



Arbitration CAS 2013/A/3148 Pan-American Amateur Sambo Federation (PAASF) v. Fédération Internationale Amateur de Sambo (FIAS) & Vasily Shestakov, award of 5 September 2014

Panel: Prof. Petros Mavroidis (Switzerland), President; Mr Michele Bernasconi (Switzerland); Prof. Denis Oswald (Switzerland)

Sambo

Governance

Conditions for production of new evidence

Interpretation of an arbitration agreement

Notion of appealable decision

Timelimit under Article 75 Swiss Civil Code

Timelimit to challenge decisions that are null and void

1. Pursuant to Article R56 para. 1 of the CAS Code, once the appeal brief has been filed, the President of the Panel may authorize the Appellant to supplement it only on the basis of “exceptional circumstances”. The fact that evidence is in the hands of the representatives of a party (and difficult to obtain by the lawyer representing that party) which are located all over the world does not amount to “exceptional circumstances”.
2. According to the Swiss Supreme Court an intent by the parties to waive the right to bring their claims before ordinary courts should not be assumed lightly and therefore arbitration agreements are to be interpreted restrictively. However, where such intent has been established, an arbitration clause must be interpreted according to the general rules of interpretation, including the general rules for interpretation of contracts. In particular, the arbitration clause must be interpreted on the basis of the principle of good faith. The statements of the parties are to be interpreted as they could and should be understood on the basis of their wording and the context as well as under the overall circumstances. The requirement of good faith tends to give the preference to a more objective approach. The emphasis is not so much on what a party may have meant but on how a reasonable man would have understood his declaration.
3. According to established CAS jurisprudence the characteristic features of an appealable decision in the meaning of Article R47 para. 1 of the CAS Code are as follows: a) the form of the communication has no relevance to determine whether there exists a decision or not; b) in principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties; c) a decision is a unilateral act, sent to one or more determined recipients and is intended to produce legal effects; d) an appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an “*animus*

decidendi”, i.e. an intention of a body of the association to decide on a matter.

4. According to Article 75 Swiss Civil Code (“CC”), an appeal against a resolution which infringes the law or the articles of association can be challenged within one month of learning thereof. This time limit is generally considered to be peremptory and cannot be amended. The *dies a quo* of the time limit for the filing of the appeal is not when the decision has been made, but when the party appealing the decision has become aware of the decision. It is not necessary that the decision be formally notified to him by the decision-making body; it is sufficient if the appellant knows of the decision.
5. Under Swiss association law, decisions which are null and void are challengeable at any point in time irrespective of the 21-day time limit of Article R49 of the CAS Code and of the one-month time limit of Article 75 CC. However, the situation is different depending on whether the decision is vitiated by procedural flaws or by manifest errors of law. In the first case, the decision is only voidable and must be challenged within the applicable time limit. In the second case, the decision is null and void and can be contested at any time. However the infringement of substantive law must be particularly serious. A decision is only voidable when it does not respect the Statutes.

I. INTRODUCTION

1. The appeal is brought against “*decisions of the Fédération Internationale Amateur de Sambo (“FIAS”) and its President Vasily Shestakov (“Shestakov”) dated 23 March 2013*”. The Pan-American Amateur Sambo Federation (“PAASF” or “Appellant”) claims that the said decisions were taken in an illegal manner and are the result of a long-term strategy of individuals aiming a) to dismantle the PAASF of all its members; b) to install the Federación Panamericana de Sambo (“FEPAS”) in place of the PAASF, which it occupied since 2005; and c) to replace the PAASF President, Mr Yakov (“Jack”) Kogan (hereinafter “Jack Kogan”) with the FEPAS President, Mr Juan Pablo Melo, as a member of the FIAS Executive Committee.
2. As an initial matter, the Fédération Internationale de Sambo (previously named “Fédération Internationale Amateur de Sambo”) (“FIAS”) and Mr Vasily Shestakov (“Mr Shestakov” or “Second Respondent”) (collectively, the “Respondents”) challenge the jurisdiction of the Court of Arbitration for Sport (“CAS”) to hear the case on the grounds that a) there is no valid arbitration agreement binding the Parties; b) the Appellant has no standing to appeal; c) the internal remedies have not been exhausted; d) the appeal was not timely filed insofar as it is directed against the recognition of the FEPAS as the continental federation for the Pan-American Region and the appointment of Mr Juan Pablo Melo as a member of the FIAS Executive Committee. They furthermore claim that the administration of the FIAS is flawless and well beyond any reproach.

3. With the Parties' agreement, the Panel chose to bifurcate the proceedings and to decide on the CAS jurisdiction as a preliminary matter.

II. THE PARTIES

4. The Appellant is an association under United States law and has its registered office in New Jersey, United States of America. From 2005 until November 2011, it has been the sole continental union representing the national Sambo federations of the American continent within the FIAS. It claims to act in the present proceedings on its own behalf, as well as on behalf of "*the National SAMBO Federations of Canada, United States of America, Mexico, Dominican Republic, Panama and Venezuela*".
5. The First Respondent is an association under Swiss law and has its registered office in Lausanne, Switzerland. The FIAS is the international federation governing Sambo, a Russian martial art and combat sport. Pursuant to Article 1.3 of its Statutes, "*FLAS is composed of National SAMBO Federations, representing SAMBO sport in their respective countries and officially recognized by the National Olympic Committee (NOC) and/or the highest Sports authorities of the corresponding country (in the absence of such bodies state registration is sufficient)*". According to Article 4.2 of the FIAS Statutes, "*Each country shall be represented by only One National Federation*".
6. Mr Shestakov was elected President of the FIAS in November 2009 and has held that position since then.

III. FACTUAL BACKGROUND

7. Below is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings, and evidence adduced. References to additional facts and allegations found in the Parties' written and oral submissions, pleadings, and evidence will be made, where relevant, in connection with the legal analysis that follows. While the Panel has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it deems necessary to explain its reasoning.

III.1 THE BUENOS AIRES MEETING OF 29 OCTOBER 2011

8. On 29 October 2011, the Presidents of a number of national Sambo federations of the Pan-American Region met in Buenos Aires, Argentina, and decided to form a new continental federation under the name of "*Federación Panamericana de Sambo (FEPAS)*".
9. The minutes of the meeting (as translated from Spanish into English by the Respondents) indicate in relevant part the following:
 - Mr Tikhomirov Mikhail Ivanovich, the honorary President of the FIAS, attended the meeting "*as a representative of FLAS, to ensure that the full protocol for creating the Pan-American Federation in accordance with the statutes of FLAS was followed*".

- Were also present:
 1. Franco Bulnes (CHI)
 2. Jonny Chavez Atiaga (PER)
 3. Vito Leone (ECU)
 4. Pablo Solis (URU)
 5. Carlos Maia (BRA)
 6. Marco Videla (PAR)
 7. Antonia Ramirez Rebollar (MEX)
 8. Omar Lopera (COL)
 9. Juan Pablo Melo (ARG)
 10. Eduardo Flors Allendes (ARG)
 11. Anton Ighine (ARG)
- The attendees unanimously approved the final version of the FEPAS Statutes and Mr Juan Pablo Melo was elected President.
- The various FEPAS commissions and committees were then appointed.

III.2 THE FIAS ANNUAL CONGRESS IN VILNIUS, LITHUANIA – 10 NOVEMBER 2011

10. The FIAS convened its members to an ordinary Congress, which took place in Vilnius, Lithuania, on 10 November 2011.
11. 49 representatives of national Sambo federations affiliated to the FIAS were present and decided namely the following:
 - Acceptance of the affiliation of several new national federations as members of the FIAS.
 - The FEPAS was recognized as the sole continental union representing the national Sambo federations of the Pan-American continent within the FIAS.
 - *“To take into consideration the information and approve the decision of the Extraordinary Congress of the National SAMBO federations of Pan-American continent. In accordance with the decision, (...) Mr. Juan Pablo Melo shall be included into the FLAS Executive [Committee] instead of the previous head of Pan-American federation”*; i.e. Mr Jack Kogan, the PAASF President.
12. In relation with the above decisions, it is worth bearing in mind the following provisions of the FIAS Statutes:
 - Article 5.1, first sentence: *“National SAMBO Federations, affiliated to FLAS and representing the countries of the same continent, have the right to establish their own Continental Federations”*.
 - Article 5.2: *“The Presidents of Continental Federations shall be members of the Executive Committee of FLAS as Vice-Presidents”*.
13. It is undisputed that, according to the FIAS Statutes, there shall be only one continental federation per continent (See Statement of Appeal, para. 2; Appeal Brief, para. 3 and Answer,

para. 53). This is furthermore confirmed by the French version of Article 5.1 of the FIAS Statutes (“*Sur un continent une seule fédération continentale peut être établie et reconnue par le FLAS*”).

III.3 THE VARIOUS ACTIONS CARRIED OUT ON BEHALF OF THE PAASF FOLLOWING THE FIAS ANNUAL CONGRESS MEETING IN VILNIUS

14. Between October 2011 and March 2013, “*on behalf of PAASF, Mr. Kogan sent at least eight letters to Mr. Shestakov and the FLAS Executive Committee members (...) to dispute FLAS’ decision to recognize: (1) Mr. Melo’s illegally formed Continental Federation FEPAS, and (2) Mr. Melo as President of the illegally formed and recognized Continental Federation FEPAS, while informing the FLAS President and Executive Committee that their actions violate the FLAS/PAASF Statutes, and the governing law*”.
15. Mr Jack Kogan also argued that the FEPAS had actually never been validly constituted under the laws of Colombia, where it has its registered office, an assertion contested by the Respondents.
16. Mr Jack Kogan’s written interventions to the FIAS remained unanswered.

