the World karate Federation, submitting the documents which can prove this has been done.*

Besides, please be informed that I have instructions from my client to start the relevant legal actions immediately, in case this request is not fulfilled within the fixed period.

I expect to get some news from you.

Yours sincerely

Mónica del Corral" (emphasis from the original).

- 2.12. Mr Emmanouil Nanos, heard as a witness, confirmed that he had been forwarded the email of Ms del Corral by Ms Yerolimpos and that he replied the same day "explaining some technical details also since I was under the impression from the content that the sender didn't had any technical knowledge. I also send them the access codes for wkf.net domain they requested at that point (we had already finished all the necessary actions in order to move that domain and the account containing it to WKF)". His email (support@networksolutions.com) sent to manos@dius.net on 9 September 2013, reads as follows:

"Account Number: 22095734

Account Holder of Record: World Karate Federation

Please note: ICANN (the Internet Corporation for Assigned Names and Numbers) regulations state that the WHOIS Administrative Contact may initiate and approve domain name registration transfers from your Network Solutions® account to other Registrars. If you are not listed as the WHOIS Administrative Contact a transfer can occur without your knowledge if Domain Transfer Lock is not enabled for the nsWebAddress™ name registrations listed above.

To change the WHOIS Administrative Contact Information for any of your nsWebAddress™ (es), please login to Account Manager:

- 1. Log in to Account Manager at: <http://www.networksolutions.com>. If you've forgotten your login information, please visit: <https://www.networksolutions.com/manageit/>*

forget-login.jsp.

2. Click on the “Account Settings” tab in the navigation and then the WHOIS Contacts button to make your updates.

If you believe someone requested this change without your consent, please contact Customer Service at <http://www.networksolutions.com/help/email.jsp>.

If you would like to order additional services or to update your account, please visit us online at <http://www.networksolutions.com>.

Thank you for choosing Network Solutions®. We are committed to providing you with the solutions, services, and support to help you succeed online.

Sincerely,

Network Solutions® Customer Support”.

- 2.13. On 10 September 2013, Ms Elisavet Yerolimpos, legal counsel and daughter of the Appellant, answered on his behalf as follows:

“...

Allow me to note that the domain www.wkf.net was registered under the name of Mr. George Yerolimpos, and the legal holder of the domain is Mr. Yerolimpos. The above action was registered in 1997 and since then, Mr. Yerolimpos has been paying the yearly renewal fees at is his own expenses.

Nevertheless, i inform you, that i have already started the necessary procedure, for the domain name to be transferred in favour of the World Karate Federation, as a form of donation from Mr. Yerolimpos to the WKF.

...

As i already informed you, Mr. Yerolimpos is willing to donate the domain www.wkf.net in favor of the World Karate Federation, under one and only condition which reads as follows:

“The domain name www.wkf.net will always remain under the ownership and property of the World Karate Federation for promoting the sport of Karate and serving WKF’s interests, and cannot be transfer(r)ed under any circumstance, to any other entity of legal person”.

If there is no objection from WKF’s part please inform me, so either me or you, can compose the Donation Agreement, and transfer the domain in favour of the World Karate Federation, as agreed.

Regarding www.wkf-web.net (se file attached) please allow me to inform you the following:

Mr. Yerolimpos sent all the necessary details including names/usernames and passwords in order for the WKF to be able to change/modify/delete the specific domain to the President’s office in the 26th of August.

*As i am informed the President's office already changed the username and password, and as a result Mr. Yerolimpos or any of his colleagues have no access anymore to that domain and cannot change it. The new mail registered as it is indicated in the attached photo is: f*****n@e*****5.com (enfoque5), showing that the President's office has full access and can do any change they want.*

According to the above, please forward your request to the President's office if any change to the details or the ownerships for the www.wkf-web.net domain ID is needed.

... ”.

2.14. On 18 September 2013, the Respondent's lawyer answered the Appellant as follows:

“In reply to your communication and following my e-mail pf last 9th September, please be informed that upon the relevant checking-out to evaluate the situation regarding the ownership of the domains claimed for by the WKF, www.wkf.net and www.wkf-web.net, after getting the confirmation that there was a change on the ownership in the name of the World Karate Federation for the first one, please be informed on the following:

- 1. The e-mail address of the contact for the www.wkf.net domain is manos@dius.net, which does not allow the WKF to have the total control of this domain. I ask you to change that contact e-mail address to wkf@wkf.com.es.*
- 2. I ask you to give the WKF the access to the registrant (NetworkSolutions) panel for the www.wkf.net domain with no more delay.*
- 3. I also ask you to clarify on the process followed to register the www.wkf-web.net domain, to which the WKF website www.wkf.net is redirected, whose ownership's registration is still in an “unknown” name and which, however, has the e-mail address manos@dius.net as contact details, according to the invoice attached. In this sense, it is not only surprising but also confusing that when registering the dius.net domain, the contact e-mail address is manos@wkf.net.*
- 4. I ask you to give us some explanation on the kind of agreement reached in regard to the allocation of the www.wkf-web.net, which has caused and is still causing the hosting service suspension, with the “removal” of some information, which has to be re-established.*

According to what stated above, I ask you to immediately proceed with the answers and solutions from your client's side on the above-mentioned points.

On the other hand, please be informed that the actions taken by Mr. Yerolimpos in this regard, have caused and are causing very serious damage to the WKF, not only concerning the Federation's usual management, but also from the economical point of view, due to the expenses derived from the evaluation and claiming for, adopting the relevant legal measures. ... ”.

2.15. On the same day, Mr Yerolimpos wrote to the Respondent as follows:

“... ”.

2. With respect to the technical issues 1,2,3 and 4 requested from you according the domain names, and due to the fact that my client has no knowledge of such technical details, i have forwarded your email to Mr. Manos

Nanos, exemployee of the WKF until early August 2013. As i am informed Mr. Nanos was appointed by the WKF to be responsible for the WKF and EKF web sites and he was the only one handling every project/problem/assistance connected to the sites. He also was the one to assist me with the www.wkf.net domain name to be transferred in the favour of the WKF.

It follows from the above that Mr. Yerolimpos has fully complied with your requests and, therefore, as far as he is concerned the matter is closed.

3. For the sake of completeness, i reject the argument that damages or inconvenience has been caused by the actions of Mr. Yerolimpos, since once more i confirm that he has donated the domain name www.wkf.net in favor of WKF since 9.9.2013 and once more i remind you that he had already transferred the www.wkf-web.net domain name to WKF previous to your correspondence dated 9/9/2013.

...

Since the transfer of both domains has been completed, for any technical issues may arise in the future, please contact Mr. Manos Nanos, on the email manos@dinus.net.

...”.

2.16. Also on the same day, Mr Nanos wrote to the Respondent as follows:

“Dear Sirs,

I was forwarded your email from Mrs Yerolimpos.

Few technical clarifications;

Domain name: *A domain name is unique. To register a domain name we use an internet company specialized in that and few days after we do an application with a valid e-mail we get a username and password from that company which allows us to enter and change any details for that domain name (domain names are www.wkf.net and www.wkf-web.net).*

Also when we receive that information we can enter our our control panel and change the Name server values of this domain

Name servers: *This is where we “point” our domain to a valid webspace (usually the same that we have our website on). It is done within the domain name manager (above) and only the person that have access to that domain can do it.*

Webspace: *We can get webspace from any internet hosting provider (companies). When we buy a hosting pack the company sends us the name servers we need to use in our Domain name and when we insert these in our domain name then our website address is linked to the hosting space and our site appears on the internet. All the e-mails also are provided by this hosting company.*

When a domain name changes ownership (or even administrator) the new owner/admin users their provider of choice depending on what he needs to do with that website (Many things are handled by the provider as maximum traffic, size e-mails, redirects etc etc etc)

1. *The e-mail address of that contact for the www.wkf.net domain is manos@dinus.net, which does not allow the WKF to have the total control of the domain. I ask you to change that contact e-mail address to wkf@wkf.com.es.*

It is changed also (see attached screenshots). (Keep in mind that now we do not have ANY ACCESS AT ALL in that domain so we can not help you with further requests)

2. I ask you to give the WKF the access to the registrant (NetworkSolutions) panel for the www.wkf.net domain with no more delay.

Here is the access to the wkf.net network solutions control panel: (Keep in mind that if you change this we have NO ACCESS AT ALL in that domain so we can not help you with further requests)

Address: <https://www.networksolutions.com>

Username: 20484564

Password: karate66

3. also ask you to clarify on the process followed to register the www.wkf-web.net domain, to which the WKF website www.wkf.net is redirected.

www.wkf-web.net was registered and www.wkf.net was redirected to it in order to give you immediate access to wkf website and avoid any delays since the domain www.wkf.net was registered at the time in the name G. Yerolimpos. That way the WKF website was constantly online without any intermissions.

whose ownership's registration is still in an "unknown" name

Concerning this domain we already sent you the username and password so you have full access to the domain name. You also changed the username and password so we have no access anymore, when you log in to that domain you can change the e-mail or any contact details as you wish

however, has the e-mail address manos@dius.net as contact details, according to the invoice attached. In this sense, it is not surprising but also confusing that when registering the dius.net domain, the contact e-mail address is manos@wkf.net

Why is surprising or confusing? we need to use a valid e-mail when we register any domain name. We gave you the password and username so you can enter and change any of the details and substitute this e-mail with your own, If for any reason you can not do that, you can send us the new username and password for www.wkf-web.net and a list of what you wish to change and we will be happy to do it for you.

