



Tribunal Arbitral du Sport
Court of Arbitration for Sport

TAS 2003/A/443

Le Secrétaire général

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Peter **Leaver** QC, Barrister-at-Law, London, England

Arbitrators: Dr Gerhard **Bubnik**, Attorney-at-Law, Prague, Czech Republic
Professor Massimo **Coccia**, Attorney-at-Law, Rome, Italy

in the arbitration between:

SLOVAK KARATE UNION, represented by Dr Jan Carnogursky, Attorney-at-Law, Bratislava,
Slovakia

Appellant

v/

WORLD KARATE FEDERATION, represented by Ms Ana Ballesteros Barrado,
Attorney-at-Law, Madrid^ Spain

Respondent

1. The Parties

- 1.1 The Appellant, Slovak Karate Union ("the SKU"), is the body which is recognised by the Slovak National Olympic Committee and by the Slovak Ministry of Education as being authorised to represent Slovak karate at international level..
- 1.2 The Respondent, the World Karate Federation ("the WKF"), is an International Federation, which is recognised by the International Olympic Committee ("the IOC") as being responsible for the organisation and administration of all forms of karate.
- 1.3 The SKU became a member of the WKF in 1992.

2. The Background Facts

- 2.1 On the 9th October 2002 the President of the WKF, Mr Antonio Espinos Ortueta ("Mr Espinos") sent by fax to the SKU a notification purporting to suspend the SKU *from* membership of the WKF.
- 2.2 The notification purported to be sent pursuant to Articles 7.7.3.10, 7.7.3.11 and 4.5 of the Statutes of the WKF ("the Statutes"). In its pleading dated the 21st March 2003, it is contended by the SKU that the notification was received in an illegible form, and the SKU exhibited a copy of that illegible fax to its pleading dated the 5th March 2003. It is, however, also to be noted that in its Request for Arbitration dated the 13th February 2003 the SKU stated that it had received the fax on the 9th October 2002, and did not then assert that the fax was illegible.
- 2.3 From 1990 until the 8th October 2002 the Chairman of the SKU was Mr Martin Culen ("Mr Culen").
- 2.4 At the 40th Congress of the European Karate Federation, which was held in May 2002 in Tallinn, Estonia, Mr Espinos, who was also the President of the European Karate Federation, gave a detailed report of the activity of "dissident organizations". He reminded the delegates that the Statutes did not permit "double affiliation".
- 2.5 The World Karate Confederation ("the WKC") is a rival international karate organization. It is not recognised by the IOC. In Slovakia there is another organisation which is involved in the organisation of the sport of karate, namely, the Slovakian Karate Federation and Martial Arts ("the SKFMA"). The SKFMA is linked to, or a member of, the WKC.
- 2.6 In June 2002 the SKU became aware that a new karate organisation had been formed in Slovakia under the name of the Slovak Federation of Karate Clubs ("the SFKK"). The SFKK had been formed on the 19th May 2002.

Tribunal Arbitral du Sport
Court of Arbitration for Sport

- 2.7 The SKU became aware of the formation of the SFKK because the Government body in Slovakia, which has the responsibility for registering sporting associations had mistakenly addressed a letter in respect of the SFKK's application for registration to the SKU. The SKU also then became aware that Mr Culen had been named as the President of the SFKK[^] and that on the application for registration the SFKK's address had been given as that of the SKU.
- 2.8 At a meeting of the Executive Committee of the SKU on the 2nd July 2002, Mr Culen was asked to explain how he could be President of the SKU and of the SFKK simultaneously. It was made clear to him that the members of the Executive Committee felt that he had deceived them, and that such behaviour was unacceptable. At this meeting a vote of no-confidence in Mr Culen was passed by the Executive Committee.
- 2.9 At a meeting of the Executive Committee of the SKU on the 30th August 2002, Mr Culen requested the Committee to accept the SFKK's application for membership of the SKU. The Executive Committee decided that the application should be considered by the SKU's Parliament and that the ultimate decision on the application should be made by the SKU's Congress. Mr Culen was asked to arrange for the Congress to take place on the 26th October 2002. A majority of the regional members of the SKU, who were present at the Executive Committee meeting., indicated that they would propose a resolution for consideration at the Congress that Mr Culen should resign as President of the SKU.
- 2.10 At a meeting of the Parliament of the SKU on the 31st August 2002 it was decided that the recommendation to the Congress would be that the SFKK's application for membership of the SKU should not be accepted.
- 2.11 At a meeting of the Executive Committee of the SKU on the 24th September 2002, it became clear that Mr Culen had no intention of arranging for the meeting of the SKU's Congress to be held on the 26th October 2002. The Executive Committee mandated its Vice-President to make the necessary arrangements.
- 2.12 After the meeting of the SKU Executive Board, on the 26th September 2002 Mr Culen wrote to Mr Espinos stating that several members of the SKU were at the same time members of the rival organization SKFMA: he suggested that the SKU should be suspended from membership of the WKF. Mr Culen said that the suspension would enable the WKF to find another partner in Slovakia to take the place of the SKU, and he proposed the SFKK for that position.
- 2.13 By letter to Mr Espinos dated the 2nd October 2002, Mr Culen again informed the WKF that there was a "serious problem" in the Slovakian karate movement. He said that there was "a strong WKC group" in Slovakia, and that Slovakian karate clubs, which were affiliated to the SKU, were also retaining their affiliation to the Slovakian WKC branch, which was the SKFMA,