III.4 THE FEPAS ANNUAL CONGRESS IN CALI, COLOMBIA – 26 SEPTEMBER 2012

17. On 26 September 2012, the FEPAS held its annual Congress in Cali, Colombia.
18. The minutes of the meeting indicate the following:
 - Duly authorised representatives of the following FEPAS members attended the meeting:
 1. Argentina
 2. Barbados
 3. Chile
 4. Colombia
 5. Dominican Republic
 6. Ecuador
 7. Honduras
 8. Mexico
 9. Panama
 10. Salvador
 11. Trinidad and Tobago
 12. Uruguay
 - Representatives of Canada, Venezuela and of the United States of America were present as observers without voting rights as they failed to meet the formal requirements embedded in the FEPAS Statutes.
 - Mr Andrey Moshanov, a FIAS Representative, also attended the meeting as an observer.
 - Para. 12 of the minutes was translated from Spanish into English by the Respondents and reads in pertinent part:

“The situation regarding development of SAMBO in the USA (United States of America) was discussed and there was an exchange of interactions with USA President Jack Kogan.

Mikhail Kozitskiy and Leonid Poliakov spoke and reported on their problems in working with Jack Kogan.

Panama Sambo Federation representative Cesar Chu made a motion to impose disciplinary sanctions against the US Sambo Federation and discuss this problem at the FIAS Congress.

FEPAS President Juan Pablo Melo asked the delegates to be more patient and constructive and not allow action that would lead us to separation and confrontation”.

III.5 THE FIAS AD HOC COMMISSION ON ORGANISATION ISSUES WITHIN THE PAN-AMERICAN REGION

19. In view of the conflicting situation between the competing continental federations for the Pan-American Region, the FIAS Executive Committee established an *“Ad hoc commission on organisation issues within Pan-American”*. The three members of this commission, Mr Dalil Skalli (Chairman, FIAS Vice-president and member of the FIAS Executive Committee), Mr Sergey Eliseev (FIAS Vice-president and member of the FIAS Executive Committee), and Mr Roberto Ferraris (FIAS General Secretary and member of the FIAS Executive Committee) held a *“skype conference”* on 14 January 2013 during which they *“unanimously approved the draft of the strategy to be applied with regards to the situation in Pan-American Sambo, as below*

- 1. Continental entities (Continental Unions, Continental Federations, Continental Confederations, etc), despite the fact that they are formed by the National Sambo Federations, are not the members of FLAS.*
- 2. Therefore, continental entities may have any legal form or shape, but are here exclusively to coordinate development of SAMBO.*
- 3. FLAS has no legal rights to limit and/or prevent foundation of such nongovernmental organizations; has no legal rights to apply any limitative measures and/or sanctions against these National Federations, which expressed the will to join and/or be part of them.*
- 4. FLAS has the exclusive right to organize and manage the overall development and promotion of SAMBO on any and every Continent, as the recognized International Governing Body for SAMBO in the World.*
- 5. FLAS has the exclusive right to approve the only one Continental organization of such kind and to delegate the role to coordinate the development of SAMBO in the Pan-American Continent to this organization on behalf of FLAS.*
- 6. With regards to the current situation when there are two organizations willing to take up the leading role in the development of SAMBO on the continent (PAASF, President J. Kogan and FEPAS, President J. Melo) FLAS has to nominate one of them to serve as the FLAS representative on the continent; decision should be based on the assessment of their capacity and potential.*

With respect to all mentioned above, the Commission decided

- To give all due respect to both organizations and recognize their contribution and achievements in*

promotion and development of SAMBO in America, and

- *To advise both organizations to merge into one and united continental organization by way of calling the Foundation Congress under the supervision from D. Scalli as Chairman of the “FLAS Ad Hoc Commission on Organizational Issues within Pan-America”.*

The FLAS Commission on Organizational Issues within Pan-America will task FLAS General Secretary N. Lentz to include this matter into the agenda of the Executive [Committee] Meeting when appropriate to be discussed further”.

III.6 THE PAASF CONGRESS MEETING IN PUNTA CANA, DOMINICAN REPUBLIC – 3 MARCH 2013

20. On 28 February 2013, the legal counsel of the PAASF wrote to the FIAS President (Mr Vasily Shestakov), its Secretary General (Mr Nikolay Lents) and its 1st Vice-President (Mr Andrey Kliamko) to recall his client’s major accomplishments for Sambo and to complain about (a) the unlawful interference of the FIAS with the rights of the Pan-American national federations to freely form their own continental federation, as well as (b) the recognition by the FIAS of the FEPAS in contravention of its own Statutes. In particular, he emphasized that the FEPAS was not legally formed nor was Mr Juan Pablo Melo properly elected to serve as President of this illegitimate continental federation. In this context, he demanded the FIAS to restore the PAASF as the lawful FIAS recognized continental Sambo federation for the Pan-American Region and that the *“seat previously held by Juan Pablo Melo Bertoli on the FLAS Executive Committee be vacated and that the lawfully elected Pan-American SAMBO Federation President be seated on the FLAS Executive Board in that vacated position immediately, in accordance with the Statutes and past practice”*. The FIAS was requested to address the claims of the PAASF no later than 15 March 2013.
21. On 3 March 2013, the PAASF Congress meeting took place in Punta Cana, Dominican Republic, which was attended by the following individuals:

*Kogan, Jack - PAASF President
Rudman, David - PAASF EC Member
Logvin, Vitaly - Mexico NSF President
Pirela Victor - Venezuela NSF President
Diaz Jesse - Venezuela NSF Secretary General
Zaslavsky, Vitaly - USA NSF Secretary General
Rapoport, Kirill - USA NSF EC Member
La Mont, Alfredo - USA NSF EC Member
Sokolovski, Victor - Canada NSF President
Novae, Irina - Canada NSF Vice President
Monsanto, Leonardo - Dominican Republic NSF President
Romero, Elisio - Dominican Republic NSF Secretary General
Garcia De La Cruz, Osvaldo - Dominican Republic NSF EC Member
Chu, Cesar - Panama NSF President / by proxy”.*

22. In an undated statement sent to the members of the FIAS Executive Committee and contrary to what is indicated in the minutes of the PAASF Congress meeting, Mr Cesar Chu affirmed that his national federation was neither present nor represented at this meeting.
23. According to the PAASF, the individuals mentioned above represented 6 of the 7 recognized National Federations of the Pan-American Region.
24. During this meeting, Mr Jack Kogan was re-elected for another four-year term as the PAASF President.
25. The participants to the Congress meeting discussed a long list of items with regard to the illicit activities of some of the FIAS officials, their improper intrusion in the affairs of national and/or continental federations, their questionable financial actions, as well as the unethical process that led to the admission of new federation members, which actually do not really exist. In this context, they unanimously approved *“to support a letter from PAASF to CAS to force further investigation on the subject of violations by FLAS leadership”* and *“to support a letter to FLAS Executive Committee to demand immediate and voluntary resignation of FLAS President Mr V. Shestakov”*.
26. On 4 March 2013, the PAASF sent an undated letter to Mr Vasily Shestakov, signed by Mr Jack Kogan, Mr Vitaly Logvin, Mr Victor Pirela, Mr Victor Sokolovski, and Mr Leonardo Monsanto asking for his *“immediate voluntarily resignation as the President of FLAS, to save our Sport and our Federation from further embarrassment”*.
27. On 14 March 2013, in an undated letter, exclusively signed by Mr Jack Kogan and sent to Mr Vasily Shestakov, the PAASF expressed its *“strongest protest against the actions of Andrew Moshanov and his announcement of the designation of the host for the 2014 Pan American Championships”*. Mr Jack Kogan demanded *“a clarification to know under whose direction and authority is Mr. Moshanov acting; (...) if the Executive Committee or what other organ of FLAS authorized this intromission into the affairs of a continental federation; (...) what funds are being utilized to pay for these actions”*. An answer was requested from Mr Shestakov on or before 15 March 2013.
28. The PAASF legal counsel’s letter of 28 February 2013, as well as all other letters sent by Mr Jack Kogan to the FIAS, remained unanswered. Consequently, on 19 March 2013, the FIAS was informed that the PAASF was about to *“pursue all appropriate and more formal legal options, including proceeding before the appropriate legal bodies in Switzerland to obtain relief from FLAS’ misconduct”*.

III.7 THE FIAS CONGRESS MEETING IN MINSK, BELARUS – 7 NOVEMBER 2012

29. On 7 November 2012, the FIAS held its annual Congress meeting in Minsk, Belarus. According to the minutes of the meeting, the conflicting situation between the PAASF, the FIAS and/or the FEPAS was not incorporated in the agenda nor discussed by the attending members.