4. I ask you to give us some explanation on the kind of agreement reached in regard to the allocation of the www.wkf-web.net.

I presume you are talking about the hosting provider of the website. It is a basic hosting size with anything needed to run smooth the website of WKF as it was until the day we transfer it to you. It was booked in order to give you access to the website until you can move it to the hosting service of your choice

which has caused and is still causing the hosting service suspension,

When we gave you the username and password for www.wkf-web.net together with the hosting provider details and full access to the administration section of the website, everything was in order, the web site was online and working as it did all the time that we used to handle it, In any case you have access to the domain name and you can transfer the website to your own company in a matter of hours, and it is advisable to do so as any IT technician will tell you.

with the "removal" of some information, which has to be re-established.

When we gave you the username and password for www.wkf-web.net together with the hosting provider details and full access to the administration section of the website, everything was in order, the web site was online and working as it did all the time that we used to handle it. We also sent you a full backup (attached the PDF) along with other files which you received at 26th August just in case. Since then you edited the web site (add/remove stuff) and these problems came up clearly from your end. We do not have access anymore to detect

and correct problems, all is transfer(r)ed to you. There was no information removed whatsoever, and please be more specific when you use the word “removal” and tell us what information you think is removed.

- I propose to follow this simple procedure to avoid any problems in the future. Find a Hosting provider to your liking and register for a hosting plan (one that provides you with the traffic, space, e-mails and whatever else you are planning to use on wkf website). Upload the website of wkf in your provider. Change the name servers for the address you would like to do so it can point to your new hosting provider. (we used to run the website in 2 servers (and 2 seperated web addresses) one live and one for backup so we could apply changes and try new things before going live. You can do the same with wkf.net and wkf-web.net or with any domain names of your choice.

In any case if you are still have any problems I am happy to help you. You can contact me at manos@dius.net

Best regards

Manos Nanos” (bold from the original).

- 2.17. A further email exchange between Mr Fernando Román and Mr Manos Nanos of 25 September 2013 reads as follows:

“Mr. Nanos:

A few weeks ago, you gave to the WKF a DVD containing software and database applications extremely useful for the Federation.

However this DVD is a software called “xampplite WKF” which can not be installed, because not listed, any associated password.

That same thing happens with the program called “Tatami Manager”. In the absence of the password for the installation, we can not use it.

For that reason and for the responsibility, that gives you Mrs. Elisavet Yerolimpon regarding technical issues related to the WKF, I urge you to proceed to send these passwords as soon as possible, as they are extremely useful at this time to WKF.

I appreciate your support and assistance.

...”.

Mr Nanos answered as follows:

“Hello

Xamplite is the platform, not the actual program, first you need to run xamp start.

*Then to run the program you need not to install it, just run WKF Manager (first copy all DVD contents to the root firectory of your PC) and use the password: officials1971
[xampplite/WKFmanager/wkfmanager]*

I think Tatami manager have an expiration date cose we used to give it to the local organizations, I will try to contact the programmer and send you a version without expiration

Tatami manager is used only for the scoreboards

... ”.

2.18. On 27 September 2013 the following exchange of emails took place between the same persons:

“Mr. Manos.

After the information you provided in your last post, the WKF us back to the need to use the software “Tatami manager” for an upcoming competition. This competition is very close date, so it would need to have the software on Wednesday, October 2.

Along with the software, we would need to send us the instructions for installation and use.

... ”.

“Dear mr. Roman

I will try to get the programmer to send me a version within the next week, (the one I had expired) test it and send it to you.

Since I was forwarded a mail from some lawyer mentioned some “missing” (in quotes) stuff in the website, I really need a confirmation for all the stuff I personally packed and send(t) to you

A. WKF Website DVD. Please check and confirm that everything is in order and working and if you find anything missing please be specific

B. ...

C. ...

And when I send you the Tatami Manager you can also test and confirm that everything is working in that one also

... ”.

2.19. On 31 October 2013 the company “Publibureau” appointed by the Respondent issued a report which included the following “General Conclusions and Recommendations”:

“

- *WKF was not the registrant and legal owner of their domains.
This situation has made things much more difficult when trying to regain website control. Even more important, this could have led to a situation where the domains would have be(e)n lost forever.*
- *No procedure was followed to ease the handover of website control.
Problems when changing the domain registrant and technical contact have arisen.
Control has been handover on “second” domains, outside WKF, instead of the requested ones*
- *The software provided in physical media
(CD and DVD) did not have the scripts or documentation needed to deploy the sites or applications.
Instead they were just a snapshots of the servers where they were running.*
- *Also differences in the software and functionality of what was found in the CDs and what was seen in the server have been detected.*
- *Therefore*
 - *WKF (h)as been in risk for of not being in control of their internet “brand” and “property”.*
 - *WKF has incurred additional costs to address the difficulties of the handover.*
 - *WKF may incur in additional losses of investments already made being insufficiently documented the features of the old sites (possible software have been detected which has no documentation).*
 - *WKF may incur in additional losses from investments already made for having improperly documented software.*
- *We advise WKF to set a procedure to have easier and faster software handovers in the future”.*

2.20. Publibureau invoiced the Respondent EUR 1.200 for the recovery domains of WKF and EUR 1.600 for the securing and safety report.

2.21. The report was discussed at the WKF Executive Committee (hereinafter referred to as WKF EC”) meeting in Guadalajara, Spain, on 6 November 2013. The WKF EC unanimously decided to request the Chairman of the WKF Disciplinary and Legal Commission (hereinafter referred to as “DLC”) to initiate disciplinary proceedings against the Appellant. The respective discussion was laid down in the minutes as follows:

“7. Disciplinary case arising from hand over of the web pages from the former General Secretary

From the expert report delivered to the EC and the documentation relating to the web pages returned by the former Secretary General to the WKF, further his revocation from such position, the EC considers that the material remitted by the former Secretary General to the WKF was, deliberately and in total bad faith, not done properly, causing the WKF significant costs and damages, as WKF had to reorganize all the information and completely restore the situation in connection with the Federation’s documentation and web site. The EC considers that such actions by the former Secretary General may amount to a violation of the WKF regulations and be subject to a disciplinary sanction.

The EC has therefore unanimously decided to request the DLC to initiate a disciplinary procedure against the former General Secretary for the facts exposed above and other facts related thereto”.

- 2.22. On 25 November 2013 the WKF President informed the WKF DLC Chairman on this view of the WKF EC and asked him to proceed accordingly.
- 2.23. The WKF DLC Chairman set steps in order to constitute the WKF Disciplinary Tribunal (hereinafter referred to as “WKF DT”) on 24 January 2014 and informed the Appellant on the constitution of this tribunal on 4 February 2014. This notification states the following:

“... ”

This panel will analyze the following facts alleged against him:

1. *You returned the material property of WKF (domain names, electronic files, codes, software) incorrectly.*
2. *The WKF don't have the official WKF domain name (wkf.net).*
3. *One DVD and three CDs containing software and a larger number of electronic files related to the WKF websites, the WKF Manager (software for the competitions) and anti-doping information (with no passwords or documentation for their installation) with injury to the privacy policy WKF.*
4. *The mismanagement and the lack of information, cooperation of you caused significant costs and damages to the WKF.*

1. *By mismanaging the WKF's intellectual property rights to a point where the official WKF's domain name may been lost.*
2. *By failing to provide the information/ documentation needed to install the software and electronic files belonging to the WKF.*

3. *By damage the data protection policy of the WKF.*

4. *By cause serious injury, cost and damages to the WKF.*

It is our duty to decide whether the facts infringes the WKF Statutes, specifically article 9 thereof, and whether you should penalized as a result.

... ”

- 2.24. At the moment of this notification, the Appellant had already served more than five months suspension of his membership of the WKF and of the WKF EC since 30 October 2013 for having violated his duty of loyalty and other disciplinary issues which suspension was set aside by CAS in the case CAS 2014/A/3516 on 6 October 2014. The notification granted the Appellant a 10-day deadline to present his defence, which deadline was later extended until 3 March 2014. The Appellant did not submit any defence before the WKF DT.
- 2.25. By letter dated 17 March 2014, the WKF DT informed the Appellant that “...the whole file of these disciplinary procedures is available to you at the WKF Headquarters, in Madrid...” and that the WKF DT has decided to request a second expert opinion to review the conclusions of the company “Publibureau”. The WKF DT selected the company “TAKE AWAY INTERNET, S.L”. The Appellant did not comment on this selection or company before the WKF DT.
- 2.26. On 24 March 2014 Take Away Internet, S.L. issued its report and found the following:

“Regarding the domains, the provided one (wkf-web.net) was clearly different from the official one (wkf.net). Furthermore, all the traffic is being redirected to the website wkf-web.net since a redirection were configured in the

main domain (wkf.net). This is a highly-risk practice and the user experience would get worse if the redirection is configured wrong or redirected to a non-existent server. Besides the website (wkf.net) could even be linked to any information not related to the final scope or area of the karate, even worse linked to an information malicious.