Tribunal Arbitral du Sport
Court of Arbitration for Sport

- 2.14 By letter to Mr Culen dated the 4th October 2002, Mr Espinos said that the WKF's only interest was to prevent "double affiliation" which was contrary to the Statutes.
- 2.15 At an extraordinary meeting of the SKU Executive Board, held in Trencin on the 5th October 2002, the Executive Board discussed the problem of double affiliation, but came to the conclusion that there was insufficient evidence upon which to come to a conclusion as to whether double affiliation in fact existed.
- 2.16 In a letter to Mr Espinos dated the 8th October 2002, Mr Culen expressed his dissatisfaction with the conclusion to which the SKU Executive Board had come, and notified him that he had resigned the presidency of the SKU.
- 2.17 It was Mr Culen's letter which led to the WKF sending its notification dated the 9th October 2002 suspending the SKU's membership of the WKF. The fax concluded in the following terms:
- "Immediately [sic] we'll start the activity to look for a way that until the settlement of a definitive solution will allow a Slovakian team to be present and take part in the World Championships next November in Madrid."*
- 2.18 By notice dated the 18th October 2002, the WKF informed the SFKK that it was admitted as "WKF provisional member, and therefore the sole Karate National Federation recognised by WKF to represented in Slovakia". The notice also said that the decision to recognise the SFKK would be submitted for ratification at the next meeting of the WKF Directing Committee and Congress, which was to be held in Madrid on the 20th November 2002.
- 2.19 On the 29th October 2002, Mr Daniel Liska, who by then had been appointed President of the SKU, wrote to Mr Espinos disputing the allegation that the SKU maintained a relationship with a "dissident organisation", or that it had dual membership with any other organisation which was not recognised by the WKF. He pointed out that in Slovakia there were a number of karate clubs which belonged to organisations other than the WKF, and which took part in National Championships in a number of countries throughout Europe, and he gave, as examples, Austria, Hungary and The Netherlands. He stated that the Slovakian government had been trying to ensure that the organisation of the sport of karate in Slovakia was unified, and that some clubs, which were now affiliated to the SKU, had previously been affiliated to other karate organisations, but that the SKU assumed that those clubs had resigned their membership of those other organisations when they became members of the SKU. Those clubs which the SKU discovered had retained their membership of other karate organisations were immediately suspended by the SKU. Mr Liska also pointed out that Mr Culen had been responsible for the activities of the SKU for many years, and that the SKU did not know what Mr Culen had said in his letter to the WKF. He also pointed out that according to the WKF's Statutes it was the Congress which decided on the suspension of a National Federation, and he asked for an opportunity to present the SKU's case in the event that the dispute could not be settled amicably.