III.8 THE FIAS EXECUTIVE COMMITTEE MEETING IN MOSCOW, RUSSIA – 22 MARCH 2013

30. On 5 March 2013, the FIAS convened its Executive Committee members to a meeting to be held on 22 March 2013. On the agenda was “1) *Re.: the FLAS Executive Board members*; 2) *Re.: the FLAS Calendar (Universiade in Kazan City 2013, Sport Accord World Combat Games in St.-Petersburg in 2013, etc)*; 3) *Miscellaneous*”. The invitation specified that the “*issues to be put onto the FLAS EB meeting Agenda (if any) shall be forwarded to the FLAS Administration (...) before the 10th of March 2013*”.
31. By e-mail dated 8 March 2013, Mr Jack Kogan asked the following items to be included to the agenda of the upcoming FIAS Executive Committee meeting:
 - Restore the PAASF as the lawful FIAS continental Sambo federation for the Pan-American Region;
 - Rescind FIAS recognition of the illegally formed FEPAS;
 - “*We demand that the seat previously held by Juan Pablo Melo Bertoli on the FLAS Executive Committee be vacated and that the lawfully elected Pan-American SAMBO Federation President be seated on the FLAS Executive Board in that vacated position immediately, in accordance with the Statutes and past practice*”.
32. In spite of the fact that he was duly invited to the FIAS Executive Committee meeting of 22 March 2013 and that his attendance expenses were paid for by the FIAS, Mr Jack Kogan was “*formally excluded*” from joining the meeting.
33. According to the minutes of the meeting, the members of the FIAS Executive Committee did not address any of the issues (a) raised in Mr Jack Kogan’s email of 8 March 2013 or (b) associated with the situation between the competing continental federations for the Pan-American Region.
34. As far as the first item of the agenda is concerned (“*the FLAS Executive Board members*”), the members of the FIAS Executive Committee decided “*1. To revoke the powers from Nikolay Lentz as of FLAS General Secretary and to terminate his responsibilities till the next FLAS Congress due to the professional misconduct of his duties and responsibilities. 2. To revoke the powers from Mikhail Shultz as of FLAS Vice-President and to terminate his responsibilities till the next FLAS Congress due to the actions of discrediting nature for FLAS. 3. To revoke the powers from David Rudman as of FLAS 1st Vice-President and to terminate his responsibilities till the next FLAS Congress due to the actions of discrediting nature for FLAS. 4. To revoke the powers from Fazliddin Pulatov as of FLAS Vice-President and terminate his responsibilities till the next FLAS Congress due to the loss of his legitimate status and the actions of discrediting nature for FLAS*”.
35. The other decisions taken were related to the organisation and management of FIAS activities as well as the overall development of Sambo as a sport.

III.9 THE EVENTS FOLLOWING THE FIAS EXECUTIVE MEETING IN MOSCOW

36. On 14 June 2013, the “FLAS *Ad Hoc Commission on organizational issues of SAMBO development within Pan American continent*” held a conciliatory meeting with the goal to terminate the conflict in the Pan-American Region. According to the Respondents “25 federations of this region were heard. Mr Kogan was invited but decided not to attend that meeting”. The Appellant does not dispute this. According to the minutes of the meeting, it was decided:
- to support the decision of the FIAS Congress of 10 November 2011 to recognize the FEPAS as the sole continental union representing the national Sambo federations of the Pan-American continent within the FIAS;
 - to support the FIAS in the present proceedings before the CAS;
 - “to declare the actions of the American Amateur SAMBO Federation and its president, Yakov Kogan, violating the interests of FLAS and causing reputational damage as to FLAS and SAMBO in general. Make a point of the extreme negative situation connected to the arrest of two members of the American Amateur SAMBO Federation headed by Yakov Kogan on suspicion of involvement of two members of the PAASF Executive Committee in illegal activities on laundering of money, obtained through crime, as well as involving to the work with the federation of Alfredo LaMont who was a complicit in a big corruptive scandal in 2002 connected with the definition of the city host for the Olympic Games 2002; to file a petition to the FLAS Executive Committee requesting the expulsion of the American Amateur Sambo Federation from among the FIAS members at the next FLAS Congress 2013”.
37. Also on 14 June 2013, the FEPAS held its annual Congress. Although non-member federations were invited and present, Mr Jack Kogan decided not to attend. The minutes of the meeting indicate the following:
- Mr Juan Pablo Melo voluntarily submitted his resignation as FEPAS President. Nevertheless, he was elected as FEPAS 1st Vice-President.
 - Mr Cesar Chu from Panama was elected new FEPAS President.
 - Mr Victor Pirella from Venezuela was elected as FEPAS 2nd Vice-President.
38. According to the Respondents, “A number of individuals (including Mr Kogan and others who had been provisionally suspended as members of the FLAS Executive Committee) secretly organised a meeting in Kuala Lumpur (Malaysia) on 22 June 2013 and declared it to be an extraordinary FLAS congress. Neither the FLAS president nor any other of the acting members of the FLAS Executive had been informed about, let alone invited to, this clandestine meeting. Respondents strongly dispute that “forty-three national Sambo federations attended and authorized an Extraordinary Congress that was held in Kuala Lumpur, Malaysia”. as asserted by the Appellant. This is simply not true: Many national federations have meanwhile confirmed that they did not attend that meeting and that they were surprised to see their names in the minutes. Others testified that they were not even invited. Minutes were drawn of this meeting which allegedly “decided” to elect a new FLAS Executive Board. The minutes were then brought to the Commercial Register of the Canton de Vaud which changed the entry of FLAS because the application was signed by two (suspended!) members of the FLAS Executive Committee whose suspension had not yet been communicated to the Registrar. When the

true leadership of FLAS became aware of this fraud, it immediately took legal action with the ordinary courts in Lausanne and the Canton de Vaud. It was also able to prevent the raiders from depleting the funds of FLAS with its bank. Meanwhile, on 23 August 2013, the President of the Tribunal de l'Arrondissement de Lausanne has ordered that the entry in the Commercial Register must be reversed. In particular, he ordered the Commercial Register of the Canton de Vaud to delete the entry of 18 July 2013 and to modify the entry back to the state of 15 July 2013. In addition, he ordered to completely delete the signature of Mr Nikolay Lents who was one of the driving forces behind this fraud. This decision is however on appeal now”.

39. On 18 July 2013, the commercial register of the canton of Vaud was amended so that Mr Shestakov was removed from his position as President of the FIAS and replaced by Mr Mikhail Shults. Simultaneously, Mr Jack Kogan as well as Mr Fazliddin Pulatov were registered as Vice-president and Andrejs Birjukovs, David Rudman, Pavel Gorodnov, Gasca Viorel, Eduardas Rudas, Ravshan Akhmedjanov, Kevin Dya, Ata Adayev, and Noman Hasan were registered as members of the FIAS Executive Committee.
40. On 31 October 2013 and following an order issued by the Tribunal d'arrondissement of Lausanne, the entry of FIAS in the commercial register of the canton of Vaud was changed back to the situation prior 18 July 2013. Hence, Mr Shestakov was confirmed as FIAS President.

IV. PROCEEDINGS BEFORE THE CAS

41. On 12 April 2013, the PAASF filed its statement of appeal with the CAS, pursuant to Article R48 of the Code of Sports-related Arbitration (the “Code”), and nominated Mr Michele A. R. Bernasconi, attorney-at-law in Zurich, Switzerland, as arbitrator. Such appeal brief was later amended on 22 April 2013.
42. On 22 April 2013, the PAASF lodged its appeal brief, pursuant to Article R51 of the Code.
43. On 3 May 2013, the Respondents appointed Prof. Denis Oswald, professor of law in Colombier, Switzerland as arbitrator.
44. On 24 May 2013 and within the granted extended deadline, the Respondents filed a joint answer. Included in such answer was a challenge to CAS jurisdiction.
45. On 27 May 2013 and considering the fact that the Respondents were challenging the CAS jurisdiction in the present matter, the PAASF was invited by the CAS Court Office “to file a written submission on the matter of CAS jurisdiction” within 10 days.
46. On 11 June 2013, the CAS Court Office informed the Parties that the Division President of the CAS had decided to grant the PAASF an extension of time until 17 June 2013 to file its submission limited to CAS Jurisdiction.
47. On 18 June 2013, the CAS Court Office acknowledged receipt of the PAASF’s submission on CAS jurisdiction. It also invited the Parties to express whether their preference was for a hearing to be held or not.

48. On 21 June 2013, the CAS Court Office acknowledged receipt of the PAASF payment towards the advance of costs for this procedure and informed the Parties that the Panel to hear the case had been constituted as follows: Mr Dirk-Reiner Martens, President of the Panel, Mr Michele A. R. Bernasconi, and Prof. Denis Oswald, arbitrators. Following an objection by the Appellant as to Mr Martens' nomination as President of the Panel, Mr Martens resigned from the Panel and was replaced by Prof. Petros C. Mavroidis, professor of law in Commugny, Switzerland. The Panel is assisted by Mr Patrick Grandjean, *ad hoc* clerk, and Mr Brent J. Nowicki, CAS Legal Counsel.
49. On 12 July 2013, the Parties were advised that the Panel chose to bifurcate the proceedings and to decide on the CAS jurisdiction as a preliminary matter.
50. On 23 July 2013, the CAS Court Office informed the Parties that the Panel took good note of the request of the PAASF to conduct oral arguments concerning CAS jurisdiction and the Respondents' objection against a hearing. Furthermore, the Parties were invited to submit one final round of written submissions on the issue of jurisdiction. Within this submission, the PAASF was required to *"confirm whether it shall be considered the appellant in these proceedings, as opposed to a federation filing on behalf of its member national federations (i.e. Canada, U.S.A., Dominican Republic, Panama, Colombia, and Venezuela). To the extent the PAASF is filing on behalf of its member national federations, please submit within the same deadline written powers of attorney for the members on behalf of which the PAASF claims to file the appeal"*.
51. On 22 August 2013, the PAASF filed its final submission on CAS Jurisdiction. On 28 August 2013, the CAS Court Office acknowledged receipt of the PAASF's submission and granted the Respondent 21 days to submit their response.
52. On 24 September 2013, within the granted deadline, the Respondents filed their final response.
53. On 23 October 2013, the CAS Court Office informed the Parties of the following:

"The parties are advised that the Panel, having considered the parties' respective submissions, has decided pursuant to Article R56 of the Code to hereby first call the parties to a hearing in an effort to resolve this dispute through conciliation before taking any decision on jurisdiction.

In the event that during such hearing the Panel concludes that the dispute cannot be solved by conciliation, the parties will be asked to make oral submissions on the issue of jurisdiction in a second part of the hearing.

In this regard, for the avoidance of doubt the parties should note that the Panel has neither rendered a decision on jurisdiction nor prejudged the parties' respective positions. The parties are advised that the Panel's efforts to use conciliation will not impair the Panel's ability to render a decision on jurisdiction, if necessary. The parties are therefore encouraged to use their best efforts to resolve this dispute amicably during the hearing".
54. On 5 December 2013 and in response to the Appellant's various enquiries, the CAS Court Office advised the Parties that the conciliation process suggested by the Panel was based on

Article R56 para. 2 of the Code, which provides that the “*Panel may at any time seek to resolve the dispute by conciliation. Any settlement may be embodied in an arbitral award rendered by consent of the parties*”.