In addition, nor the World Karate Federation (WKF from now) neither the European Karate Federation (EKF from now) are the owners of the following domains: wkf.net, ekfkarate.com and wkf-web.net. Mr. George Yerolimpos is the registrant of the domain ekfkarate.com and the WKF the registrant of wkf.net, but the domain wkf-web.net was registered by a company named Contact Privacy Inc. This is a critical issue since the final control does not depend on them but actual registrant.

When examining the content, some are missing such as; the source code, technical specifications; information related to which technologies or programming language were used. Privileged users for the databases, the data model, and some contents; news, events etc.

As we mention before, privileged users for databases have not been provided which means that other users could exist, even those presumed users could access to the main panel since there is the possibility to have the same or eventually more privileges. Obviously it is a (n) security hole because the content of the website could be changed and could be used to harm the WKF. The website seems to be a copy of the original and it is not possible to check if there are malicious code or scripts. Besides, after comparing the content of the CD supplied (Web wkf.net) and the content on the server (wkf-web.net) they differ at some functionalities and information.

Furthermore, some posting problems were found on 4th September that affected the normal operation of the service. After getting in touch and asking for the service restoration this was reestablished as normally. It is noticeable that the log file is bigger than 2GB, extremely heavy for a file of that nature, which blocked the account, but not many details were given about what was exactly the problem. It is known that 2GB hosting account is enough to accommodate a light website but it is not recommendable for a business use.

The company Papaki Ltd, which posted the domain wkf-web.net did not provide the requested information about or why those large files broke down the service. So there is not possible to know where those files came from, and as WKF has not relationship with Papaki, Papaki has no obligation to attend the WKF demands and queries.

Due to these points explained above, WKF resolved it was needed to build a new temporary website in order to be able to control its own website under the domain: worldkaratefederation.net. At the same time Mr. George Yerolimpos requested to transfer the domain wkf.net to the WKF, resulting the changed of the registrant but contact details did not change so the registrar would not accept any change requested from WKF. Then Mr. George Yerolimpos requested to change the email address to an account controlled by WKF, so since the email address changed, all the domain information was updated and now the WKF has the control of the wkf.net domain from 09/27/2013.

Finally a proper hosting service that covers WKF requirement was found so the wkf.net domain were updated in order to point to the new one so the temporary website is actually uploaded to the newest one. The main advantage are that the programming language and code are known, and the passwords are only known by the WKF and the maintenance company hired, so after all the WKF controls the content published.

3.3 Conclusions

WKF was not the registrant for wkf.net and cannot control the website. Only registrant was changed to WKF, not the contact details, and the keys provided were for a copy created and there is no guaranty to prevent modifications in the original website.

Also there was some problems and errors in website, but WKF has no capacity to know who is the author of those changes because the service does not provide this information.

WKF had to react promptly in order to continue the activity in Internet. Therefore, to avoid an online collapse, WKF had to develop a provisional website to provide information to amateurs, Continental and National Federations, and press agencies.

Meanwhile, also a second new development for a new and more complete website was started, to handle comunicacional needs of Federation.

The situation put the bran, WKF valued and online reputation at risk, until website was again under control.

The appearance of a new domain name (wkf-web.net), where the information was the same as WKF original website, resulted in a total chaos. Also there was another “official” WKF websites in worldkaratefederation.net and wkf.net.

0.4 Data files included in CD vs File stored online wkf-web-net

There was no installation files or clear procedure, and no documentation included in CDs (3 CDs and 1 DVD). Furthermore, files in CD was wrong because they wasn't the same as those who are online in wkf-web.net. A correct installation would take a lot of time, due also to the very much amount of data (almost 25.000 files) sendd without a method to install or manage.

And therefore, migration would involve significant effort and high economic cost. Also a potencial risk to damage the reputation of corporate brand will exist during the time”.

2.27. “TAKE AWAY INTERNET, S.L”. invoiced the Respondent EUR 2800 for its activity.

2.28. On 25 April 2014, the WKF DT issued the first instance decision based on the following “Legal Analysis of the Facts”:

“41. The issue to be addressed by the DT Panel relates to whether the relevant facts, which have been reported in the resolution, amount to a violation of the WKF regulations.

42. Based on the above facts and the expert reports, the DT Panel considers that the conduct of Mr Yerolimpos does not comply with the mandatory provisions of Article 9 of the WKF Statutes, according to which:

9.1 National Federations and individual persons affiliated to the WKF shall undertake to comply with statutory Norms, Rules and Regulations and all provisions issued by the Executive Committee.

9.2 Members shall undertake to work in complete compliance with the rules governing the sport, maintaining a demeanour commensurate with the activity performed.

9.3 Any member in breach of the conditions as per points 9.1 and 9.2 above shall be liable to disciplinary action as set forth herein.

43. *Pursuant to such rules, a WKF member shall adopt behaviour and conduct that must be adequate and appropriate to his function.*

44. *Mr Yerolimpos, besides being a member of the WKF Executive Committee, has been for a long time the General Secretary of the WKF. This position should have given him more than enough knowledge of the rules that govern the actions of the WKF. This is the reason why he should have a heightened sense of duty of loyalty as expected from a WKF EC member.*

45. *Taking into account all the elements of the case, the DT Panel is of the view that Mr Yerolimpos has acted in a way that is contrary to what can be expected from an elected WKF member; he or she is supposed to protect the interest and the proper functioning of the Federation. Mr Yerolimpos' actions have prejudiced the WKF, which could have led to serious deterioration of the image of the WKF in a period of enormous importance for this Federation.*

46. *In this regard Reports 1 and 2 determine that*

- WKF was neither the registrant nor the legal owner of its domains. This situation has made things much more difficult when trying to regain website control. Even more importantly, this could have led to a situation where the domains would have been lost forever.

- No procedure was followed to facilitate the handover of website control. Problems when changing the domain registrant and technical contact have arisen. Control has been given on "second" domains, outside WKF, instead of the requested ones.

- The software provided in physical media (CD and DVD) did not have the scripts or documentation needed to display the sites or applications. Instead they were just a snapshot of the server where they were running. Also differences in the software and functionality of what was found in the CDs and what was seen in the server have been detected.

- WKF has been at risk of not controlling their internet Brand and property.

- WKF has incurred additional costs to address the difficulties of the handover. WKF may incur in additional losses from investments already made for having improperly documented software.

47. *The situation, which should be avoided by every member of the WKF, is graver when while acting in the capacity of Secretary General of the WKF, which seriously breaks any contractual principle of good faith and confidence by WKF.*

48. *This DT Panel is not competent to order compensation of the damage suffered by the WKF, who shall exercise its rights before the competent judicial authorities.*

49. *The DT Panel is however competent to assess whether the actions of Mr Yerolimpos are contrary to the WKF regulations.*

49.1 *There has been a serious injury and a serious attack on the intellectual property rights of the WKF, since the WKF has never managed its Internet domain, but was registered by Mr Yerolimpos, in his own name and interest, without the permission of the WKF.*

This fact has not been denied by Mr Yerolimpos and has been added to the documentary record.

49.2 *Likewise, once requested to provide the WKF what was its internet domain that can be considered as the main communication tool of an International Federation, not only did the Respondent fail to comply with the request but he also caused serious damage to the interests and rights of the WKF. This fact is proved by two technical reports in the file.*

49.3 *The WKF had to undertake urgent and expensive actions on its website to rectify the damage created by the behaviour of Mr Yerolimpos.*

50. *Given his serious lack of cooperation and the fact that the official WKF domain name was registered under his own name, it is clear for the DT Panel that Mr Yerolimpos acted intentionally to disrupt the WKF.*

51. *In any case, when Mr Yerolimpos failed to give back the material belonging to the WKF, he lost any chance to invoke negligence or ignorance because he acted in full awareness of the seriousness of his actions.*

...

53. *This DT Panel is unaware of the personal interest that Mr. Yerolimpos had in acting in such a way, and cannot make judgments about his behaviour, but can only abide by the facts considered proven.*

54. *In light of the above, the DT Panel concludes however that Mr Yerolimpos acted clearly against his role as WKF Executive Committee member by intentionally causing prejudice to the WKF and the sport of karate by affecting the main means of communication of this Federation, in breach of article 9 of the WKF Statutes”.*

The WKF DT imposed a sanction of one year suspension of the Appellant’s membership to the WKF and to the WKF EC. The WKF DT considered this sanction as appropriate and proportional taking into regard inter alia that the Appellant “*had recently been suspended for violating the WKF regulations and that this constitutes a second offence against the interests of the WKF*”.

