

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)**

Nº: SDRCC 25-0769

**HICHEM MALEK
HAYSSAM AKKARI
ALESSIA FETTA
(CLAIMANTS)**

AND

**TAEKWONDO CANADA
(RESPONDENT)**

Attendees at hearing:

For the Claimants: Redhouane Malek
 Lyna Benaouda
 Mustapha Akkari
 Joey Fetta

For the Respondent: Allan Wrigley
 David Harris

DECISION WITH REASONS

PROCEDURAL BACKGROUND

1. On 11 April 2025, Hichem Malek, Hayssam Akkari and Alessia Fetta (collectively referred to herein as “the Claimants” or Claimant 1, Claimant 2 and Claimant 3 respectively) filed three individual Requests with the Ordinary Tribunal in accordance with Section 6.1 of the 2025 Canadian Sport Dispute Resolution Code (the “Code”).
2. The Claimants together appealed Taekwondo Canada’s (“TC” or “the Respondent”) decision not to select and register them to the Canadian Kyorugi Cadet team for the 2025 World Championships and chose to consolidate their respective appeals into one.
3. The Claimants request that the Respondent’s current Selection Criteria for Kyorugi Cadet World Championships be vacated and that they each be registered for the World Championships.

4. The matter was urgently referred to the Sport Dispute Resolution Centre of Canada (“SDRCC”) on 11 April 2025. On 13 April 2025, on the agreement of all Parties, Janie Soublière was appointed as Arbitrator to rule on the dispute expeditiously.
5. A Preliminary Call was held on 14 April 2025 during which a time was set for the oral hearing, 15 April 2025 9:00 am ET. The Parties respected their procedural deadlines and filed concurrent post-hearing briefs as agreed during the Preliminary Call to address any issues discussed at the hearing which they felt required additional clarification to assist the Arbitrator make a finding in the matter.
6. The Arbitrator then issued a Short Decision on 16 April 2025, rejecting the Claimants’ appeals and confirming TC’s decision not to select them for the 2025 Taekwondo World Championships. The pertinent parts of the Short Decision read:

The request filed by the Claimants for reconsideration of their non-registration for the 2025 World Taekwondo Championship is denied.

As stated in Section 6.10 [sic] of the Canadian Sport Dispute Resolution Code, the Respondent has demonstrated, on a balance of probabilities, that its criteria for selecting the Kyorugi Cadet Team for the 2025 World Championships were well established and that its decision not to nominate the Claimants to the Kyorugi Cadet Team for the 2025 World Championships was made in accordance with those same criteria.

Furthermore, and although the Arbitrator acknowledges their disappointment in this regard, the Claimants have not established that the Respondent’s decision not to select them for the 2025 World Championships was unreasonable.

7. The Arbitrator’s full reasons for her Decision are as follows.

PARTIES

8. All Claimants are minor aged Taekwondo athletes who compete in the Cadet Kyorugi Category (12-14-year-old athletes).
9. The Respondent is the National Sport Organization that governs the sport of Taekwondo in Canada. This includes making team selections for World Championships for all categories, including the Cadet Kyorugi category.

APPLICABLE LAW, JURISDICTION and ADMISSIBILITY

10. The Parties agree that:

- The Arbitrator, Janie Soublière, has been properly nominated on agreement of all Parties to hear and settle the dispute.
- The SDRCC has jurisdiction to hear the appeal and settle the dispute.
- The Code applies to all procedural matters related to this dispute.
- The Respondent’s Selection Criteria for the 2025 Cadet Kyorugi National Team applies to the substantive elements of this dispute.

11. Section 6.11, the most relevant provision of the Code in relation to this dispute, reads as follows:

If an athlete is a Claimant in a team selection or carding dispute, the onus will be on the Respondent to demonstrate that the criteria were appropriately established and that the disputed decision was made in accordance with such criteria. Once that has been established, the onus shall be on the Claimant to demonstrate that the Claimant should have been selected or nominated to carding in accordance with the approved criteria. Each onus shall be determined on a balance of probabilities.