55. The hearing was scheduled for 8 January 2014, with the agreement of all the Parties to the present proceedings.
56. The hearing was held on 8 January 2014 at the CAS premises in Lausanne. The Panel members were present and assisted by Mr Brent J. Nowicki, CAS Legal Counsel, and Mr Patrick Grandjean, *ad hoc* Clerk.
57. The following persons attended the hearing:
 - the Appellant was represented by Mr Jack Kogan, assisted by its legal counsel, Mrs Jennifer Yuen;
 - the Respondents were represented by Mr Andrey Moshanov, FIAS’ head of Development and Mr Artur Melikyan, assisted by Mr Stephan Netzle, lawyer.
58. At the hearing, the Parties’ representatives agreed to suspend the proceedings until 31 March 2014 in order to attempt conciliation.
59. On 21 March 2014, the Appellant’s counsel informed the CAS Court Office that the Parties failed to find consensus and requested for a hearing to be conducted.
60. On 27 March 2014, Mr Netzle confirmed that “*to date, no settlement between the parties has been achieved*”, but also stated that Mr Shestakov was to meet in May 2014 with Mr Mikhail Shults (who appeared as FIAS President in the commercial register of the canton of Vaud between July and October 2013) to “*find an amicable solution for the future management of FIAS and to settle all related litigation*”, including the present procedure.
61. On 9 April 2014, Ms Yuen explained to the CAS Court Office that there were indeed “*various proceedings occurring outside this [i.e. the CAS 2013/A/3148 PAASF v. FIAS & Vasily Shestakov procedure] involving different parties and legal representatives and different claims*”. However, she refuted that the discussion between Mr Shestakov and Mr Shults could have any impact on the present proceedings, as her clients were not included in the global settlement discussions. As a consequence, Mrs Yuen was of the view that there was no reason to wait for the outcome of the negotiations referred to by Mr Netzle and which were to be carried out in the beginning of May 2014.
62. A second hearing was scheduled for 24 June 2014, with the agreement of all the Parties to the present proceedings.
63. On 10 June 2014, the Parties signed and returned to the CAS Court Office a copy of the Order of Procedure, amended with some formal clarifications.

64. The hearing was held on 24 January 2014 at the CAS premises in Lausanne. The Panel members were present and assisted by Mr Fabien Cagneux, CAS Legal Counsel, and Mr Patrick Grandjean, *ad hoc* Clerk.
65. The following persons attended the hearing:
- the Appellant was represented by Mr Jack Kogan, assisted by its legal counsels, Ms Jennifer Yuen and Ms Anna Tarasyuk and by Ms Anastasia Selegen, interpreter.
 - the Respondents were represented by Mr Alexander Kozlovskiy, Mr Artur Melikyan and Mr Andrey Moshanov, FIAS’ Head of Development, assisted by Mr Stephan Netzle, legal counsel.
66. At the outset of the hearing, the Parties confirmed that they did not have any objection as to the constitution and composition of the Panel. The Panel heard evidence from the following persons, who were examined and cross-examined by the Parties, as well as questioned by the Panel:
- Mr Jack Kogan;
 - Mr Alfredo LaMont, an independent sports consultant;
 - Mr Nikolay Lents, FIAS’ former Secretary General;
 - Mr David Rudman, FIAS’s former Vice-President;
 - Mr Vasily Shestakov.
67. Only the first two persons were present, whereas the others were heard via teleconference, with the agreement of the President of the Panel and pursuant to Article R44.2 para. 4 of the Code, which is also applicable to appeal arbitration procedure (see Article R57, para. 3 of the Code).
68. Each person heard was invited by the President of the Panel to tell the truth subject to the consequences provided by Swiss law.
69. After the Parties’ closing arguments, the Panel closed the hearing and announced that its award would be rendered in due course. At the conclusion of the hearing, the Parties confirmed that their right to be heard and to be treated equally in the present proceedings before the Panel had been fully respected.

IV.1 THE APPEAL

70. The PAASF submitted the following requests for relief:

“PAASF hereby respectfully requests CAS to rule that:

97. *The statement of appeal of PAASF is admissible per Section VI Para. 27 of FLAS Statutes;*
 98. *FLAS rescind a series of decisions formalized during a FLAS meeting held on March 22, 2012 by taking the following actions:*
 - (i) *Rescind recognition of the FEPAS organization illegally formed under by Mr. Melo and remove Mr. Melo from the Executive Committee of FLAS, an act that was formally recognized at a FLAS meeting that was held on March 22, 2013;*
 - (ii) *Restore PAASF as the lawful FLAS-recognized Continental Sambo Federation for the Pan American region;*
 - (iii) *Restore Mr. Kogan to his lawful place as a member of the Executive Committee of FLAS;*
 - (iv) *Declare the acts of FLAS and Mr. Shestakov as established in this appeal as illegal and a violation of the FLAS Statutes and applicable law, and require FLAS and Mr. Shestakov to produce certain FLAS commercial, contract, and financial documents and accountings that commenced the wrongful acts of FLAS and Mr. Shestakov;*
 - (v) *Provide the members with an accounting of the finances of the FLAS.*
 99. *FLAS contribute to the attorney's fees and costs of PAASF in bringing this proceeding before CAS since FLAS failed to have this matter resolved within FLAS (see Art. R64.5 of the Code of Sports Arbitration);*
 100. *CAS render such other relief in favor of PAASF as is just, equitable, and lawful.*
 101. *PAASF hereby reserves its right to amend its claims for relief as provided in the CAS Code of Sports Related Arbitration and under applicable law insofar as additional facts are established in this action requiring additional requests for relief".*
71. The submissions of the PAASF regarding CAS jurisdiction, in essence, may be summarized as follows:
- At the meeting held on 22 March 2013, the Executive Committee members "*constructively recognized a series of actions dating back to October 2011, which are, and continue to be ongoing violations of the FLAS Statutes*". These actions include the formal recognition of the illegally formed FEPAS and the introduction of Mr Juan Pablo Melo to the FIAS Executive Committee *in lieu* of Mr Jack Kogan.
 - "*It was also during this meeting that the decision was made to move the FLAS World Sambo Masters Championship to Bulgaria from where it was previously scheduled to be held in America*". This last minute change caused great harm to the American Amateur Sambo Federation, which had been previously selected to host this championship and which already had invested both time and money in the preparation of this event. Should the CAS dismiss this case on the lack of a decision, it "*would in effect, punish the PAASF (on behalf of the five national SAMBO federations it represents) for attempting to seek an amicable resolution without involving a third party and might otherwise leave PAASF without remedy*".
 - According to the FIAS Statutes, an Executive Committee member can be removed from the Executive Committee only if the FIAS Congress has voted to this effect. No vote to this effect has occurred to this day as far as Mr Jack Kogan is concerned. Therefore, in his

capacity as PAASF President and member of the FIAS Executive Committee, Mr Jack Kogan should have been granted access to the FIAS Executive Committee meeting of 22 March 2013. By preventing him from participating in the Executive Committee meeting and by refusing to include Mr Jack Kogan's items to the agenda of the meeting, the FIAS took a "*constructive decision*", which can be appealed against.

- The FIAS decision to remove Mr Jack Kogan from the FIAS Executive Committee was taken in retaliation against him for sending a letter on 19 March 2013, notifying the FIAS that the PAASF was about to "*pursue all appropriate and more formal legal options, including proceeding before the appropriate legal bodies in Switzerland to obtain relief from FLAS' misconduct*".
- CAS has jurisdiction to hear this dispute as the FIAS has committed a denial of justice. As a matter of fact, between October 2011 and March 2013, at least 8 letters were sent on behalf of the PAASF to dispute the decisions taken by the FIAS Annual Congress on 10 November 2011. "*PAASF has not received a single response from FLAS regarding its efforts to resolve its grievance internally*". "*PAASF's dispute never had the opportunity to be forwarded to the FLAS Congress. As such, PAASF has attempted to exhaust all possible remedies within the FLAS structure and FLAS has been unresponsive. Since FLAS has therefore failed to settle this dispute within FLAS (...) PAASF must bring this dispute before the [CAS]*".
- The denial of justice is furthermore established by the fact that the Respondents were aware of the conflicts following the recognition of the FEPAS as the continental federation for the Pan-American Region and that it took them over a year and a half to organize an extraordinary Congress to hear the issue.
- "*Under CAS jurisprudence, there is no actual "remedy" available to an individual if the federation's rules do not make an internal remedy readily and effectively available to the aggrieved party and grant to a definite procedure*". Since the FIAS has not responded to any letter of the PAASF, filing an appeal with the CAS was the only available remedy. In addition, the FIAS Statutes fail to establish any procedure to handle disputes within the FIAS.
- The appeal was filed timely. "*Respondents state that no appeal was filed within FLAS following the meeting on 10 November 2011. (...). However, no appeal was filed because FLAS blocked requests made by PAASF regarding this issue. Appellants made every attempt to resolve this matter by appealing to the Congress, pursuant to Article 27 of the FLAS Statutes, but were consistently prevented from doing so by FLAS and led to believe that FLAS was "reviewing" the matter, but no formal decision or opinion based upon such review was ever issued and as of this date (...). The lack of a decision by FLAS and the misleading information provided to PAASF and Mr. Kogan after the 10 November 2011 decision led Mr. Kogan to believe that the issue could be resolved within FLAS even though no formal resolution procedures existed. However, it was until the [22] March 2013 meeting when Mr. Kogan was barred from participating, that it became clear that FLAS had no intention to actually review the 10 November 2011 decision, and thus this appeal is well within the time limits under CAS Rule 49*". The decision to bar Mr Jack Kogan from taking part to the FIAS Executive Meeting in Moscow on 22 March 2013 constitutes an appealable decision.
- The FIAS Statutes contain a valid arbitration clause giving the CAS jurisdiction over disputes arising between the Parties. "*Contrary to the Respondents' claim, Article 27 of the FLAS Statutes is binding upon the Parties as PAASF is and continues to be a "federation affiliated with*

FLAS” as it represents the interests of national federations which are members of FLAS, and because Mr. Shestakov has consented to the jurisdiction of FLAS (sic) via his position as President of FLAS which allows him to take actions on behalf of FLAS and act as a representative of the federation”. Article 27 of the FIAS Statutes makes a clear distinction between “FLAS members” and “Federations affiliated with FLAS”. This provision does not state that only “members” may apply to CAS. It explicitly states that “federations affiliated with FLAS” (i.e. the PAASF) may bring a dispute before CAS. The Respondents’ assertion according to which continental federations are not “federations affiliated with the FLAS” is inconsistent with the numerous obligations imposed upon them by the FIAS Statutes.