- 2.20 No reply was received to Mr Liska's letter, and on the 11th November 2002 he again wrote to Mr Espinos pointing out that the SKU had received support from the Slovakian Confederation of Sport Unions, the Slovakian Government and the Slovakian Olympic Committee.
- 2.21 At a meeting of the Directing Committee of the WKF, held in Madrid on the 23rd November 2002, Mr Espinos informed the Directing Committee of his decisions "taken in the light of article 4.5 of WKF statutes between DC meetings", and those decisions were apparently ratified. It is to be noted that Mr Culen was present as a member of the Directing Committee for Slovakia.
- 2.22 During the Congress in Madrid Mr Liska spoke to Mr Espinos, and subsequently wrote to him on the 19th December 2002. In his letter Mr Liska informed Mr Espinos that the SKU was proposing to incorporate the SFKK into the SKU. He asked Mr Espinos to reconsider the decision to suspend the SKU.
- 2.23 On the 27th December 2002 Mr Espinos visited Bratislava, but did not discuss the SKU's suspension.
- 2.24 On the 22nd January 2003 Dr Carnogursky, the SKU's lawyer, wrote to Mr Espinos inviting him to withdraw the suspension on the basis that it was contrary to the Statutes. Once again, no response was received from the WKF to this letter.

3. The Statutes

- 3.1 The Statutes were approved by the WKF's Congress in 1993 and 1994. They recorded that the WKF had been created in 1970 under the name of "World Union of Karate Do Organisations". Its seat was then in Paris, but a transfer of the seat was envisaged. That transfer was to be made, if at all, on the basis of a decision of the Directing Committee.
- 3.2 Article 1.5 of the Statutes sets out the objects of the WKF. Those objects are stated in the following terms:

"The mission of the WKF is to train athletes and develop their mental and physical health throughout the world by securing their participation in international karate activities. The WKF seeks to encourage good relations between its member federations and their athletes around the world.

Inter alia, the objects of the WKF are:

- 1 . to promote cordial and friendly relations between its members and to supervise karate activities all over the world;*
- 2. to protect the interests of karate throughout the world;*

*Tribunal Arbitral du Sport
Court of Arbitration for Sport*

3. *to organise karate throughout the world and to develop and promulgate the techniques and spirit of the karatedo (way of karate);*
4. *to establish the international technical rules of karate;*
5. *to organise world karate championships in collaboration with the member federations and continental unions. The right to organise world championships and other international meetings shall be granted only to such countries as are able to receive all the participants on their territory;*
6. *to get karate accepted in the Olympic Games and or other continental Games,"*

3.3 Article 1.8 is entitled "Disputes" and is in the following terms;

"Any dispute arising from the application or interpretation of the statutes of the WKF to -which the parties cannot reach an amicable settlement shall be settled by a Panel constituted pursuant to the Statutes and Regulations of arbitration of the Court of Arbitration for Sport (CAS). The parties undertake to comply with the provisions of the said Statutes and Regulations. An appeal is possible, exclusively, in Tribunals of France (Paris)."

3.4 Article 2 sets out "Principles relating to members and affiliations". The relevant provisions are in the following terms:

"2.1 Those National Federations (NF) admitted in such capacity may be members of the WKF.

2.2 An NF is an organization, endowed with a juridical personality, which in its country governs all forms of karate, namely forms of karate other than Traditional Karate as well as Traditional Karate.

2.3 The admission and exclusion of members of the WKF falls within the jurisdiction of the Congress.

Provisional admission may be decided by the DC, subject to ratification by the Congress.

2.4 The WKF will only recognise a single NF per country as member.

2.5 In those countries where there is an NF governing all forms of Karate, the WKF will admitted this NF as member (an attestation of NOC or HSA must be provided). In countries where there is not a NF governing all forms of Karate, the WKF will recognise, by priority, the NF which is recognised by its NOC or HSA.

In those countries -where the NF is not recognised by NOC and/or HSA, the WKF may recognise only one NF, either the one governing forms of Karate other than traditional Karate, or the one governing Traditional Karate.

2.7 All members of the WKF are obliged to comply with its statutes.

2.9 Federations wishing to Join WKF should send to the Secretariat a complete dossier giving detailed information as to the standing and official capacity of their Federation."

3.5 Article 4 sets out "Principles relating to organization, the organs of the WKF and decisions". The relevant provisions of Article 4 are:

"4.1 The organs of the WKF are:

- the Congress,*
- the Directing Committee (DC);*
- the President,*

4.3.1 The Congress is the supreme authority of the WKF.....

4.3.2 The Congress ordinarily convenes every two years in the place appointed by the preceding Congress, in the city in which the world karate championships are to take place

4.3.5 The Congress approves the Statutes and WKF organisation Rules (Procedure Book), approves or rejects the decisions of the President and Directing Committee (reports), in the form and conditions provided in "WKF Organisation Rules ".

4.4.1 The DC manages the affairs of the WKF and represents it pursuant to the statutes. It is qualified to take all decisions which are not reserved by law or by the statutes for another organ or for the permanent commissions.