12. The most pertinent provisions of the Respondent's 2025 Cadet Kyorugi Selection Criteria (the "Selection Criteria") are at Section 2.1 and its Subsection 2.1.1:

2.1 Age of eligibility for nomination to a Cadet Kyorugi National Team will follow a best-practices approach to Long Term Athlete Development. As a World Championships should not be used as a development opportunity, Taekwondo Canada may choose not to participate in World Taekwondo Cadet Championships as the age ranges do not align with appropriate competition levels with respect to Long Term Athlete Development.

*2.1.1 For calendar years when a World Taekwondo Cadet Championships is held, Taekwondo Canada **will evaluate the results from the respective Cadet Team Selection Event** to determine potential participation at the event. Athletes that have **previously competed and earned a Gold medal at a Pan American Cadet Championships (PATU), a medal at the USA Open, and/or are in the final year of Cadet eligibility** may be considered for eligibility to potentially participate at the World Taekwondo Cadet Championships.*

(emphasis added)

PARTIES' SUBMISSIONS

13. The following is a succinct summary of the Parties' written and oral submissions. Additional facts and allegations found in the Parties' submissions may be set out where relevant in connection with the legal discussion below. The Arbitrator has considered all the facts, evidence, allegations and legal arguments submitted by the Parties in the present proceedings and refers in this Decision only to the submissions and evidence considered necessary to explain her reasoning.

The Claimants

14. Generally, the Claimants requests for the Respondent are:
- to vacate the current Selection Criteria
 - to adapt its Selection Criteria to allow for a discretionary reconsideration of other factors, and,

- to register each of them for the World Championship.

15. In their submissions, the Claimants also request *inter alia*:

- A reconsideration of the published criteria with regards to their eligibility to be selected for the World Championships, as they deem the criteria is too restrictive.
- That TC allow them to compete at the World Championships, as is the current practice in other National Federations like the USA who allegedly favor development opportunities.
- That TC reconsider not applying its discretion for the Claimants who are all effectively in their last year of cadet eligibility for the World Championships as they are only held every two years.
- That the impact of their inability to compete at the US open, through no fault of their own (due to bad meteorological conditions that prevented them from travelling to Reno, Nevada) should not be held against them.

16. In direct response to the Respondent's submissions, they additionally submit that:

- The fact that registration for the Cadet World Championships does not reflect the Respondent's current long term development strategy, which is that athlete peak at 20-27 years of age, is irrelevant to the Arbitrator's determination and to their request.
- The way the selection criteria are written allows for results from 2024 to be taken into consideration - this is unfair as the time the 2025 selection criteria were published, these results were already known to the Advisory Committee, and thus certain athletes had already *de facto* met the eligibility criteria. While these athletes are all deserving of their spots, to the Claimants, this nonetheless raises an issue of possible bias as some of their coaches might have had an influence within the Advisory Committee. The independence and impartiality of the Advisory Committee who advises TC should thus be doubted. Possible conflicts of interest between these conflicts and TC's selection decisions cannot be dispelled.
- The fact that TC's High Performance Director ("HPD") submits that individuals bound by the Selection Policy allegedly only have 14 days to appeal the application of the same once it is published and that the Claimants' failed to do so indicates bad faith on TC's part. This appeal window is not expressly stated in the Selection Policy but rather hidden in legal internal policy documents.
- In the past, any medal at the Pan Am Games was included in the Selection Criteria. If this was still the case, all three Claimants would fulfill it. They question why the Respondent did not continue to apply the same criteria.
- The US Open should be given the same recognition as the Canadian Open in terms of depth of competition and results given that certain weight classes at the US Open have the same number of participants as the Canadian Open.
- The inability for the Claimants to compete at the US Open due to bad weather resulting in the cancellation of their plans should have been a discretionary element considered by TC. The Claimants should not be penalized for something that was entirely out of their control.