- Mr Vasily Shestakov is subject to CAS jurisdiction *“because he is an agent of FLAS and under the theory of alter ego liability due to his failure to recognize corporate formalities”*. He is furthermore bound by the arbitration agreement, as he is the signatory of the FIAS Statutes as well as *“under the principles of agency law which provide that agents who have been empowered to act on behalf of a disclosed principal are bound by the terms of an arbitration agreement. In this case, Article 27 of the FLAS Statutes explicitly states that the President “represents the interests of the [FLAS] at the International level”*.
- Mr Vasily Shestakov is also subject to CAS jurisdiction because he must be held accountable for the actions taken pursuant to Articles 21.5 and 21.7 of the FIAS Statutes.
- On the basis of Article 75 of the Swiss Civil Code, the PAASF may bring its appeal before the CAS within a month. *“At the Executive Committee meeting of March 22, 2013, the FLAS made numerous decisions in violation of the FLAS statutes. Since Mr. Kogan was formally excluded from the meeting, Mr. Kogan on behalf of PAASF did not consent to any of the resolutions that infringed upon the FLAS. It has been less than one month since Mr. Kogan learned of FLAS illegal actions during the 22 March 2013 Executive Board meeting”*. In any event, the PAASF lodged its appeal within the 21-day deadline set forth in Article R49 of the Code.
- If the CAS declines jurisdiction, it will then allow the FIAS to get away with all its condemnable activities and decisions, which are disrespectful of its own Statutes. Hence, for instance, the decision to replace Mr Jack Kogan by Mr Melo in the FIAS Executive Committee was taken in violation of the procedure laid down in the FIAS Statutes. This also applies to the decision to recognize the FEPAS as the FIAS continental federation for the Pan-American Region. Likewise, the members of the PAASF failed to respect the PAASF as well as the FIAS regulations when they created the FEPAS, which is therefore illegitimate and not constituted in a legally effective way.

IV.2 THE ANSWER

72. On 24 May 2013, the Respondents filed a joint answer containing the following prayers for relief:

- “(1) The CAS shall reject the appeal because of lack of jurisdiction.*
- (2) To the extent the appeal is deemed admissible, it shall be dismissed in its entirety.*
- (3) The Appellant shall bear the costs of this arbitral proceeding.*

(4) *The Appellant shall contribute an amount to the legal costs of the Respondents*”.

73. The Respondents’ submissions regarding CAS jurisdiction, in essence, may be summarized as follows:

- It is not clear whether the PAASF is to be considered as sole appellant or whether it is acting on behalf of some national federations. The PAASF did not give a straight answer to the CAS Court Office letter of 23 July 2013, whereby it was required to *“confirm whether it shall be considered the appellant in these proceedings, as opposed to a federation filing on behalf of its member national federations (i.e. Canada, U.S.A., Dominican Republic, Panama, Colombia, and Venezuela)”*.
- *“On the one hand, PAASF’s counsel submits Powers of Attorney of three member federations (Dominican Republic, the USA and Canada) according to which the PAASF is entitled to act on their behalf. Powers of Attorney of two further federations (Mexico and Venezuela) have been announced but not provided to date. Thus, from six federations mentioned in the Appeal Brief only half of them are still on board”*.
- The PAASF does not give any explanation regarding why the concerned national federations are entitled to file an appeal in the present proceedings and on which circumstances their standing is based.
- Mr Vasily Shestakov is the FIAS President. In this capacity, he is not competent to recognise or dismiss any continental federations. *“Actually, there are no “decisions” of the President which may be regarded as decisions which could be subject to this appeal. He has definitely no standing to be sued in these arbitral proceedings”*.
- Article 27 of the FIAS Statutes grants the right to apply to the CAS only to *“federations affiliated with FIAS”* and not to continental federations, non-FIAS members or individuals. Hence, the PAASF has no standing to appeal. Likewise, Mr Vasily Shestakov is not bound by the statutory arbitration clause provided under Article 27 of the FIAS Statutes. In addition, he also does not accept the jurisdiction of the CAS.
- The appeal is essentially directed against the recognition of the FEPAS as the continental federation for the Pan-American Region and the appointment of Mr Juan Pablo Melo as a member of the FIAS Executive Committee. Those decisions were not taken during the FIAS Executive Committee meeting of 22 March 2013 but much earlier; i.e. at the FIAS ordinary Congress, which took place in Vilnius, Lithuania on 10 November 2011. *“As a matter of fact, not one single of the Appellant’s Requests for Relief concerns a decision which was taken”* on 22 March 2013.
- It is not reasonable to claim that a decision taken in November 2011 can be appealed against in April 2013, i.e. more than a year and a half later.
- The PAASF, as well as Mr Jack Kogan, were well aware of the content of the decisions taken during the FIAS ordinary Congress of 10 November 2011. This is established by the numerous letters sent by Mr Jack Kogan immediately after the said Congress. Consequently, the time limit for an appeal against decisions taken in November 2011 has expired well before the beginning of the present proceedings.

- The fact that Mr Jack Kogan was denied access to the FIAS Executive Committee meeting of 22 March 2013 is not an autonomous decision but only the consequence of a resolution validly taken on 10 November 2011 and which had never been challenged.
- Likewise, neither Mr Jack Kogan nor PAASF had any statutory right to request FIAS Executive Committee to include some items to the agenda of its upcoming meeting of 10 March 2013. Hence, the fact that those demands were rejected does not constitute an appealable decision.
- *“To sum up, there is no “decision” against which the appeal is directed”.*
- *“According to Article 27 of the FLAS Statutes, any dispute arising shall be resolved within the FLAS. If a dispute remains unresolved after assistance of the Bureau of FLAS and the Executive Committee of FLAS, it shall be forwarded to the Congress for resolution. This possibility has not been exhausted to date. None of the members of the FLAS has submitted a formal proposal to re-consider the matter of recognition of the FEPAS instead of the PAASF by the next Congress. Whether or not Mr Kogan or the PAASF made any proposals or suggestions does not matter”.* As a result, the internal remedies have not been exhausted, yet.
- There is no denial of justice. The FIAS did not fail to make a formal decision. On the contrary, it recognised the FEPAS as the continental federation for the Pan-American Region and its resolution was formally adopted. The FIAS Statutes do not grant to non-members (such as the PAASF) a right to review FIAS decisions. Hence, PAASF was not deprived of any right whatsoever. For the same reason, the PAASF’s reference to Article 75 of the Swiss Civil Code is irrelevant.
- It is undisputed that, following the FIAS annual Congress in Vilnius in November 2011, Mr Jack Kogan sent several letters to dispute the FIAS’s decision to recognize the FEPAS as the continental federation for the Pan-American Region and to appoint Mr Juan Pablo Melo as a member of the FIAS Executive Committee. It is also accepted that Mr Jack Kogan’s letters remained unanswered. If the Appellant wanted to challenge FIAS’s lack of reply, it should have done so, at the latest after the FIAS annual Congress in Minsk in November 2012, where the various objections raised by the Appellant were not addressed at all.

V. PRELIMINARY PROCEDURAL ISSUES – DOCUMENT REQUEST AND NEW EVIDENCE FILED BY THE APPELLANT

1. *The document request*
74. In its appeal brief, the Appellant moved the CAS to compel the Respondents to *“Provide the members with an accounting of the finances of the FLAS”*. On 17 June 2014, and for the first time, it specifically asked the CAS to request from the Respondents the production of *“the financial statement and general ledger for FLAS from 2009 until present”*.
75. Pursuant to Article R44.3 para. 1 of the Code, which is also applicable to appeal arbitration procedures (see Article R57, para. 3 of the Code), *“A party may request the Panel to order the other*

party to produce documents in its custody or under its control. The party seeking such production shall demonstrate that such documents are likely to exist and to be relevant”.