2.29. While these disciplinary proceedings took place, the Appellant had appealed the first WKF suspension decision dated 30 October 2013 to the WKF Appeal Tribunal (hereinafter referred to as “WKF AT”) on 8 November 2013. On 6 February 2014, the WKF AT confirmed the six months’ suspension imposed by the WKF DT. On 26 February 2014, the Appellant appealed

to CAS and on 1 April 2014 requested provisional and conservatory measures. This request sought the relief that the Appellant would be allowed to take part at the EKF Executive Committee meeting and EKF Congress in Tampere, Finland, on 30 April 2014. By Order dated 25 April 2014, the CAS Panel relied on the fact that the Respondent had expressly stated in its observations dated 14 April 2014 that *“the Appellant will be allowed to attend the next EKF EC meeting and EKF Congress”* and that, therefore, *“his prayers for relief filed with the Application are moot”* (emphasized by the respective CAS Panel). Thus, the Appellant’s application for provisional and conservatory measures was rejected. The fact that on the same day (25 April 2014), the WKF DT imposed the suspension under review in the present proceedings with immediate effect undermined this CAS decision and caused the fact, that the Appellant could not take part at the EKF Executive Committee meeting and EKF Congress.

- 2.30. On 27 April 2014, the Appellant submitted an appeal to CAS against the decision of the WKF DT dated 25 April 2014 which was declared inadmissible by this Panel in the case CAS 2014/A/3576.
- 2.31. On 5 May 2014, the Appellant appealed to the WKF AT for *“precautionary reasons only, because the Appellant, for the reasons set out in his submissions before CAS which will be supplemented in the future, does not recognise the DLC Appeals Tribunal as an independent or effective internal remedy, particularly based on his previous experience before this body, which conducted a completely biased and flawed process in the matter 1/2013 involving the Appellant”*. On 16 May 2014, the Appellant upon request of the Respondent confirmed that he did not request a stay of the WKF proceedings until the CAS has decided on its jurisdiction to hear the matter.
- 2.32. By decision of 21 July 2014, the WKF AT dismissed the appeal of 5 May 2014 and confirmed the Appellant having violated art 9 para 2 WKF Statutes holding that the Appellant *“acted clearly against his role as WKF Executive Committee member by intentionally causing prejudice to the WKF and the sport of karate by affecting the main means of communication of the Federation”*. The sanction of one year suspension as from 25 April 2014, thus, was confirmed. The WKF AT held that the procedure before the WKF DT was in full compliance with the DLR rules and prescriptions, paid due respect to the Appellant’s right to be heard, and was neither arbitrary, nor irrational, nor inconsistent.
- 2.33. On 6 October 2014, the CAS in the case CAS 2014/A/3516 found that the Panel *“did not identify a relevant offence embracing the conduct with which the Appellant was charged ...”* and, thus, set aside the decision of the WKF AT of 6 February 2014.
- 2.34. At the hearing on 25 November 2014, as to the facts of the present matter, the debate with the parties and interrogation of the witnesses focussed on the procedure, how the handover of the WKF website from the Athens office to the Madrid office took place. The expert-witness on behalf of the Respondent, Mr Felipe Hernandez Sanchez-Chas, explained to the Panel the delay that had occurred in the transfer of the website management from Mr Nanos, the person responsible to manage the WKF website under Mr Yerolimpos, to Mr Román, who was entrusted with the management of the website by the WKF after the suspension of Mr Yerolimpos from his function as WKF Secretary General, and the establishment of an

intermediate website circle through redirection of the website www.wkf.net to the website www.wkf-web.net assuring for a certain period of transfer that the ultimate control of the WKF website stayed at Mr Yerolimpos and/or Mr Nanos, respectively, whereas the WKF had to open a new website www.wkfkaratefederation.net, in order to protect safety of its data and data services and own ultimate control. Mr Yerolimpos did not dispute that in 1997 he had registered the WKF website www.wkf.net under his own name and that he only on 10 September 2013 through his daughter had declared to WKF his willingness to donate the domain www.wkf.net in favor of the WKF, under the one and only condition that the domain name www.wkf.net will always remain under the ownership and property of the WKF for promoting the sport of Karate and serving WKF's interests, and cannot be transferred under any circumstance, to any other entity or legal person. Mr Hernandez Sanchez-Chas and Mr Nanos disagreed on whether the transfer of the website could have occurred faster. Mr Yerolimpos showed own knowledge of technical issues of the running of a website and its transfer.

III. PROCEEDINGS BEFORE CAS AND EVENTS DURING THESE PROCEEDINGS

- 3.1. According to the Appellant, the Statement of Appeal of 27 April 2014 includes only submissions *"meant to satisfy the requirements of Article R48 and R37 of the CAS Code"*. Art R48 of the Code rules on the Statement of Appeal, Art R37 on Provisional and Conservatory Measures. The Statement of Appeal, in fact, included a request for Provisional and Conservatory Measures, for Stay of the Execution of the WKF DT decision as well as a request on production of documents and consolidation of the current proceedings with the proceedings between the same parties in CAS 2014/A/3516.
- 3.2. On 28 April 2014, the Respondent submitted Observations on the Appellant's Application to Stay the Execution of the WKF DT decision of 25 April 2014.
- 3.3. On the same day the operative part of the Order on Provisional Measures issued by the President of the CAS Appeals Arbitration Division was communicated to the parties. On 29 April 2014, the Respondent objected to the production of documents as requested by the Appellant. On 1 May 2014, the CAS Council informed the parties that it will be up to the Panel to rule on the Appellant's request for production of documents.
- 3.4. The full Order on Provisional Measures, with grounds, was sent to the parties on 2 May 2014. The CAS dismissed the application to stay the execution of the decision and for provisional measures. The CAS also dismissed the application for consolidation. The costs of the order were to be determined in the final award or in any other final disposition of this arbitration.
- 3.5. At para 4.9 of this Order of 2 May 2014, the President of the CAS Appeals Arbitration Division held that *"... even though the jurisdiction of the CAS and the admissibility of the appeal appear doubtful, in particular in view of the fact that the Appellant had previously appealed before the WKF Appeal Tribunal against a decision of the WKF Disciplinary Tribunal, it is not clear that the CAS does not have jurisdiction or that the appeal is inadmissible. The President of the CAS Appeals Arbitration Division therefore decides that it will be for the Panel to render a decision in this respect"*.

- 3.6. On 20 May 2014, the Respondent sent a letter to the CAS arguing with reasons to be discussed below at paras 4.15 – 4.18 that the appeal is premature and thus non-admissible.
- 3.7. On 23 May 2014, the Appellant confirmed his appeal irrespective of the arguments of the Respondent raised in its letter to the CAS of 20 May 2014 and submitted his reasons for doing so. The reasons will be discussed together with the reasons given in the Statement of Appeal below at paras 4.2 – 4.13.
- 3.8. By letter dated 23 May 2014, the CAS Counsel confirmed that the deadline for the Appellant to file his appeal brief was suspended pending decisions by the Panel on the admissibility of the appeal and the request for production of documents.
- 3.9. By letter dated 3 July 2014, the Appellant urged the formation of a Panel to decide the case and reported that the WKF Disciplinary and Legal Commission has not progressed this case to any substantial extent in the last two months.
- 3.10. By letter dated 3 July 2014, the CAS Counsel pursuant to art R54 of the Code notified the formation of the Panel composed of Prof. Michael Geistlinger, Mr Jean-Philippe Rochat and Mr José-María Alonso Puig.
- 3.11. By letter dated 15 July 2014, the Respondent reported an alleged breach of confidentiality. By letter dated 16 July 2014, the Appellant denied such breach of confidentiality.
- 3.12. On 23 July 2014, the Appellant filed a Statement of Appeal to CAS, including a request for disclosure of documents. The parties agreed to have the same Panel as for the case CAS 2014/A/3576 dealing with this case and have a decision issued on jurisdiction and admissibility on both cases at the same time as well as on the disclosure of documents first.
- 3.13. On 19 August 2014, the Panel decided that CAS had no jurisdiction to hear the case CAS 2014/A/3576, but to consider at this stage the appeal as admissible in the present case and to proceed with the merits. The parties were informed that the motivation of this decision would be included in the final award. Furthermore, the Panel decided to grant the Appellant's request for disclosure of documents and set the deadlines for submitting the appeal brief and the answer of Respondent.
- 3.14. On 3 September 2014, the Respondent submitted the documents it had been ordered to disclose.
- 3.15. On 18 September 2014, the Appellant submitted his appeal brief.
- 3.16. On 13 October 2014, the Appellant submitted an "Urgent application to stay the execution of the appealed decision and order provisional measures".
- 3.17. On 15 October 2014, the Respondent filed its answer to the appeal.