- The cost of participating in the World Championships would readily be covered by the Claimants, even if the Respondent implied for the first time during the hearing that it could contribute to these costs. Selecting them would thus pose no financial burden on TC.
17. This is the last chance for all three Claimants to compete at the Cadet World Championships. They question why the Respondent is not favoring opportunity over its inflexible application of its Selection Criteria. In so doing, TC is putting obstacles in the Claimants way and not allowing them to realize their dreams.
 18. TC keeps saying that their criteria is clear. The Claimants agree. But they submit that the last year of eligibility in cadet is clearly stated as one of the possible discretionary criteria and question why the Respondent is refusing to apply its discretion in their favour.
 19. While TC has repeatedly stated that World Championships for cadets is not prioritized as a development opportunity, and that at their age the Claimants should be focusing on participation, the Claimants decry that this is not TC's decision to make. They all feel they are ready willing and able to compete at the World Championships, and question why TC is not supporting them in their goals and promoting their participation by being more flexible in the application of its Selection Criteria.
 20. The Claimants request that the Arbitrator substitutes the Respondent's decision with one in which they are selected to the 2025 World Championship team.

The Respondent

21. The Respondent first reiterates that its decision does not take away anything from the Claimants' accomplishments so far and is not meant to single them out or deprive them of opportunities. The Respondent simply applied its established Selection Criteria and exercised its discretion to favour long term development, as clearly provided in the Criteria. The Respondent maintains that it did so in the spirit of the Selection Criteria objectives which include performance standards, eligibility requirements and a potential discretionary pathway for early developers to participate in World Championships.
22. The Respondent maintains that its Selection Policy has been appropriately drafted, had not been questioned or challenged by the Claimants until now and that the Selection Decision it made in application of the same was reasonable.
23. The Respondent submits that its Selection Criteria has been developed and drafted based on a best practice approach for long term development. The age group in question is one where pathways to participation should be favored over competition. On this point, the Respondent explains that a World Championship for 12-14-year-old athletes is uncommon in all sport and that there is a push to get rid of this age group at the Taekwondo World Championships because it is inappropriate from a development standpoint. The mantra for this age group should be and is "train to train" and not "compete to compete."

24. The Respondent argues that there is a responsibility and an appropriateness to deferring to and respecting the criteria as drafted by a group of experts in the sport. There is a reason it favors participation and development over competition.
25. The Respondent also submits that the Claimants' request is not reasonable. They applied the Criteria consistently and fairly to all athletes. Those who met the criteria of medalling at the US Open or earning a Gold medal at the Pan American Games were given the opportunity to compete. The Respondent cannot simply vacate its current Criteria as this would impact the validity of selection of all other athletes on the team.

Claimant 1

26. More specifically, regarding Claimant 1, the Respondent submits that:
- He did not earn a medal at the 2024 or 2025 US Open.
 - He did not attend the 2025 US Open and although he was supposed to compete, his flight was unfortunately cancelled due to bad weather. But, as the Respondent points out, he made no efforts to get there otherwise and it is not reasonable for the Respondent to be expected to modify its selection criteria due to his non-attendance as a result of bad weather. The Respondent noted that other athletes changed their trip and travel plans to find a way to attend and that adjustments were made at the event itself to account for the same in terms of weigh in times etc.
 - He did not earn a gold medal at the Pan Am Games.
 - He is not effectively in his last year of Cadet eligibility. (Although TC recognizes that as WCH are every two years, he effectively will no longer be eligible to compete at a cadet WCH. However, this is not how the Selection Criteria reads). Thus, the discretionary elements option does not apply, and he does not satisfy this eligibility criteria.
 - It is not reasonable to expect the Respondent to modify its Selection Criteria due to bad weather.
 - Comparing the Canada Open to the US open is wrong and misguided as is the suggestion to use the Canada open results in lieu of the US open results because the field of competitors is entirely different, with the US Open attracting a far greater pool of athletes.
27. The Respondent's HPD thus maintains that long term development was favored in his decision as Claimant 1 did not meet the eligibility required or the performance Standards and results-based benchmarks set out in the Selection Criteria.
28. The Respondent's HPD agrees, as argued by Claimant 1, that he is being inflexible. The HPD explains that he applied and followed the published Criteria as strictly as possible because that is what is fair for all athletes. Disagreement and disappointment with the process does not make the criteria unreasonable and is not grounds for a successful appeal.