76. In a letter dated 20 June 2014, the Appellant exposed that the requested documents were of relevance as they would a) corroborate the fact that the Respondents have engaged in serious corporate governance infringements of the FIAS Statutes and b) establish whether the Respondents were interfering *“with the rights of PAASF and its members federations by funding the creation of alternative federations, including alternative Continental Federations, in derogation of the rights of the then properly recognized federations under the FLAS Statutes”*.
77. The Panel observes that the appeal is directed against the FIAS decision to recognize the FEPAS as the continental federation for the Pan-American Region and to appoint Mr Juan Pablo Melo as a member of the FIAS Executive Committee. Furthermore, at this stage of the procedure, the only issue to be addressed by the Panel is whether the CAS has jurisdiction to hear the Appellant’s request for arbitration. In this context, the production of *“the financial statement and general ledger for FLAS from 2009 until present”* appears to be unrelated and of no relevance to the present decision. At least, the Appellant failed to prove otherwise in its written submissions or during the hearings before the CAS.
78. Under these circumstances, the Panel dismisses the Appellant’s request based on Article R44.3 of the Code.
2. *New evidence*
79. With an email sent on 23 June 2014, the Appellant submitted a significant amount of new documents.
80. At the hearing before the CAS, the Respondents confirmed to the Panel that they objected to the production by the Appellant of this new evidence.
81. Article R56 para. 1 of the Code provides as follows:

“Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer”.
82. Pursuant to this provision, once the appeal brief has been filed, the President of the Panel may authorize the Appellant to supplement it only on the basis of “exceptional circumstances”. In the present matter, at the hearing before the CAS, the Appellant’s counsel explained that during the preparation for her oral argument, she found it necessary to submit some new evidence, which was difficult to obtain because it was in the hands of her client’s representatives, located all over the world. Such situation does not amount to “exceptional circumstances”. This is particularly true as no explanation was given as to why those documents could not have been submitted at an earlier stage of the procedure.

83. In addition, the Appellant was not able to convince the Panel that the documents presented on 23 June 2014 would be of relevance for the issue of the present decision on jurisdiction. As a consequence, based on Article R56 of the Code and in the absence of exceptional circumstances, the documents presented by the Appellant on 23 June 2014 must be excluded from the proceedings.

VI. APPLICABLE LAW

84. Article R58 of the Code provides the following:

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

85. The FIAS Statutes do not designate an applicable law. Furthermore, the Parties have not agreed on the application of any particular law.
86. Thus, in accordance with the foregoing provision, subject to the primacy of applicable FIAS regulations, Swiss Law shall apply complementarily, as it is the law of the country in which the FIAS is domiciled. The Panel is comforted in its position by the fact that, in their respective submissions, the Parties refer exclusively to FIAS’s regulations as well as to Swiss law.

VII. CAS JURISDICTION AND ADMISSIBILITY

87. The Respondents challenge the jurisdiction of the CAS to hear the case on the grounds that a) there is no valid arbitration agreement binding the Parties; b) the Appellant has no standing to appeal; c) the internal remedies have not been exhausted; d) the appeal was not timely filed insofar as it is directed against the recognition of the FEPAS as the continental federation for the Pan-American Region and the appointment of Mr Juan Pablo Melo as a member of the FIAS Executive Committee.
88. At the outset, the Panel notes that the Respondent intertwined its objection on jurisdiction (Article R47 of the Code) with its objection on admissibility (Article R49 of the Code). As jurisdiction and admissibility are two different legal challenges – and two distinct requirements under the Code and the law – both must be treated and analysed separately.

VII.1 JURISDICTION

89. It is generally accepted that the choice of the place of arbitration also determines the law to be applied to arbitration proceedings. The Swiss Private International Law Act (hereinafter “PILA”) is the relevant arbitration law (DUTOIT B., *Droit international privé Suisse*, Commentaire de la loi fédérale du 18 décembre 1987, Bâle 2005, N. 1 on Article 176 PILA; TSCHANZ P-Y., in : *Commentaire romand, Loi sur le droit international privé - Convention de Lugano*, 2011, n° 1, p. 1627, ad art. 186 LDIP). Article 176 para. 1 PILA provides that the

provisions of Chapter 12 of PILA regarding international arbitration shall apply to any arbitration if the seat of the arbitral tribunal is in Switzerland and if, at the time the arbitration agreement was entered into, at least one of the parties had neither its domicile nor its usual residence in Switzerland.

90. The CAS is recognized as a true court of arbitration (ATF 119 II 271). It has its seat in Lausanne, Switzerland. Chapter 12 of the PILA shall therefore apply as at least one of the Parties in the present dispute has neither its domicile nor its usual residence in Switzerland.
91. Pursuant to Article 176 para. 2 PILA, the provisions of Chapter 12 do not apply where the parties have excluded its application in writing and agreed to the exclusive application of the procedural provisions of cantonal law regarding arbitration. There is no such agreement in this case. Therefore, Articles 176 et seq. PILA are applicable.
92. In accordance with Swiss Private International Law, the CAS has the power to decide upon its own jurisdiction. In this regard, Article 186 PILA states:
 - “1. The arbitral tribunal shall rule on its own jurisdiction.
 - 1bis. It shall rule on its jurisdiction irrespective of any legal action already pending before a State court or another arbitral tribunal relating to the same object between the same parties, unless noteworthy grounds require a suspension of the proceedings.
 2. The objection of lack of jurisdiction must be raised prior to any defence on the merits.
 3. In general, the arbitral tribunal shall rule on its jurisdiction by means of an interlocutory decision”.
93. According to Swiss legal scholars, this provision “is the embodiment of the widely recognized principle in international arbitration of *Kompetenz-Kompetenz*’. This principle is also regarded as corollary to the principle of the autonomy of the arbitration agreement” (ABDULLA Z., The Arbitration Agreement, in: KAUFMANN-KOHLER/STUCKI (eds.), International Arbitration in Switzerland – A Handbook for Practitioners, The Hague 2004, p. 29). “Swiss law gives priority to the arbitral tribunal to decide on its own competence if its competence is contested before it (...). It is without doubt up to the arbitral tribunal to examine whether the submitted dispute is in its own jurisdiction or in the jurisdiction of the ordinary courts, to decide whether a person called before it is bound or not by the arbitration agreement” (MÜLLER C., International Arbitration – A Guide to the Complete Swiss Case Law, Zurich et al. 2004, pp. 115-116). “It is the arbitral tribunal itself, and not the state court, which decides on its jurisdiction in the first place (...). The arbitral tribunal thus has priority, the so-called own competence” (WENGER W., n. 2 ad Article 186, in: BERTI S. V., (ed.), International Arbitration in Switzerland – An Introduction to and a Commentary on Articles 176-194 of the Swiss Private International Law Statute, Basel et al. 2000). The provisions of Article 186 are applicable to CAS arbitration (RIGOZZI A., L’arbitrage international en matière de sport, thesis Geneva, Basel 2005, p. 524; CAS 2005/A/952).
94. According to Article R47 para. 1 of the CAS Code, the CAS has jurisdiction whenever the parties agreed to refer a dispute to the CAS:

- by means of an arbitration clause inserted in a contract or regulations or of a later arbitration agreement (ordinary arbitration proceedings), or
- by means of an appeal against a decision rendered by a federation, association or sports-related body where the statutes or regulations of such bodies, or a specific agreement provides for an appeal to the CAS (appeal arbitration proceedings).

95. In the present case, the jurisdiction of the CAS arises out of Article 27 of the FIAS Statutes, which states the following:

“27. Dispute Resolution

Federations affiliated with FLAS undertake to resolve any arising disputes within FLAS. Should there be any unresolved disputes with the assistance of the Bureau of FLAS and the Executive Committee of FLAS the resolution of disputes is forwarded to the Congress. Failure to settle the disputes within the FLAS, the applicant may apply to the relevant courts including to the sports arbitration court in Lausanne”.

96. The Panel observes that it is undisputed that “*the sports arbitration court in Lausanne*” (as provided by Article 27 of the FIAS Statutes) refers to the CAS. In addition, the Parties have expressly accepted the competence of the CAS to rule on its own jurisdiction in the present case. The Appellant has repeatedly recognised, in correspondence and submissions, the competence of the CAS to decide both the preliminary issue of jurisdiction as well as the substantive issues in question. In their answers and various submissions, the Respondents recognised the jurisdiction of the CAS, exclusively for the purpose of resolving the jurisdictional issue. So from a contractual standpoint, the parties have agreed that the CAS has jurisdiction to hear this appeal (at least as to the threshold jurisdictional issue).

97. As it follows, the Panel has to resolve the following more substantive jurisdictional issues:

- Is the Appellant entitled to appeal against a decision taken by FIAS?
- Is there a decision which can be challenged before the CAS?

i) Is the Appellant entitled to appeal against a decision taken by FLAS?

a) *In general*

98. According to Article 27 of the FIAS Statutes, the standing to refer a claim to the CAS belongs to “*Federations affiliated with FLAS*”.

99. It is the Appellant’s case that the PAASF is “*affiliated with FLAS*” as it represents the interests of national federations which are members of the FIAS and in view of the numerous obligations imposed upon it (as a continental federation) by the FIAS Statutes. In addition, Article 27 of the FIAS Statutes makes a clear distinction between “*FLAS members*” and “*Federations affiliated with FLAS*”. This provision does not state that only “*members*” may apply to CAS. Mr Vasily Shestakov is also subject to CAS jurisdiction because he must be held accountable for the actions taken pursuant to Articles 21.5 and 21.7 of the FIAS Statutes.