- 3.18. On 17 October 2014, the Respondent submitted its “Position on request for provisional measures”.
- 3.19. On 23/27 October 2014, the Panel partially granted the Appellant’s request for provisional measures, stayed the WKF AT decision dated 21 July 2014 in the matter 1/2014 and ordered the WKF to refrain from undertaking any action which would circumvent in any manner this order.
- 3.20. On 27 October 2014, the Appellant filed an “Urgent request for *ex parte* preliminary measures” which, inter alia, intended to make sure that the Appellant would be admitted as candidate for WKF EC member in the forthcoming elections scheduled for 4 November 2014.
- 3.21. On the same day, the Panel declared the Appellant’s request without object in view of its Order of 23/27 October 2014, para 5.6 *in fine*. The Respondent was requested to comply with the terms of the Panel’s Order.
- 3.22. On 29 October 2014, the Appellant signed the Order of Procedure and confirmed the persons that would attend the hearing for the Appellant.
- 3.23. On 5 November 2014, the Respondent signed the Order of Procedure and confirmed the persons that would attend the hearing for the Respondent.
- 3.24. On 24 November 2014, the Respondent provided the Panel with a copy of the Minutes of the WKF congress held in Bremen on 4 November 2014. On the same day, the Appellant asked the Panel for permission to use a demonstrative sheet setting out the procedural history of the case.
- 3.25. On 25 November 2014, a hearing took place at the CAS premises in Lausanne. The Appellant took part in person and was represented by Prof. Antonio Rigozzi and Mr Ioannis Mournianikis. The Respondent was represented by its President Mr Antonio Espinos, its Secretary General Mr Francisco Alegrete and its counsels Mr Jorge Ibarrola, Ms Natalie St Cyr Clarke, both assisted by the legal interns at Libra Law Ms Maria Mira Gomez and Ms Catherine Pitre. The following persons gave testimony:

For the Appellant:
Mr Emmanouil Nanos

For the Respondent:
Mr Felipe Hernandez Sanchez Chas

The further witness nominated by the Respondent, Ignacio Orea del Barro, was not heard since both parties agreed to have his witness statement accepted as part of the file.

IV. SUBMISSIONS OF THE PARTIES

a. The Appellant

4.1. The Appellant emphasizes the “*striking similarities*” between the present matter and the object of the case CAS 2014/A/3516 and focusses on an alleged misuse of its disciplinary power by the WKF. He does not dispute that governing bodies enjoy a considerable discretion to determine the violations which are subject to sanctions and to define the kind of sanctions imposed, but underlines that this discretion is bound by the limits set up either by regulations or the fundamental values of the respective legal order or general principles of law. The Appellant refers to CAS 2007/O/1381 at paras 56 et seq and the discussion regarding the risk of an association abusing its disciplinary power over its members. Based on this decision and on the cases CAS 2005/C/976 & 986, the Appellant holds that three criteria must be fulfilled in order to impose a sanction:

- (i) existence of a sufficiently clear basis for an offence and its sanction in the regulations of the association (“*principle of legality*”);
- (ii) respect of the right to be heard, of public order and of the principles of due process by the sanction procedure;
- (iii) proportionality of the sanction(s).

4.2. The Appellant argues a violation of these requirements by lack of a proper offence, by lack of an act of violation of art 9 WKF Statutes, by severe violations of the Appellant’s due process rights, and by non-compliance of the sanctions imposed with the proportionality principle.

i. Lack of proper offence and lack of act of violation of art 9 WKF Statutes

4.3. The Appellant holds that the decisions of the WKF AT of 21 July 2014 and of the WKF DT of 25 April 2014 (hereinafter referred to as “Decisions under Appeal”) provide no evidence as to how art 9 WKF Statutes can serve as legal basis for establishing a disciplinary offence in the present matter. Art 9 para 2 WKF Statutes requires “*compliance with the rules governing the sport*”. Art 9 WKF Statutes does not provide for an independent and self-standing disciplinary offence. The “*rules governing the sport*” are not related to the present proceedings. Besides, the activity of transferring the website regarding data and information was not related to the Appellant’s duties or tasks, but was performed by the WKF IT technician Mr Manos Nanos. The WKF has no defined rules or protocols or procedural guidelines that regulate the handover of such data or information, which was also part of the conclusions of the First Expert Report ordered by the Respondent. Even assuming that there were such regulations, the Appellant considers it more than questionable whether that would fulfil the requirement of sufficient clarity of an offence.

4.4. The Appellant holds the opinion that at any event, his conduct does not constitute a violation of art 9 Statutes, in particular not of its para 2. Quoting paras 40 – 45 of the decision of the

WKF DT of 25 April 2014, the Appellant sees “*overgeneralizations and irrelevant considerations*”. There was no specification of a deliberately improper delivery of the WKF documentation on the part of the Appellant, but also not of the actions the Respondent had to undertake after the handover of the website control. The Appellant holds that he had no part and no involvement in the transfer of the website related data to the Respondent. The collecting, indexing and sending of the relevant material to the Respondent was done by his former assistant Mr Miltos Papadimitriou and by the WKF IT manager Mr Manos Nanos. The Respondent itself took note of this by addressing Mr Papadimitriou directly for the transfer of the anti-doping data and documentation. There is also no doubt that Mr Nanos had been assigned by the WKF the operation and maintenance of the WKF website. As a consequence the two reports mandated by the Respondent only mentioned the Appellant’s name as the person that had registered the domain name in 1997.

- 4.5. The Appellant finds that his actions were directed only to satisfy the WKF demands within the time limit given to him. On 23 August 2013, the WKF received “*a fully working backup of the WKF website redirected to run provisionally under a new domain name to ensure continuity and until every details of the transfer of the domain name belonging to Mr Yerolimpos would be settled*”. The WKF, thus, was in possession of the necessary administrator information and details. On 9 September 2013, the WKF was registered as the new domain name holder of www.wkf.net. Mr Nanos was available for the Respondent and its new web administrator all the time and provided all information requested for by them on 18 September, as well as on 25 and 27 September. Neither has the Appellant intentionally damaged the Respondent by failing to deliver property, nor happened failures during the transfer process of the material. In any event, the Appellant had invited the Respondent to organise a pick-up of the WKF/EKF documentation in Athens. The Respondent preferred to proceed differently and has failed to show the necessary degree of care to this matter. Even until present the Respondent did not organize the handover of the hardcopy WKF/EKF Secretariat archives, which are still in Athens.

ii. Severe Violations of the Appellant’s Due Process Rights

- 4.6. The Appellant had no access to the disciplinary file until 8 September 2014 and, thus, could not effectively exercise his right to be heard. His actions did not constitute a breach of confidentiality of the proceedings and did not justify the restrictive approach chosen by the Respondent and offering the Appellant only to review the disciplinary file in Madrid and without having been allowed to copy from it.
- 4.7. The Appellant also wished to draw the Panels attention to the fact that the “*Respondent had carefully planned the notification of the Second Decision under Appeal to the Appellant to take place right after the CAS Order in the matter 2014/A/3516, so that the latter be in any event unable to attend the EKF EC meeting and Congress in Tampere*”.
- 4.8. The Appellant further points at the fact that Ms Ana Ballesteros as a member of the WKF DT Panel had contributed to the issuance of the WKF DT decision of 25 April 2014, but thereafter acted as WKF legal counsel in a matter related to a regional Balkan Association.

- 4.9. The Appellant is aware of the *de novo* competence of the CAS Panel, but holds that the multitude of legal deficits in the Respondent's procedure suggest that the Appellant's disciplinary prosecution "*was instigated by the Respondent in bad faith and in order to harm his personal reputation and good standing within the karate family*". Because of these political purposes these procedural deficiencies shall not be considered cured by the *de novo* proceeding before CAS "*without any lip service being paid to them*". The procedure shall be considered "*null and void (in a way that cannot be cured by Article R57)*".

iii. Violations of the Proportionality Principle

- 4.10. Should the Panel conclude, *quod non*, that the Appellant has committed a disciplinary offence, the Appellant argues that the sanctions imposed clearly violate the principle of proportionality. According to CAS case law (eg CAS 2005/C/976 & 986, paras 138, 139 and 143) the sanction imposed must be in proportion to the seriousness of the offence. The proportionality depends on the results of an examination of the type and the scope of the rule-violation, the individual circumstances of the case and the overall effect of the sanction on the offender.
- 4.11. The sanction imposed on the Appellant is one of the harshest that could have been imposed. In view of the facts of the case, the alleged offence cannot be classified as one of such grave nature justifying such severe sanction. There is no proper factual evidence that the Appellant's alleged actions actually caused trouble, injury or harm to the WKF's interests. The sanction also does not consider that the Appellant served the Respondent as its General Secretary for 16 years. The sanction obviously was directed by the purpose to exclude the Appellant from the WKF EC elections in November 2014. There was no comparable case of a disciplinary action against a WKF official before. CAS has set aside the first suspension in the CAS 2014/A/3516 case which results in the fact that the Appellant already had served a suspension without legal ground. The Panel, thus, should at least significantly reduce any sanction in the present matter, but even more declare the decision null and void in view of the abusive nature of the proceedings.
- 4.12. The Appellant submits the following Prayers for Relief:
- “(i) *to declare that decisions issued by the WKF Appeal Tribunal on 21 July 2014 in the matter 1/2014 and the decision issued by the WKF Disciplinary Tribunal on 25 April 2014 in the same matter are null and void; or*
- alternatively,*
- “(ii) ***to annul and set aside in its entirety*** the decision issued by the “Appeal Tribunal” of the World Karate Federation on 21 July 2014 in the matter 1/2014 involving the Appellant, which confirmed the disciplinary sanction of suspension of the Appellant's WKF membership for one year, imposed by the WKF DT decision of 25 April 2014;

or, subsidiarily:

- (iii) **to declare** that the imposed sanction of suspension of the Appellant's membership for one year is contrary to the principle of proportionality and clearly excessive in view of the fact of the case, and impose the disciplinary penalty of warning or reprimand instead, as per Article 11 of the WKF Disciplinary and Legal Rules, and

In any event

- (iv) To order that the Appellant be immediately admitted as a candidate in the upcoming WKF Executive Committee elections, and
- (v) To make any other order the Panel deems appropriate in light of the circumstances of the present proceedings
- (vi) In the event that CAS decides that Article R65.2 par. 1 of the CAS Code does not apply to the present proceedings, **to order** the Respondent to pay the entire costs of the present proceedings; and
- (vii) In any event, **to order** the Respondent to pay the entire costs for the Appellant's legal representation as well as other costs incurred by the Appellant in the course of the present proceedings, to be submitted at a later stage of the proceedings and upon request of the CAS Court Office" (emphasis from the Appellant).

b. The Respondent

4.13. The Respondent argues that art 9 WKF Statutes constitutes a proper legal basis, that the Appellant's actions and conduct were a violation of a rule governing the sport under art 9.2 WKF Statutes, that the disciplinary proceedings were conducted in compliance with the Appellant's due process rights and that the one-year suspension imposed on the Appellant is proportionate.

i. Art 9 WKF Statutes as Proper Legal Basis

4.14. In the opinion of the Respondent the principle "*nullum crimen, nulla poena sine lege*" is met by general formulas prohibiting members to act in prejudice of the interests of the sporting entity or the sport they represent. In the case at stake the Appellant was sanctioned based on art 9 WKF Statutes for having endangered the smooth running of the WKF and its property. It follows from the text of art 9 WKF Statutes that the Appellant is not only expected to act in the best interest of the WKF, but is obliged to do so under sanctions listed by art 11 WKF Statutes.

4.15. The Respondent holds the view that the general duty to act in the best interests of the WKF is, at a very minimum, common sense. However, due to art 9 para 3 WKF Statutes it is even more

an obligation subject to sanctions. The offence and the ensuing sanctions, thus, are clearly defined and listed. It is not necessary that the WKF regulations explicitly prohibit the smooth sunning of the Federation during a handover by not providing the necessary information to install the files and regain control.

- 4.16. The Respondent refers to the case CAS 2014/A/3516, paras 107 – 108, where the Panel required in order for art 9.2 WKF Statutes to apply that the violation of a rule of sport must be identified, but accepted that the rules of sport should not be narrowly construed to refer only to the rules of karate itself. The Respondent holds that such “*rule governing the sport*” existed and exists and should have been recognized by CAS already in the decision referred to. Such rule must be seen in the Spanish Code on Good Governance, in particular, art 4(3)(a) which reads as translated by the Respondent as follows:

“4. Rules of good governance – the executive committee and/ or the delegate commission.

Duties of the members of the executive committee and/ or delegate commission:

***The duty to act loyally** with respect to the federation to which they belong, obliges the members of the executive committee and/ or the delegate commission to abide by the following duties:*

c) refrain from using unduly the federation’s properties or from taking the advantage of their position to obtain patrimonial advantages” (emphasis from the Respondent).

- 4.17. The Respondent further holds, that, in addition to the Spanish Code on Good Governance of Sport Federations a further rule governing the sport in the sense of art 9 WKF Statutes must be seen in art 15 Spanish Real Decreto sobre disciplina deportiva 1591/1992, which applies to all federations based in Spain. Art 15 reads as translated by the Respondent as follows:

“Article 15 Other Serious Violations of the Directors

In addition to the common offenses provided at Article 14 of this Royal Decree, the following constitute serious specific violations by presidents and other members of executive bodies of the sports organisation:

- a) Failure to comply with the decisions of the general assembly, as well as with the electoral rules or other provisions in the Statutes and regulations.*

The violations amounting to an offence shall either be those provided in the statutes and regulations of the Sports organisation bodies or, be those that, in spite of not being provided, are of serious nature or have a special significance” (emphasis from the Respondent).

- 4.18. Finally, the Respondent refers to art 9 of the “Ley Orgánica 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal” which reads as translated by the Respondent:

“Article 9 Data security

1. *The controller or, where applicable, the processor shall adopt the technical and organisational measures necessary to ensure the security of the personal data and prevent their alteration, loss, unauthorised processing or access, having regard to the state of the art, the nature of the data stored and the risks to which they are exposed by virtue of human action or the physical or natural environment” (emphasis from the Respondent).*

4.19. The Respondent concludes from these applicable rules governing the sport under Spanish law subsidiarily to be applied in the present matter that *“any member of an Executive Committee commits a disciplinary offence if he/she (1) violates the duty to act loyally with respect to the federation to which he/she belongs; (2) violates the obligation to refrain from unduly using the assets of a federation; (3) commits any act which, in spite of not being explicitly provided by the rules of the federation, is of serious nature or have a special significance; (4) violates the security of the personal data or creates the risk of their alteration, loss or unauthorised processing or access”.*

ii. Violation of a Rule Governing the Sport under art 9.2 WKF Statutes Hand

4.20. With reference to the two reports ordered by the Respondent it holds as evidenced that the Appellant send CDs and DVDs with almost 25,000 files without any method to install them. This led to a significant period of time when the Respondent was not fully operational. The content of the files was not consistent with those on the website. The WKF was neither the registrant nor the owner of its own official website wkf.net. All traffic was re-directed to the website wkf-web.net registered by the company “Contact Privacy Inc”, which fact put the Respondent at risk of lack of control of the own website and loss of its rights to its domain name or even of the term “wkf” in its internet domain. All this caused the Respondent EUR 10,450 for the intervention of the experts and further damages to be quantified yet. Additional unquantifiable damage could ensue for the functioning and reputation of the WKF. Sensitive data as doping files were at risk of being lost or manipulated.

4.21. The Respondent, thus, finds that the Respondent breached all rules governing the sport quoted. He did not act loyally, thereby causing financial and reputational damages, used unduly the Respondent’s properties, which all his behaviour was of the utmost seriousness and of special significance. The Appellant’s behaviour in the opinion of the Respondent was at least *“not commensurate to his activity as member of the WKF Executive Committee”*. The Respondent holds as aggravating circumstances that the Appellant was the General Secretary which fact justifies a severe sanction. The Respondent finds that the Appellant failed to demonstrate that his behaviour was justified.

iii. Conduct of Disciplinary Proceedings in Compliance with the Appellant’s Due Process Rights

4.22. The Respondent holds that the WKF DT and the WKF AT offered the Appellant various opportunities to defence, extended the set deadlines and granted sufficient access to his

disciplinary file given his continuous violations of the proceedings' confidentiality. The Respondent finds its respective practice to be in compliance with art 102(2) Swiss Criminal Procedure Code, quoted for reference by analogy, and art 35 Spanish Ley 30/1992, de 26 noviembre, del regimen jurídico de las administraciones publicas y del Procedimiento administrativo común, as well as art 7.2 Spanish Civil Code and, by analogy, art 53 Swiss Civil Procedure Code.