Claimant 2

29. Regarding Claimant 2, the Respondent submits that:

- He did not earn a medal at the 2024 or 2025 US Open.
 - He did not attend the 2025 US Open and although he was supposed to compete, his flight was unfortunately cancelled due to bad weather. However, he made no efforts to get there otherwise.
 - It is not reasonable to expect the Respondent to modify its Selection Criteria due to bad weather.
 - While he is in his last year of eligibility, because he did not satisfy either of the other two performance and results-based criteria and based on its long-term development policy, the Respondent did not apply its discretionary power to select him to the team.
30. Claimant 2 has argued that the Discretionary Provision implies that a wide discretion is provided in the decision-making process and that the extenuating circumstances of not being able to compete at the US Open should have been given more importance. However, the discretionary element of the provision is not wholly discretionary. It only applies if the first two objective elements are first fulfilled, and if based on the HPD's opinion, an exceptional pathway for early developers should be made to select them to compete at the World Championships. The HPD maintains that long term development was favored in his decision as none of the performance standards and results-based benchmarks were met by Claimant 2.
31. The Respondent submits that its decision is not personal. Of course, disappointment is inevitable but that cannot be taken into consideration by the Respondent in its decision-making process. The only thing it must apply and respect is its Selection Criteria, and rightly so as this would undoubtedly lead to numerous other appeals.

Claimant 3

32. Regarding Claimant 3, the Respondent submits that:
- She did not medal at the 2024 or 2025 US Open, and in fact did not even register for the 2025 US Open even if the criteria were published and communicated well ahead of time in October 2024.
 - She did not earn a gold medal at the Pan Am Games.
 - While she is in her last year of eligibility, because she did not satisfy either of the other two criteria and based on its long-term development policy, the Respondent did not apply its discretionary power to select her to the team.
33. While Claimant 3 has alluded to possible bias in the decision-making process by what she referred to as a Selection Committee, the Respondent explains that the advisory group is not a committee. TC's HPD has a standing Olympic Advisory Group ("OAG") that assists in providing feedback on the development and application of these Selection Criteria. They are a group of experts (ex and current Taekwondo Olympians) who act as a sounding board and advise TC leadership on the development of its Selection Criteria based on their knowledge of the depth of the field at international competitions and of TC's long term development policy and goals.
34. The HPD maintains that long term development was favored in his decision as none of the performance standards and results-based benchmarks were met by Claimant 3.

Conclusion

35. The Respondent submits its Selection decision is reasonable and made by those who have the relevant technical knowledge and expertise and the authority to make it,

pursuant to the published Criteria. The Respondent submits that deference must be given to these experts and that an order reversing or varying the decision should only be made if its decision is judged to be unreasonable. In this regard it cites and relies on the Supreme Court of Canada ruling in *Khosa* (which was reproduced in *Scott & Morneau v. Canoe Kayak Canada*, SDRCC 16-0305/06, at para 18) and reads:

There might be more than one reasonable outcome. However, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome.

36. The Respondent thus requests for the appeals to be denied.

DELIBERATIONS

37. The first hurdle to clear pursuant to Section 6.11 of the Code is for the Respondent to satisfy its onus that the INP criteria were appropriately established and that the disputed decision was made in accordance with such criteria.

38. The Respondent submits that the primary basis of the appeal and the information presented during the hearing by the Claimants centered on the perceived appropriateness of the published Selection Criteria, as well as personal matters unrelated to the application of those criteria. The Respondent argues the only valid Selection Criteria relevant to Cadet athlete participation at the 2025 World Taekwondo Cadet Championships is the current Selection Criteria - 2025 Cadet Kyorugi National Team. The Arbitrator agrees. Any discussion about past criteria is of no relevance to the resolution of this dispute. If anything, it supports the Respondent as it demonstrates that the criteria evolve with time, depending on the field of competitors in international competition and athletes' results therein - both which provide evolving objective performance benchmarks. It demonstrates that the Respondent takes care in ensuring that its selection criteria is properly established and reassessed as needed. If it is clearly drafted, published and communicated in ample time, as is the case here where it was published 19 months prior to selection, then a governing body is fulfilling its responsibilities.

39. The Arbitrator finds on the evidence that the Criteria is and was well established. She also finds that it has evolved over time to account for the qualification of competition at various selection events which only supports the Respondent's position.