100. According to the Respondents, Article 27 of the FIAS Statutes does not grant the right to apply to the CAS to continental federations, to non-FIAS members or to individuals. The fact that a continental federation organises international championships while complying with FIAS regulations, does not make it a member of the FIAS. In particular, continental federations are not entitled to vote during FIAS Congresses. As regards to Mr Vasily Shestakov, he is not bound by the statutory arbitration clause provided under Article 27 of the FIAS Statutes.
101. In the present case, it is undisputed that upon the existence of certain circumstances and conditions, the CAS may have jurisdiction to deal with a conflict arising within the FIAS. However, there is no consensus of the Parties as to the interpretation of the relevant provision, i.e. Article 27 of the FIAS Statutes.
102. The Swiss Supreme Court had the opportunity to confirm the principles of interpretation of arbitration agreements (Judgement of the Swiss Federal Court 4A_279/2010 of 25 October 2010). The choice of the parties to submit their disputes to arbitration proceedings may have far-reaching consequences, in particular because the legal remedies available to the parties are seriously limited by the waiver of their right to bring their claims before ordinary courts. Consequently, an intent by the parties to waive this right should not be assumed lightly and, in this respect, arbitration agreements are to be interpreted restrictively (Judgement of the Swiss Federal Court 4A_279/2010, at. 3.1 of 25 October 2010). However, where such intent has been established, an arbitration clause must be interpreted according to the general rules of interpretation (ATF 130 III 66 at 3.2 p. 71 et seq. with references).
103. The general rules for interpretation of contracts apply. In particular, the arbitration clause must be interpreted on the basis of the principle of good faith (ATF 132 III 268 at 2.3.2 p. 274 ff; ATF 130 III 66 at 3.2 p. 71 ff; with references). The statements of the parties are to be interpreted as they could and should be understood on the basis of their wording and the context as well as under the overall circumstances (ATF 133 III 61 at 2.2.1 p. 67; ATF 132 III 268 at 2.3.2 p 275; ATF 130 III 417 at 3.2 p. 424 ff, 686 at 4.3.1 p. 689; with references). The requirement of good faith tends to give the preference to a more objective approach. The emphasis is not so much on what a party may have meant but on how a reasonable man would have understood his declaration (ATF 129 III 118 at 2.5 p. 122; 128 III 419 at 2.2 p. 422).

b) *In particular*

104. It is not disputed that a continental federation is not a member of the FIAS. However, the issue to be resolved is whether a continental federation is a “*federation affiliated with FIAS*” (as provided for by Article 27 of the FIAS Statutes) and, therefore has the standing to refer a claim to the CAS.
105. The developments made hereafter should be considered cautiously as they are only based on the submissions made by the parties, and in particularly on the English and French versions of the FIAS Statutes and not on its Russian version, even though the latter may be prevailing in the event of any inconsistencies between the English, French or Russian texts of the Statutes (see Article 3.2 of the FIAS Statutes).

106. On the one hand, in the FIAS Statutes, the term “*affiliated*” is almost systematically associated with national federations (see Articles 2.2; 2.7; 5.1; 11; 13.3; 13.4; 13.6; 14.1; 14.2; 16), which are the only members of the FIAS, together with the honorary members and associated members (see Articles 4.1; 4.3 respectively 4.4), which are obviously distinct from continental federations.

107. However, on the other hand, several provisions of the FIAS Statutes omit to link the term “*affiliated*” to national federations. This is the case – of course – for the litigious Article 27 of the FIAS Statutes but also for Articles 2.4; 22.2; 25.1 and 28.1.

108. Articles 22.2 and 25.1 of the FIAS Statutes are of particular interest:
 - Article 22.2 states that “*the General Secretary shall (...) carry out control that the financial obligations of Continental and National SAMBO Federations affiliated with FLAS are respected*” (emphasis added). The French version of this provision corroborates the fact that continental federations can be “*affiliated with FLAS*” (“*le secrétaire Général effectuera le contrôle pour que les obligations financières des fédérations nationales et continentales affiliées à la FLAS soient respectées*” emphasis added).
 - Article 25.1 provides that “*National SAMBO Federations (...) may only participate in events organized by federations affiliated with FLAS*” (emphasis added). Among those events, there are obviously the international championships, which the continental federations are entitled to organize pursuant to Article 5.3 of the FIAS Statutes.

109. It appears that whenever the term “*affiliated*” is not associated to “*national federations*”, it is the result of a conscious choice made by the rule maker, whose intention was to broaden the scope of the provision in question. Articles 2.4; 22.2; 25.1, 27 and 28.1 of the FIAS Statutes make perfect sense in spite of the fact that they do not refer exclusively to “*affiliated national Sambo federations*”. They can be reasonably understood as including a wider circle of persons/entities other than just national federations.

110. As a result, it appears that the literal interpretation of the FIAS Statutes does not clearly support the fact that it is necessary for a person or a body to be admitted as a member of the FIAS in order to have the right to appeal against its decision before the CAS. However, and in view of the considerations below regarding the timeliness of the Appeal, the question of the Appellant’s standing to appeal can remain unanswered. Likewise and for the same reason, it is not necessary to elucidate whether the appeal was filed on behalf of the sole Appellant or also on behalf of some of its members. It is recalled here that the Appellant has never clearly answered to the Panel’s request to confirm “*whether it shall be considered the appellant in these proceedings, as opposed to a federation filing on behalf of its member national federations (i.e. Canada, U.S.A., Dominican Republic, Panama, Colombia, and Venezuela)*”.

- ii) *Is there a decision which can be challenged before the CAS?*

111. Article R47 para. 1 of the Code provides as follows:

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

112. According to the CAS appeal procedure, an arbitration shall be conducted only if the dispute at issue actually originates from a decision.
113. With its appeal brief, the Appellant requests the CAS to rule that *“FLAS rescind a series of decisions formalized during a FLAS meeting held on March 22, 2012 by taking the following actions:*
 - (i) Rescind recognition of the FEPAS organization illegally formed under by Mr. Melo and remove Mr. Melo from the Executive Committee of FLAS, an act that was formally recognized at a FLAS meeting that was held on March 22, 2013;*
 - (ii) Restore PAASF as the lawful FLAS-recognized Continental Sambo Federation for the Pan American region;*
 - (iii) Restore Mr. Kogan to his lawful place as a member of the Executive Committee of FLAS;*
 - (iv) Declare the acts of FLAS and Mr. Shestakov as established in this appeal as illegal and a violation of the FLAS Statutes and applicable law”.*
114. It is undisputed that the recognition of the FEPAS as the continental federation for the Pan-American Region and the appointment of Mr Juan Pablo Melo as a member of the FIAS Executive Committee instead of Mr Jack Kogan, are the result of a decision, which is obviously challenged by para. 98 (i) to (iii) of the Appellant’s request for relief. The matter which still needs to be resolved is when this decision was taken.
115. This said, the Appellant failed to explain what decision it is actually referring to in its request for relief comprised under para. 98 (iv) of its appeal brief.
116. The characteristic features of a decision have been considered in several previous CAS cases (CAS 2004/A/659; CAS 2005/A/899; CAS 2004/A/748; CAS 2008/A/1633; CAS 2009/A/1917, order of 29 July 2009) and are the following:
 - The form of the communication has no relevance to determine whether there exists a decision or not.
 - In principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties.
 - A decision is a unilateral act, sent to one or more determined recipients and is intended to produce legal effects.
 - An appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an *“animus decidendi”*, i.e. an intention of a body of the association to decide on a matter.

117. The Appellant's request for relief comprised under para. 98 (iv) of its appeal brief is drafted in such general terms, that it does not allow the Panel to identify what decision is actually referred to and/or whether the Appellant is challenging another decision than the one targeted with its requests for relief under para. 98 (i) to (iii).
118. Under these circumstances, the Panel comes to the conclusion that it shall exclusively address the admissibility of the Appellant's request for relief comprised under para. 98 (i) to (iii) of its appeal brief and reject the one under para. 98 (iv) without further consideration.

VII.2 ADMISSIBILITY

i) Was the appeal lodged in a timely manner?

119. Separate to the question of whether the CAS has jurisdiction to hear this appeal as set forth above, the Panel must also consider whether the Appellant's appeal was timely.
120. Article 27 of the FIAS Statutes does not set out a time limit within which an appeal may be brought before the CAS against final decisions. In addition, this provision creates a system of parallel competences, as the "*applicant*" is entitled to proceed before the CAS but also before the "*relevant courts*". It is not clear which court has the priority over the other. However, in both cases, the Appellant's statement of appeal was filed late.

a) Appeal before the CAS

121. Article R49 of the Code governs appeals lodged before the CAS. According to this provision, "*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against*".
122. Article 27 of the FIAS Statutes does not set out a time limit within which an appeal may be brought before the CAS against final decisions. As a consequence and on the basis of Article R49 of the Code, the default deadline of 21 days shall apply.
123. On 12 April 2013, the PAASF filed its statement of appeal with the CAS, i.e. within 21 days after the meeting held on 22 March 2013 by the FIAS Executive Committee. It requested the CAS to rule that "*FLAS rescind a series of decisions formalized during a FLAS meeting held on March 22, 2012 by taking the following actions:*
- (i) Rescind recognition of the FEPAS organization illegally formed under by Mr. Melo and remove Mr. Melo from the Executive Committee of FLAS, an act that was formally recognized at a FLAS meeting that was held on March 22, 2013;*
 - (ii) Restore PAASF as the lawful FLAS-recognized Continental Sambo Federation for the Pan American region;*
 - (iii) Restore Mr. Kogan to his lawful place as a member of the Executive Committee of FLAS".*

124. The FIAS Executive Committee “*is responsible for managing the ongoing activities of FLAS*” (Article 20.1 of the FIAS Statutes). It is “*endowed with all the powers necessary for the financial and technical administration of FLAS. The Executive Committee manages the activities of FLAS. It has in particular the duties to: a) Manage the funds of FLAS; b) Prepare all matters on which the Congress has to take a decision, and present them to the Congress; c) Implement the decisions of the Congress; d) Take all measures which are appropriate to pursue and attain the Aims of FLAS, e) Instruct and supervise the President, the General Secretary, the Treasurer and the Control and Revision and other Commissions, and ensure that they duly perform their duties according to the law and the Statute; f) Ensure due compliance with the Statutes and SAMBO and FLAS regulations; (...)*” (Article 20.4 of the FIAS Statutes).
125. In light of this statutory provision, it appears that the objects comprised under para. 98 (i) to (iii) of the Appellant’s request for relief fall outside of the FIAS Executive Committee’s competence. As a matter of fact, the recognition of a continental federation as well as the election of a member of the FIAS Executive Committee lie within the competence of the FIAS Congress (Article 15 of the FIAS Statutes).
126. In the present case, in compliance with the above findings and with the corresponding articles of the FIAS Statutes, on 22 March 2013, the FIAS Executive Committee did not address any of the issues associated with the situation between the competing continental federations for the Pan-American Region or with Mr Jack Kogan’s substitution by Mr Juan Pablo Melo as a member of the Executive Committee.
127. It is on 10 November 2011 that the FIAS Congress formally a) recognized the FEPAS as the sole continental union representing the national Sambo federations of the Pan-American continent within the FIAS and b) appointed Mr Juan Pablo Melo as a member of the FIAS Executive Committee “*instead of the previous head of Pan-American federation*”; i.e. Mr Jack Kogan, the PAASF President.
128. As a consequence, the appeal of the PAASF is late as it actually seeks the annulment of the decision taken on 10 November 2011.