4.5 The President of the WKF is elected by the Congress for a renewable period of 6 years.....

Tribunal Arbitral du Sport
Court of Arbitration for Sport

The President is responsible for the affairs of the WKF pursuant to the statutes of the WKF.

The President presides over all activities of WKF and represents it permanently; he can take all decisions, he thinks necessary, provided those decisions will be ratified by the Directing Committee."

3.6 The other provision of the Articles to which it is necessary to refer is Article 7.7. Article 7 is entitled "Principles relating to the finances, the keeping and auditing of the accounts of the WKF". Article 7.7 is entitled "Transfers from one fund to another". However, Article 7.7 is, curiously, not limited to financial matters. Article 7.7.3.5 deals with "Expulsion-Resignation -Suspension and provides that a National Federation may be excluded from the WKF either by majority decision of the Congress or as a result of a failure to pay fees for two years.

3.7 Articles 7.7.3.9-7.7.3.11 are hi the following terms;

"7.7.3.9 If a National Federation or an individual member contravenes the statutes of the WKF or for any reason of discipline, the WKF may restrain or suspend the activities of this Federation or individual member, in accordance -with the statutes of the WKF.....

7.7.3.10 National Federations are prohibited from having sporting relationships with a dissident organization or a member country of the WKF with member National Federations that are suspended due to non payment of fees or for disciplinary reasons

7.7.3.11 Double affiliation with another organisation not recognized by WKF is prohibited."

4. Jurisdiction and the Constitution of the Panel

4.1 The jurisdiction of the CAS is derived from Article 1.8 of the Statutes, from the unconditional appearance of both the SKU and the WKF before the Panel and by the signature of the SKU and the WKF of the Order of Procedure.

4.2 No objection was raised to the composition of the Panel.

5. The Issues

- 5.1 In its Response to the SKU's Request for Arbitration the WKF submits that the SKU's appeal against the decision to suspend it., which was made on the 9th October 2002, should have been made, in accordance with Article R49 within 21 days of the communication of that decision, namely, by the 30th October 2002. As it was not made by that date, the WKF submits that the appeal is not admissible. The Panel will refer to this issue as "The Time Limit Issue".
- 5.2 Alternatively, the WKF submits that as a suspension is merely a precautionary measure, the decision to suspend the SKU was not a final decision., so that all internal methods of resolving the dispute have not been exhausted. The WKF, therefore, submits that the decision is not one from which an appeal lies to the CAS. The Panel will refer to this issue as "The Internal Appeals Issue".
- 5.3 If it does not succeed on either of the submissions as to the admissibility of the appeal, the WKF submits that its Congress alone has the right to decide issues of membership, and of the admission or expulsion of members. It is implicit in this submission that the CAS has no jurisdiction to consider or decide upon membership matters. The Panel will refer to this issue as "The Membership Issue".
- 5.4 The Panel will consider each of the WKF's submissions in turn, and in the order set out above. However, before it does so, the Panel will make a few observations about the evidence at the hearing.

6. The Evidence

- 6.1 Only one witness gave oral evidenced to the Panel in relation to the facts. That was Mr Culen. The President of the WKF, Mr Espinos, was not present to give evidence. The Panel was informed that Mr Espinos had a meeting in Geneva, which he had to attend, and so was unable to attend to assist the Panel. No application was made for an adjournment to enable Mr Espinos to attend to give evidence.
- 6.2 The Panel found Mr Culen's evidence unpersuasive and unsatisfactory. He appeared to be quite unable to understand the position of conflict in which he found himself as President of the SKU, President of the SFKK, and a member of the Directing Committee of the WKF. He appeared to the Panel to be more concerned with protecting his position as a member of the Directing Committee of the WKF, and his friendship with Mr Espinos, than of representing the SKU. Undoubtedly, the fact that the Executive Committee of the SKU had passed a vote of no-confidence in him had a considerable impact on his conduct at the end of September and in early October 2002. The Panel found it particularly disturbing that on the 26th September 2002, when he was still the President of the SKU, Mr Culen wrote to Mr Espinos recommending the suspension of the SKU and the admission of the SFKK, of which he was also the President, as a new member of the WKF.