- 4.23. In case of assuming, quod non, that the WKF DLC decisions were flawed by procedural defects, the Respondent refers to CAS jurisprudence (CAS 2007/A/1396 & 1402, CAS 2004/A/777 at para 56, and CAS 2006/A/1175 at para 18), holding that CAS panels only did not apply the *de novo* competence for curing procedural flaws if these mistakes had a bearing on the outcome of the case. In the case at stake, the alleged violations in the opinion of the Respondent did not influence the outcome of the disciplinary proceedings, thus, shall be cured by the proceedings before CAS.

iv. Proportionality of the One-Year Suspension of the Appellant

- 4.24. Referring to CAS jurisprudence (CAS 2012/A/2913 at para 109; CAS 2005/C/976 & 986 at para 143), the Respondent understands the principle of proportionality as requiring "*that (i) the individual sanction must be capable of achieving the envisaged goal ... (the "capacity criterion"), (ii) the individual sanction is necessary to reach the envisaged goal and no less intrusive restriction is equally suitable to achieve the aim (the "necessity criterion") and (iii) the constraints which the affected person will suffer as a consequence of the sanction are justified by the overall interest in achieving the envisaged goal (the "balance of interest criterion")*".
- 4.25. The Respondent holds that the Appellant has seriously violated art 9 WKF Statutes by hampering the smooth running of the Federation and putting at risk of losing some data and its intellectual property rights. This violation must have been committed at least by negligence.
- 4.26. The Respondent states that the suspension imposed on the Appellant considered his behaviour having led to the first suspension of six months in the 2013 Disciplinary Proceedings. Thus, no other sanction was to be considered than a further suspension given the seriousness of a second offence. The Respondent holds that this reason is valid irrespective of the CAS decision in CAS 2014/A/3516, because CAS granted the appeal only on legal and technical grounds, but did not exonerate the Appellant from his culpability for his conduct, which was there considered even as an attempted "*coup d'état*". The Respondent's intention "*to create disquiet within the WKF and to besmirch the name of the President*" taken alone would justify a sanction of one year. Neither the lowest sanction of a warning, nor the most severe sanction of expulsion or lifetime ban were considered. The Respondent had to take into consideration the special position of the Appellant as member of the WKF EC and its Secretary General, the steps and costs the Respondent had to invest in order to restore the situation, the absence of any mitigating circumstances and the fact that the sanction actually imposed was the only one capable of ending the Appellant's detrimental behaviour and deterring others from acting in a similar manner.

4.27. In addition, the Respondent invokes its autonomy and discretion as a sporting association, which was recognized by CAS in CAS 2005/C/976 & 986 at paras 123 and 142 et seq, as well as in CAS 2007/A/1717 at para 11.1. The Appellant could not prove that the sanction was “grossly disproportionate” as required by CAS 2012/A/2824 at para 127. In case the Panel considers the one-year suspension disproportionate, *quod non*, a mere warning or reprimand would also be disproportionately lenient.

4.28. The Respondent submits the following prayers for relief:

I. *The appeal filed by George Yerolimpos on 18 September 2014 is dismissed.*

II. *George Yerolimpos shall bear all the costs of this arbitration.*

III. *George Yerolimpos shall reimburse the World Karate Federation for the legal and other costs incurred in connection with this arbitration, in an amount to be determined at the discretion of the Panel”.*

c. Discussion at the Hearing

4.29. At the hearing, the Appellant brought forward substantial arguments against the applicability of the provisions from Spanish law referred to by the Respondent who invoked further laws discussed at para 6.3 below, on the WKF in general and on the present case, in particular. The Appellant held that the Respondent selectively reproduced provisions without showing the scope of the applicability of the respective norms or by assuming that the WKF is a Spanish Federation simply because it was registered in Spain. The Appellant could give partly evidence to his reasoning by translating provisions from the exhibits submitted by the Respondent only in Spanish language and not referred to in its own reasoning. The Respondent could not supply convincing arguments strong enough to destroy the doubts that arose at the hearing.

4.30. The Panel with the agreement of the parties allowed both parties to refer to the documents submitted on 24 November 2014 and included them into the file of the case.

V. CAS JURISDICTION AND ADMISSIBILITY

5.1. For the arguments given in its decision CAS 2014/A/3576 at paras 5.1 – 5.5, the Panel concluded that the 2008 version of the WKF DLR is valid. It follows from its arts 15 read together with 33 and with art 21.12 WKF Statutes that only a last instance decision by the WKF AT may be appealed to CAS. The jurisdiction of CAS in the present procedure derives from these provisions read together with art R47 CAS Code and from the signature of the Order of Procedure by the parties. It was not disputed by the parties.

5.2. Art R47 of the Code reads 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 him prior to the appeal, in accordance with the statutes or regulations of the body.

An appeal may be filed with CAS against an award rendered by CAS acting as first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned”.

- 5.3. Art 21.12 of the WKF Statutes reads as follows:

“Affiliated members and Individuals shall commit themselves to accept no authority other than the one of the WKF. An appeal before the Court of Arbitration for Sport (TAS / CAS) is only possible after having exhausted all the internal resources foreseen in the WKF Statutes”.

- 5.4. Art 15 of the 2008 version of the WKF DLR reads as follows:

“The decisions of the DT are taken in first instance. Those concerned can, within 10 (ten) days after receiving the notification receipt, appeal to the Appeal Tribunal. The appeal will not suspend the DT decision, except when the latter decides so”.

- 5.5. Art 15 of the 2008 version of the WKF DLR must further be read together with art 33 WKF DLR which is as follows:

“The decision taken in last instance by the Appeal Tribunal may be appealed before the TAS / CAS during the 21 (twenty one) days that follow the notification of the decision”.

- 5.6. The parties submitted their Statement of Appeal and Appeal Brief and Answer of Respondent, respectively, within the set deadlines.
- 5.7. It follows from the foregoing reasoning that the Panel finds that CAS has jurisdiction to decide the present case and that the appeal is admissible.

VI. LAW APPLICABLE TO THE MERITS

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

- 6.2. The Panel declares that the regulations applicable on the merits are the WKF Statutes 2012, in particular its arts 9 and 11, the WKF DLR 2008, and, since the WKF has its seat in Spain, subsidiarily Spanish law.
- 6.3. With regard to the subsidiary application of the Spanish laws invoked by the Respondent and disputed by the Appellant, the Panel has good reasons under art R57 para 3 of the CAS Code

for using its power to exclude evidence as to the relevant Spanish law that was available to the Respondent or could reasonably have been discussed by the Respondent before the decisions under appeal had been taken. Besides, the laws referred to by the Respondent were unsatisfactorily demonstrated. The Panel, nevertheless, has considered these laws on its own, but finds that none of them is applicable based on the following reasons:

1. Ley 10/1990, de 15 de octubre, del Deporte

Pursuant to art. 1, this Ley 10/1990, de 15 de octubre, del Deporte is generally applicable to the practice of sports in Spain. Art 12 provides that, to the effects of this Law, Sporting Associations are, amongst others, Spanish Sporting Federations. However, no reference is made to International Federations.

Chapter III of Title III (arts 30 – 40) regulates Spanish Sporting Federations, defined as private entities with legal personality, whose scope of action extends to the Spanish State, comprehending regional sporting federations, clubs, technicians and referees, professional leagues and other interested groups that encourage, practice or contribute to the development of sport.

Pursuant to art 33, Spanish Sporting Federations represent Spain in international competitions and pursuant to art 34, all Spanish Sporting Federations must be registered in the Sports Associations' Registry.

An International Federation such as the WKF, even though seated in Spain, may not be considered as a Spanish Sporting Federation, because:

1. Its scope is global, not limited to the country of its seat (in this case Spain);
2. Only National Federations can be members, and only one per country;
3. Practitioners, clubs, etc are indirect members through their membership to their specific national federation.

2. Real Decreto 1591/1992, de 23 de diciembre, sobre disciplina deportiva

Pursuant to art 2, the scope of sporting discipline under this Royal Decree extends to the entities that form part of the “*sports organization*” of the State. The following are considered as members of the sporting organization of the State: sporting clubs that compete at a national level, Spanish Sporting Federations, professional leagues and club groupings of a national level.

Art 15 quoted by the Respondent covers infringements of directors of sporting organizations. However, it does not cover infringements by any director, but by directors or members of governing bodies of the “*sports organization*” of the State which, however, refers to Spanish Sporting Federations, not International Federations.

As a consequence, RD 1591/1992 on sporting discipline is not directly applicable to the responsibility of directors and board members of an International Federation seated in Spain such as the WKF.

3. Código de buen gobierno de las Federaciones Deportivas Españolas

The Code on Good Governance contains, as stated by the Code itself, mere “*recommendations*” to Spanish Sporting Federations which “*in the free use of their autonomy and self-regulatory powers may adopt it in their statutes or internal working rules*”.

Compliance or not with the Code is considered as an important element when deciding on grants to sporting federations, but is not of a compulsory nature.

It appears undisputed that the WKF has not adopted the Code on Good Governance in its Statutes. As a consequence, the Code on Good Governance is not applicable.

4. Real Decreto 1835/1991, de 20 de diciembre, sobre Federaciones Deportivas Españolas y Registro de Asociaciones Deportivas

This decree is applicable to Spanish Sporting Federations and regulates, in Chapter X, arts 40 and 41, the registration of International Federations in the relevant Registry. Indeed, Art 40.1 provides for the possibility of registering International Federations in the specific section of the Registry dedicated to them. However, contrary to Spanish Sporting Federations, their registration is not mandatory, but only available for those that request it.

This difference can be seen, *inter alia*, in that International Federations are registered in Section 2 of the Sporting Associations' Registry whilst Spanish Sporting Federations are registered in Section 1.