40. The Arbitrator further notes that:

- The Respondent's Selection Criteria expressly provides that for cadets, participation and long-term development are favored.
- The Selection Criteria clearly outlines specific and unambiguous performance and results benchmark to be met to be considered for selection.
- The Advisory Committee that TC sought advice from while drafting its Criteria consists of former Olympians and a current Olympian who are experts in the sport, the development of athletes and who understand the international competition landscape.

- Nothing brought forward by the Claimants dispels the conclusion that the Respondent's Criteria was appropriately established in accordance with a thorough consideration of long-term development, participation and competitive goals.
41. The Respondent submits that its Selection Decision was made in application of this undisputed criteria. The Arbitrator agrees. The Respondent has thus cleared its evidentiary burden under Section 6.11 of the Code.
 42. Therefore, and as explained clearly to all Claimants at the outset of the hearing, the burden of proof now shifts to the Claimants. They must satisfy their onus of proving that the Respondent's decision was not reasonable and that they should all have been selected to compete at the World Championships under the properly established criteria. That is the standard of review, as was clearly established in the often cited "Vavilov" case *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019 SCC 65).
 43. To be clear, the Respondent's Selection does not need to be correct or beyond all reproach. It need only be reasonable. Therefore, the Claimants must establish on a balance of probabilities that their non-selection to the team, based on a reading and interpretation of the criteria as drafted and implemented by the Respondent, was unreasonable.
 44. Conversely, if based on all the evidence before her the Arbitrator concludes that the Respondent's decision was reasonable and within a plausible range of options, the Claimants appeals must be dismissed.
 45. At the outset - the Arbitrator reiterates that there is little question that all three athletes involved in this case are deserving and have a great future ahead of them. The Claimants have submitted compelling evidence and submissions as to why they believe they should have been chosen to the national team to compete at the Cadet World Championships. Their commitment and dedication to the sport and achievements to date and upward trajectories are remarkable. They are the future of the sport and should not let this decision negatively affect their trajectory, their self confidence or their competitive drive.
 46. As the Respondent submits, any selection decision needs to be made within the confines of its appropriately drafted Selection Criteria (which the Arbitrator has already found to be the case). Thus, the application of the Selection Criteria is not an assessment of the Claimants as individual athletes (as they are all promising athletes), it is an assessment of their individual results vis-à-vis the established Criteria.
 47. The Arbitrator has carefully considered all Parties' submissions and supporting documentary evidence. The Claimants have all raised arguments that were clearly taken into consideration by the Respondent. Mostly, they have raised arguments that are irrelevant to the Arbitrator's determination of whether they should have been selected based on the Selection Criteria.
 48. The Respondent has conversely provided ample evidence which quite simply carries more weight than that of the Claimants'. Its extensive, logical, reasonable and objective Selection Criteria-based explanations rebut all of the Claimant's arguments. It has demonstrated that great care was taken by its OAG and the HPD in selecting the cadet team to represent Canada at the World Championships.

49. The Selection Criteria expressly provides that:

*Age of eligibility for nomination to a Cadet Kyorugi National Team will follow a best-practices approach to Long Term Athlete Development. As a **World Championships should not be used as a development opportunity**, Taekwondo Canada may choose not to participate in World Taekwondo Cadet Championships as the age ranges do not align with appropriate competition levels with respect to Long Term Athlete Development*

(emphasis added)

50. The discretionary power the HPD reserves itself is neither abstract nor is it applied arbitrarily. The Selection Policy expressly provides that these elements set out in Section 2.1 will be taken into consideration and arguably, as they are placed before subsection 2.1.1 on performance benchmarks, these best-practice approaches are to be given precedence in the decision-making process. Accordingly, the HPD explained many times that the Respondent's decision was made based on its stated long-term-development best practices, as well as the objective performance benchmarks of the Selection Criteria.

51. Section 2.1.1 of the Criteria goes on to state:

"For calendar years when a World Taekwondo Cadet Championships is held, Taekwondo Canada will evaluate the results from the respective Cadet Team Selection Event to determine potential participation at the event. Athletes that have previously competed and earned a gold medal at a Pan American Cadet Championships (PATU), a medal at the USA Open, and/or are in the final year of Cadet eligibility may be considered for eligibility to potentially participate at the World Taekwondo Cadet Championships."