Tribunal Arbitral du Sport
Court of Arbitration for Sport

- 6.3 In the event, and with considerable regret, the Panel did not accept Mr Culen's evidence as that of a truthful and honest witness,
- 6.4 In the light of the conclusion that the Panel came to about Mr Culen's evidence, the Panel has found it far safer to rely upon the contemporaneous correspondence. In this regard, it is to be noted that Mr Culen did not dispute the account of the events set out in the letters to the WKF from the SKU to which the Panel has referred above. Although Mr Culen did dispute the accuracy of the Minutes of the meeting held on the 5th October 2002, he accepted that he had drafted those Minutes, and had signed them as being an accurate record of the meeting. The Panel rejects Mr Culen's attempt to deny the accuracy of those Minutes.
- 6.5 Mr Miloslav Simkovic was also called to give evidence on behalf of the WKF. His evidence was said to be expert evidence. Mr Simkovic expressed the opinion that it would be contrary to Slovakian Law for either the Slovakian National Olympic Committee or the Slovakian Ministry to write letters stating that the SKU was recognised as the Slovakian governing body in the sport of karate. The Panel did not find this evidence to be helpful.
- 7. The Time Limit Issue**
- 7.1 No time is stipulated in Article 1.8 of the Statutes for the making of an application to the CAS. However, Article R49 of the Code provides that where no time limit is set in the statutes or regulations of the relevant federation, the time limit for appeal is 21 days from the communication of the decision in respect of which the appeal is made.
- 7.2 Although Article 1.8 does not stipulate a time for the making of an application to the CAS, it does envisage an attempt by the parties to "reach an amicable settlement". It seems to the Panel that until such an attempt has been made no decision can be said to have been made which would trigger the provisions of Article R49 of the Code.
- 7.3 As has been demonstrated above, after the SKU was informed of the suspension of its membership of the WKF, it attempted to engage the WKF in discussion with a view to settling the dispute. However, it received no response from the WKF, which appeared to be unwilling to enter into any discussion with it. It was suggested on behalf of the WKF that none of the letters written to the WKF by the SKU required a response by the WKF. The Panel rejects that suggestion. It is inconsistent with the behaviour that is to be expected from responsible organisations, and, in particular, from International Federations which are recognised by the IOC and which are responsible for ensuring the development of the Olympic spirit in accordance with the Olympic Charter.
- 7.4 Although the Directing Committee of the WKF purported to ratify Mr Espinos' decisions at its meeting on the 23rd November 2002, the SKU was never notified of that purported ratification. Indeed, the SKU was unaware of the purported ratification prior to the service of the WKF's Response,

Tribunal Arbitral du Sport
Court of Arbitration for Sport

- 7.5 During the visit of Mr Espinos to Slovakia on the 27th December 2002 he did not discuss the issue of the suspension with the SKU.
- 7.6 By letter from Dr Carnogursky dated the 22nd January 2003, the SKU made a final attempt to persuade the WKF to discuss the matter with it, and it was only after the WKF failed to respond to that letter that the appeal to the CAS was made.
- 7.7 In the Panel's opinion, the conduct of the WKF in failing to respond to the correspondence from the SKU, or to discuss the suspension with the SKU, was a failure by the WKF to comply with its own Statutes and to attempt to reach an amicable settlement.
- 7.8 While each case must be decided on its own facts, it does seem to the Panel that the SKU acted reasonably in attempting to discuss the matter with the WKF between the 9th October 2002 and the 22nd January 2003, and that it was reasonable for the SKU to take the view that no decision had been reached by the WKF, which would entitle it to appeal to the CAS until after the WKF had failed to reply to Dr Carnogursky's letter.
- 7.9 In the Panel's opinion the conduct of the WKF, which has been described above, amounted to a denial to the SKU of justice and was contrary to the general principles of law, and, in particular, of the right (a) to know the case that has to be answered and the evidence relied upon; (b) to be heard in answer to that case; and (c) to be notified of the decision. In this regard the Panel refers to and respectfully relies upon the decision and reasoning of the CAS in *M/Federation Italienne de Cyclisme* (TAS 97/169) (see Digest of CAS Awards, Volume I, page 539), which found that a failure to make a decision, but simply to leave a party in suspense for a lengthy period, was itself a denial of justice and contrary to the general principles of law.
- 7.10 Accordingly, this submission on behalf of the WKF fails.