To allow for registration, as noted by the Respondent, International Federations must adapt their Statutes to “*Spanish Law on associations, guaranteeing that the running of the association is done according to democratic principles and representation of its members*”. This requirement, however, does not mean that Spanish Law on Associations (in particular the specific regime for Sporting Associations/Federations) is directly applicable, but that Statutes of International Federations must not be contrary to mandatory rules of the decree’s regime, in particular, with regard to issues regarding respect to democratic principles and representation of their members.

The effects of registration are ruled by art 41 which, basically, provides that if an International Federation is duly registered it will be declared as “*in the public interest*” which allows for certain rights regarding tax exemptions, public grants, access to public credit, etc. However, this does not mean that all legislation applicable to Spanish Sporting Federations is considered applicable to International Federations, even if registered. In particular, registration does not extend the disciplinary regulation applicable to directives of Spanish Sporting Federations to directives of International Federations.

5. Ley Orgánica 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal

This Constitutional Act 15/1999 relates to the protection of personal data and information.

Should it be accepted that the Appellant’s acts are to be considered as breaches of this Act, the power to impose sanctions for breaches of this Act lies with the Spanish Agency for Data Protection (AEPD in Spanish). Since no evidence has been provided that any kind of sanction or even investigation has been initiated by the AEPD against the WKF, this law is irrelevant to the merits of the present case.

VII. MERITS

7.1. The Panel holds with the Panel in CAS 2014/A/3516 at paras 103 and 104 with further reference to CAS jurisprudence that it *“is well established that a sports governing body ... such as the WKF may impose disciplinary sanctions upon its members if they violate the applicable rules and regulations. ... It is, however axiomatic that before a person can be found guilty of a disciplinary offence, the relevant disciplinary code must proscribe the misconduct with which he is charged. Nulla poena sine lege. It is equally axiomatic for the relevant provision with which he is charged to be in breach first in accordance with the contra proferentem rule (that it) will be strictly construed. Nulla poena sine lege clara. ... It is not sufficient to identify a duty; it is necessary as well to stipulate that breach of such duty will attract disciplinary sanctions”*.

7.2. Like in the case CAS 2014/A/3516, the Appellant was charged with a breach of art 9 WKF Statutes. This provision reads as follows:

“9.1 National Federations and individual persons affiliated to the WKF shall undertake to comply with statutory Norms, Rules and Regulations and all provisions issued by the Executive Committee.

9.2 Members shall undertake to work in complete compliance with the rules governing the sport, maintaining a demeanour commensurate with the activity performed.

9.3 Any member in breach of the conditions as per points 9.1 and 9.2 above shall be liable to disciplinary action as set forth herein”.

7.3. Art 13.25.3 WKF Statutes rules on the duties of the General Secretary as follows:

“13.25.3 The duties of the General Secretary shall be:

a) To execute the decisions taken by the Executive Committee;

b) To maintain relationships with the Continental Federations, with the affiliated National Federations and with outside parties;

c) To draw up and take care of the minutes of the Executive Committee and of the Congress meetings”.

7.4. The Panel has no doubt that the fact, undisputed by the Appellant, that he had registered the website www.wkf.net in his own name in 1997 was not in compliance with how a Secretary General of an International Federation running an Olympic sport shall behave in general. The registration of this domain name as his own property and not as the property of the WKF was the reason why Mr Nanos as well as Mr Román were blocked in their proper management of the transfer of the website having been run in Athens and intended to be run in Madrid forthwith after the change of the General Secretary. The Panel considers even worse that the “donation” of the domain name usurped improperly by Mr Yerolimpos from the very beginning did not take place immediately, but was announced on 10 September 2013 by his daughter under a condition and obviously has not been finally executed until present. The parties did not

elaborate at the hearing whether the President of the WKF was aware of the improper registration of the domain name at a time when the relationships between him and his former Secretary General were still cordial. He could obviously have been aware of this fact, as the registration and yearly renewal fees obviously had been paid by Mr Yerolimpos from his private pocket. At the hearing, both persons showed at least the necessary minimum knowledge for understanding this matter. The Panel, thus, also has no doubt that Mr Yerolimpos was aware of the power he retained personally on the website www.wkf.net through his continued ownership of the domain name. It may well be that this was not his intent in 1997 and it may well be that he was not aware and involved into the details of the transfer procedure. The Panel is however convinced, that the fact that the change of ownership did not take place immediately and without further condition, once Mr Yerolimpos had lost his function as General Secretary, happened deliberately. The Panel consequently considers this as intentional inadequate behavior of a Secretary General of an International Sports Federation in general. Even if such a person in such a responsible function is hit by an act which he may well understand as unjust and ill-founded, it follows from such responsibility that he still has to act in the best interests of the federation which has been entrusted to his management. The best interests of the federation in the given context of the present case were and continue to be that the federation shall be the owner of its website domain name.

- 7.5. The Panel is sensitive to the Respondent's argument regarding the Appellant's behaviour and agrees that the Appellant's behaviour was not "*commensurate to his activity as member of the WKF Executive Committee*". Although there were no substantial financial or reputational damage caused to the Federation, Mr Yerolimpos behaved himself in an inappropriate manner.
- 7.6. In order to have such behavior sanctioned by a suspension of one year, an applicable legal norm must exist which declares this behavior a disciplinary offence and allows for ensuing the sanction imposed on the Appellant. It is not sufficient to identify a duty and it is necessary as well to stipulate that a breach of such a duty will attract disciplinary sanctions.
- 7.7. The Panel finds, however, that the Respondent could not demonstrate the existence of any statutory norm, rule or regulation of the WKF or provision issued by the WKF EC under art 9.1 WKF Statutes ruling on the procedure of transfer of the WKF website after the end of the function of the General Secretary and his respective obligations, but also not on his obligations at all at and after the end of his function. Thus, art 9.1 WKF Statutes does not provide for a disciplinary offence, the factual behavior of Mr Yerolimpos could be subsumed to. Art 13.25.3 WKF Statutes only enumerates obligations of the General Secretary during his period of function, but not at or after the end of his function. With the end of the period of one General Secretary all obligations mentioned under art 13.25.3 WKF Statutes move over to the new General Secretary.
- 7.8. As to the second option, art 9.2 WKF Statutes, actually referred to by the WKF DT and WKF AT in the case at stake, the Panel wishes to remind the parties on the respective finding of the Panel in the case CAS 2014/A/3516 at para 108:

“It is, however, a sine qua non of the Article that a rule of the sport can be identified. The Panel accepts that the rules of the sport should not be narrowly construed to refer only to the rules of karate itself, but can be taken to refer to any of the rules listed in no less than 12 Categories in the WKF Rules, Regulations and Conditions”.

- 7.9. In the present case, the Respondent was unable to locate any rule within that list which could relate to the conduct which the Appellant could be charged, and – for the reasons set out above at para 6.3 – failed also to locate any rule of Spanish law that could subsidiarily apply as “*rule governing the sport*”, which is a precondition of any application of art 9.2 WKF Statutes. The Spanish laws quoted by the Respondent could only be used as guidance, but not as law imposing specific duties on directors or board members of the WKF, absent a specific rule in the WKF Statutes. Therefore, they cannot be considered as “*rules governing the sport*” to which art 9.2 WKF Statutes refers.
- 7.10. The Panel, thus, concludes, that there was no disciplinary offence under the WKF rules and applicable subsidiary Spanish law that has been violated by the Appellant. Since there was no such violation, the Respondent was not entitled to impose any disciplinary sanction on the Appellant.
- 7.11. In view of this finding, the Panel does not see a necessity to thoroughly discuss the Appellant’s concerns as to whether the violations of the Appellant’s due process rights amounted to such extent that they cannot be cured by the *de novo* competence of the Panel. The Appellant did not use possibilities for his defense before the WKF DT and WKF AT, which could have been used to his advantage even without such access to his disciplinary file as he had requested. The Panel provided him with access to his disciplinary file and granted him the necessary time in order to use it for his defense before CAS. Thus, the Panel considers that any alleged violation of the Appellant’s right to be heard and other due process rights has been cured by the *de novo* hearing before CAS.
- 7.12. Given the Panel’s finding on the merits, the Panel also does not consider it necessary to discuss whether the sanction of one year suspension imposed on the Appellant was proportional.
- 7.13. Considering the foregoing arguments and as the Panel does not identify a relevant offence to reproach to the Appellant, the Panel decides to uphold the appeal and set aside the Decisions under Appeal.

ON THESE GROUNDS

The Court of Arbitration for Sport hereby rules:

1. The appeal filed by Mr George Yerolimpos on 23 July 2014 against the decision of the Appeal Tribunal of the World Karate Federation of 21 July 2014 and against the decision of the Disciplinary Tribunal of the World Karate Federation of 25 April 2014 is upheld.
2. The decisions rendered by the WKF Appeal Tribunal on 23 July 2014 and by the WKF Disciplinary Tribunal on 25 April 2014 are set aside.

(...)

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