52. On this second relevant part of Section 2.1, quite plainly - and as conceded by all Claimants - none of the Claimants have won a gold Medal at the Pan American Games (Pan Ams) or medalled at any previous US Open.

53. The benchmarks are clear: only cadet athletes who have achieved clearly defined performance benchmarks at one of two other previous key international events (US Open and the Cadet Pan Ams) and/or are in their final year of eligibility may be considered for entry into the World Championships in the years for which they are held. Not one of the Claimants fulfills any of the Selection Criteria's results or performance-based benchmarks, and, it is worth noting that every single athlete who was selected to compete at the Kyorugi Cadet World Championships did successfully meet these benchmarks.

54. The Claimants argue that any medal at the Pan Ams used to be sufficient to satisfy the criteria and for the Respondent not to consistently apply this criterion is being prejudicial to the Claimants. TC has provided a detailed explanation of how the field of athletes and possibilities of medalling at the Pan Am games has changed over the years. The Selection Criteria has therefore evolved to consider this reality and to ensure that those selected are fit to compete at the World Championships.

55. To the Arbitrator, the Respondent's explanation of how this Pan Am results criterion has evolved is logical. In any event, that this criterion was different in past versions of the Selection Policy is of no relevance to this decision. The appropriately drafted, published,

clearly communicated Criteria is the only one that can be applied and that is relevant to the present dispute.

56. The Claimants also argue that the medal at the US Open criterion should be reevaluated considering the travel difficulties they incurred, and that the Respondent should consider a medal at the Canada Open as being of equal value to allow the Claimants to fulfill the results benchmark. In response, the Respondent explains that a medal at the US Open was selected as one of the results benchmarks because historically the event represents the largest and deepest level of competition in the Pan American Region. The US Open medal criterion is objective and based on an appreciation of the level of competition at the US Open.
57. While the Arbitrator appreciates that the US Open criteria were difficult to fulfill for Claimants 1 and 2 given the weather situation that occurred which prevented them from travelling and competing as planned - there is simply no reason, no logic and no basis for "swapping out" the US Open for the Canadian Open in the Selection Criteria. Established, communicated and widely applied appropriately drafted criteria can not be substituted arbitrarily. The Arbitrator is not empowered to make such substitutions, nor should the Respondent's HPD. This is not how the published Selection Criteria reads. It clearly and expressly provides that a medal at the 2025 US Open or any previous year is an eligibility and performance benchmark.
58. In sum, none of the Claimants fulfilled the US Open benchmark. That bad weather did not allow them to travel is not the Respondent's fault. The Respondent's responsibility is to apply its Selection Criteria fairly for all athletes. On the evidence, it has reasonably done so.
59. During the hearing and in their post-hearing submissions, the Claimants raised the possibility of bias in relation to the Advisory Group and sought greater information on the members of this group. The Arbitrator relies on the Respondent's persuasive oral and written submissions before the Tribunal,

TC's High Performance Director (HPD) has a standing Olympic Advisory Group (OAG) that assists in providing feedback on the development and application of these selection criteria. The OAG includes four Canadian taekwondo coaches that have all coached at least one Olympic Games, as well as two retired Olympic athletes that have previously represented Canada. Consistent with published selection criteria from 2023, 2024, and 2025 TC may choose not to participate at the World Taekwondo Cadet Championships as it has been deemed by the HPD, in consultation with the OAG, to not be an appropriate development level of event for this age group.

60. The Arbitrator finds that the Respondent's Selection Decision was neither biased, unreasonable nor unfair. Any alleged bias within the Advisory Group (given that some athletes had already fulfilled the US Open medal benchmark at the time the criteria was published) would, in any event, not have had an impact on the Respondent's decision not to select the Claimants. The Arbitrator fails to see how possible preferential bias towards other athletes, which is not established, would have had any impact on the non-selection of the Claimants.
61. In exceptional situations where bias is proven or the selection process is conducted unfairly or the decision is made in an arbitrary or discriminatory way or in bad faith, an Arbitrator should set aside the selection decision. No reason is found to do so here.