b) *Appeal before ordinary courts*

129. According to Article 27 of the FIAS Statutes, the Appellant was entitled to proceed before the CAS but also before the “*relevant courts*”.
130. According to Swiss law, an appeal against a resolution which infringes the law or the articles of association can be challenged within one month of learning thereof (see Article 75 of the Swiss Civil Code). This time limit is generally considered to be peremptory and cannot be amended (ATF 132 III 503). In cases of appeals against decisions issued by associations pursuant to Article 75 of the Swiss Civil Code, the *dies a quo* of the time limit for the filing of the appeal is not when the decision has been made, but when the party appealing the decision has been notified of such decision. More precisely, the time limit starts to run when the appellant has become aware of the decision. It is not necessary that the decision be formally notified to him by the decision-making body; it is sufficient if the appellant knows of the

decision (FOËX B., in Commentaire romand, Code civil, vol. I, 2010, N. 26, p. 540, ad art. 75 CC).

131. In the present case, the Appellant was well aware of the decision taken in Vilnius on 10 November 2011. This is established by the numerous letters and complaints sent to the Respondents. Therefore, even if one were to apply the one-month time limit set by Article 75 of the Swiss Civil Code, the time limit to file an appeal has expired long ago, well before the Appellant's statement of appeal lodged on 12 April 2013.

c) *Denial of formal justice*

132. Against the above finding, the Appellant claims that Mr Jack Kogan and the PAASF have exhausted all the legal internal remedies available prior to the appeal filed with the CAS. Between October 2011 and March 2013, on behalf of the PAASF, Mr Jack Kogan sent at least eight letters to Mr Shestakov and to the FIAS Executive Committee members to dispute FIAS's decision of 10 November 2011 but has never received any response. According to the PAASF, the FIAS has therefore committed a denial of justice.
133. An appeal for denial of formal justice is possible when the authority refuses without reason to make a ruling or to delay a ruling beyond a reasonable period. If a body refuses without reason to issue a decision or delays the issuance of a decision beyond a reasonable period of time, there can be a denial of justice, opening the way of an appeal against the absence of a decision (CAS 2004/A/659, award of 17 March 2005; CAS 2005/A/899; CAS 2004/A/748).
134. In the present case, a decision was issued on 11 November 2011 and the Appellant wants to challenge it. The existence of a denial of justice is therefore questionable.
135. In any event and assuming that there was a denial of justice, the Appellant should have lodged its statement of appeal much earlier. Between 11 November 2011 (the date of the challenged decision) and 12 April 2013 (the date of the statement of appeal lodged before the CAS), almost a year and a half passed by. As exposed by the Appellant itself, none of its letters triggered any reaction from the Respondents. Facing such a silence, it was the Appellant's duty to take further measures in order to alleviate the consequences of a decision which it considered prejudicial to its interests and to those of its members. In particular, the Appellant could not reasonably believe that its objections would be dealt with internally, when the next FIAS Congress meeting took place in Minsk on 7 November 2012 without ever discussing the situations of the PAASF and of Mr Jack Kogan. In the Panel's opinion, this was the last moment to file an appeal for denial of justice. To hold otherwise would go against legal certainty as it would allow the Appellant to lodge an appeal at his own discretion and to artificially extend the short deadline set by Articles 75 of the Swiss Civil Code (one month) and/or R49 of the Code (21 days).

d) *The decision of 11 November 2011 is null and void*

136. The Appellant claims that the decision of 11 November 2011 is null and void because it was taken in violation of the FIAS rules and internal procedures. In this regards, it observes that the minutes of the meeting give no indication about how the votes were actually cast.
137. Under Swiss association law, decisions which are null and void are challengeable at any point in time irrespective of the 21-day time limit of Article R49 of the Code and of the one-month time limit of Article 75 of the Swiss Civil Code. However, the situation is different depending on whether the decision is vitiated by procedural flaws or by manifest errors of law. In the first case, the decision is only voidable and must be challenged within the applicable time limit. In the second case, the decision is null and void and can be contested at any time. However the infringement of substantive law must be particularly serious (Judgement of the Swiss Federal Court 4C_57/2006 at 3.2 of 20 April 2006; FOËX B., in Commentaire romand, Code civil, vol. I, 2010, N. 36 et seq., p. 543, ad art. 75 CC). A decision is only voidable when it does not respect the Statutes (ATF 71 I 383).
138. In the present case and according to the minutes of the FIAS Congress meeting, 49 representatives of national Sambo federations affiliated to the FIAS were present and decided to recognize the FEPAS as the sole continental union representing the national Sambo federations of the Pan-American continent within the FIAS and to replace the PAASF President, Mr Jack Kogan with the FEPAS President, Mr Juan Pablo Melo, as a member of the FIAS Executive Committee.
139. The Appellant has not alleged or established that the quorum for the meeting was not reached.
140. At the hearing before the CAS, Mr Nikolay Lents confirmed that the recognition of the FEPAS was not included in the agenda of the FIAS Congress meeting to be held in Vilnius on 11 November 2011. The Panel accepts this evidence as the FEPAS was constituted on 29 October 2011, i.e. less than 40 days before the date of the FIAS Congress meeting, which is the deadline to demand that an item be placed on the agenda (Article 13.4 of the FIAS Statutes). The situation was obviously the same for Mr Jack Kogan's substitution by Mr Juan Pablo Melo as a member of the Executive Committee. However, under certain circumstances and during the FIAS Congress, additional questions may be included in the agenda provided that they are requested by more than one fifth of the representatives from all the affiliated national federations (Article 13.3 of the FIAS Statutes). There is no evidence that this requirement was not fulfilled in the present case. In addition, the Panel observes that Mr Lents is the author of the minutes of the FIAS Congress meeting and even signed them in his capacity of FIAS Secretary General.
141. The fact that the recognition of the FEPAS was not included in the agenda of the FIAS Congress meeting was also confirmed by Mr David Rudman during the hearing before the CAS. He also testified that the vote regarding the FEPAS took place within minutes. Nevertheless, he confirmed that the majority of the representatives attending the meeting voted in favour of the FEPAS, although he suspected that the voters did not understand what they were actually deciding on.

142. The evidence provided by Mr Lents and Mr Rudman does not establish the existence of any procedural flaw in the voting process. On the contrary, it appears that the litigious decision was voted on by a majority of representatives. The fact that the vote took place after short debates is irrelevant. Under these circumstances, the Panel does not see where a possible flaw occurred.
143. In light of the foregoing, it appears that the Appellant failed to establish what procedural flaws affected the decision taken on 11 November 2011, which was – at the best – voidable. In addition, in the present case, nothing in the file on record suggests that the decision taken on 11 November 2011 was vitiated by substantial errors of law.
144. As a result, the Panel finds that the PAASF's appeal was filed out of time.
- e) ***Mr Jack Kogan was barred from taking part to the FIAS Executive Meeting of 22 March 2013***
145. According to the Appellant, the decision to bar Mr Jack Kogan from taking part to the FIAS Executive Meeting in Moscow on 22 March 2013 constitutes an appealable decision.
146. For the reasons exposed here above, the objects comprised under para. 98 (i) to (iii) of the Appellant's request for relief fall outside of the FIAS Executive Committee's competence. As a matter of fact, the recognition of a continental federation as well as the election of a member of the FIAS Executive Committee lies within the competence of the FIAS Congress (Article 15 of the FIAS Statutes).
147. Therefore, whether Mr Jack Kogan was barred from taking part to the FIAS Executive meeting of 22 March 2013 is of no relevance in the case at hand. Had he been admitted to the said meeting, it would have had no impact on the present procedure.
148. In addition, the fact that Mr Jack Kogan was denied access to the FIAS Executive Committee meeting of 22 March 2013, is the consequence of the decision taken of 10 November 2011, which had never been challenged at that moment. As a matter of fact, pursuant to Article 5.2 of the FIAS Statutes, the President of a continental federation becomes an *ex officio* member of the FIAS Executive Committee. When the FIAS Congress recognized the FEPAS as the continental federation for the Pan-American Region, Mr Juan Pablo Melo automatically became a member of the FIAS Executive Committee, replacing Mr Jack Kogan.
149. In addition it was not the first time that Mr Jack Kogan was prevented from taking part in a meeting. It is not disputed that he had been previously asked to leave the room during FIAS Executive Committee meetings (namely held on 27 April 2012 in Moscow and on 29 September 2012). If he did not agree with his exclusion, he should have appealed against it much earlier.

f. Conclusion

150. Based on the foregoing, the Panel finds that the Appellant's statement of appeal was lodged late. As a consequence, such appeal is not admissible and the CAS shall not rule on the appeal filed by the Appellant in the present arbitral proceedings.
151. This conclusion, finally, makes it not necessary for the Panel to consider the other requests submitted by the Parties. Furthermore, all other prayers for relief are rejected.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Court of Arbitration for Sport has jurisdiction to decide the appeal filed by the Pan-American Amateur Sambo Federation on 12 April 2014.
 2. The appeal filed by the Pan-American Amateur Sambo Federation against the Fédération Internationale de Sambo (FIAS) and Vasily Shestakov on 12 April 2014 is late and therefore inadmissible.
- (...)
5. All other motions or prayers for relief are dismissed.