Conclusion

62. The Arbitrator cannot grant the Claimants' request. The Code and SDRCC jurisprudence dictate why the Arbitrator is simply is not in position to re-write or vacate the Respondent's Selection Policy as drafted in favor of the Claimants. That is not what the Arbitrator is vested or tasked to do as part of this judicial review. Indeed, as was found in *Blais v. WTF Taekwondo Association of Canada* ADR 03-0016 at p. 5, "*It is not, however, within the scope of the powers of an arbitrator to re-write or re-design a selection process that has been developed by experts within the sport*".
63. As stated above, having determined that the Selection Criteria were appropriately drafted the Arbitrator then has to decide if the Respondent is able to establish that its decision not to select the Claimants was reasonable- or in other words the Arbitrator's role is to determine whether the outcome of the team selection process was made in accordance with the Selection Criteria and whether that outcome falls within a range of possible, reasonable, outcomes defensible in light of the facts and TC's team selection policies.
64. At para 100 of the *Vavilov* decision, it was determined that a decision will be found to be unreasonable where "*there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency*".
65. The Arbitrator is satisfied that the outcome of the Respondent's selection process, which left all Claimants off the team, cannot be said to not exhibit a requisite justification, intelligibility and transparency. Rather, based on the HPD's evidence and in relation to "*the constellation of law and facts that are relevant to the decision*" (see *Vavilov* para 105), the underlying rationale behind the Respondent's decision appears logical. The Arbitrator does not see any serious shortcomings that could render the Respondent's Decision unreasonable, notably considering that as a national governing body for the sport, it is best placed to determine if having cadet athletes compete in an event of the calibre in question is in the best interest of these same athletes' long-term development (per Article 2.1 of its Selection Policy).
66. While deference to a governing body is certainly not absolute, the Arbitrator accepts that with its knowledge of all its athletes and expertise in the sport, a governing body, like TC, is best placed to select its own teams for national representation, so long as this decision is based on the factors outlined in its Selection Criteria. On the evidence, the Respondent has done so to the required standard.
67. Given that none of the Claimants satisfy the objective performance criteria, that only two of them are in their last year of cadet eligibility, and that the Respondent has provided a reasoned and objective explanation for not applying its discretion to select these three athletes - notably with regards to its Selection Policy's expressly stated focus on long term development and participation-based objectives, the Claimants are effectively unable to establish that they should have been selected.
68. The Claimants' appeal was valiant but ultimately was based both in a disagreement and a fundamental disappointment with the Respondent's decision. Regrettably, and paraphrasing *Paquet v. Triathlon Canada*, SDRCC 18-0353, *the mere disagreement with a decision is not a sufficient ground to have the selection decision overturned on appeal*.

69. The Arbitrator appreciates the Claimants heartfelt lack of comprehension as to what harm could have come out of allowing them to participate at the World Championships, considering they were willing to pay for the whole trip and that their competition level seems to be adequate, if only to give them the opportunity to compete on the world stage. But the reality of sport is that not everyone can be chosen when it comes to team selection.
70. Luckily, the Claimants are all very young and in the infancy of their promising careers. There will surely be plenty of other opportunities. Rather than affecting them negatively, this process should drive and motivate them further to accomplishing their goals.

DECISION

71. Pursuant to Section 6.11 of the Code, on the preponderance of the evidence, the Respondent has satisfied both its onus of demonstrating that it properly established its Selection Criteria and properly applied its Selection Criteria for the 2025 World Championships.
72. Conversely, on the preponderance of the evidence, the Claimants have not met their onus of establishing that they should have been selected to the World Championship team under the applicable Selection Criteria. Thus, the Claimants do not meet their evidentiary burden to establish that the Respondent's decision was not reasonable which is the applicable standard of review in appeals arising from selection decisions.
73. As the Respondent's selection decision was reasonably made in accordance with its properly established Selection Criteria, considering all the facts, applicable jurisprudence and applicable law, the decision not to select the Claimants to the World Kyorugi cadet Championship team certainly fell within a range of possible and defensible outcomes.

ORDER

74. The Claimants' appeals are denied.
75. The Arbitrator retains jurisdiction over all ancillary matters to this dispute and decision.
76. Pursuant to Subsection 6.13(c) of the Code, this Decision is final and binding on all parties.

Signed in Lausanne, this 6th day of May, 2025.



Janie Soublière, Arbitrator