8. The Internal Appeals Issue

- 8.1 The WKF asserts that the decision to suspend the SKU's membership is not a final decision, as the SKU has only been suspended. It submits that the suspension is merely a "precautionary" measure under Article 7.7.3,9 of the Statutes. It argues that the SKU could have put the issue of its suspension on the agenda of the Directing Committee, which purported to ratify the President's decision. Alternatively, it submits that the SKU could take the matter to the next WKF Congress in 2004.
- 8.2 It is to be noted that there is no provision in the Statutes requiring a party aggrieved with a decision of one of the decision-making organs of the WKF to exhaust the internal appeals procedure before submitting its dispute to the CAS. Indeed, there is no provision in the Statutes for any appeal.

- 8.3 Although under Article R47 of the Code, as well as under the general principles of law, a party is expected to exhaust internal appeals procedures before appealing to an outside body, such a requirement will only exist where such a procedure exists. Absent such a procedure, there is no such requirement.
- 8.4 The Panel accepts that a suspension can be considered to be a provisional measure. It is, however, implicit in such a measure being provisional that a final decision will subsequently be taken. The final decision could be a removal of the provisional measure or a confirmation of it, coupled with a proposal to the Congress to expel the member against whom the provisional measure has been pronounced. In the present case, Mr Espinos accepted the SFKK as a new provisional member of the WKF on the 18th October 2002. The matter was never referred to the Congress. The Panel doubts whether it was permissible for Mr Espinos to admit the SFKK under Article 4.5: admission to membership is a matter for the Congress under Article 2.3.
- 8.5 In the Panel's opinion, in the absence of an internal appeals procedure, it was open to the SKU to submit its dispute to the CAS. Accordingly, this submission on behalf of the WKF also fails.
- 8.6 The absence of any internal dispute resolution procedure in the WKF Statutes is, in the Panel's opinion, a serious deficiency, which the WKF would do well to remedy. Indeed, the Panel is of the view that the Statutes themselves need a thorough and comprehensive overhaul.

9. The Membership Issue

- 9.1 The circumstances leading to the SKU's suspension have been set out above.
- 9.2 The Panel is mindful of the fact that it should say nothing which could exacerbate the difficulties between the SKU and the WKF. However, the Panel does find it extraordinary that the President of the WKF should suspend the SKU on the basis merely of information given to him by Mr Culen, and without any formal request for information from the SKU or any independent investigation. It is particularly extraordinary that the President should take this course when it must have been apparent that Mr Culen was in conflict with the SKU's Executive Committee, and was also in a position of personal conflict by reason of his position and relationship with the SFKK. When it is remembered that the information relied upon by Mr Culen had itself largely been printed off the Internet, and was unverified, the position becomes even more unsatisfactory.
- 9.3 The Panel also finds it strange that the WKF's Directing Committee should purport to ratify the suspension of a national federation without investigating the situation, or itself requiring any communication with that national federation. In this regard, it is to be noted that the Minutes do not identify which decisions were notified to the Directing Committee; nor do they say whether there was any discussion of those decisions. It would, therefore, not have been possible for the SKU to challenge the purported ratification, of which it was, as has been stated, unaware.

- 9.4 Finally, the Panel finds it unacceptable that the WKF should purport to recognise the SFKK as a provisional member and "the sole Karate National Federation recognised by WKF to represent it in Slovakia", as it did in its letter dated the 18th October 2002. Such recognition would appear to be in conflict with Article 2.5 of the Statutes, which requires priority to be given to the national federation recognised by the National Olympic Committee. On the basis of the evidence put before the Panel, neither on the 18th October 2002 nor at the Congress in Madrid in November 2002, was the SFKK recognised by the Slovakian National Olympic Committee.
- 9.5 In these circumstances, the Panel has no hesitation in deciding that the WKF's decision, and the purported ratification of that decision by the Directing Committee, was in breach of its own Statutes and of the fundamental principle of procedural fairness, which the CAS has always endeavoured to protect (see e.g. Watt/ACF (CAS 96/153 Digest of CAS Awards, Volume I, page 341; AEK Athens-Slavia Prague/UEFA (CAS 98/200 Digest of CAS Awards, Volume II, page 66; AOC (CAS 2000/C/267 Digest of CAS Awards, Volume II, page 741), and should thus be declared to be void and of no effect
- 9.6 In the light of its findings on all three issues, the Panel is firmly of the view that the suspension was unlawful, in the sense that the WKF did not comply with its own Statutes or follow its own procedures, or appear to act *bona fide* in a fair and open manner towards one of its member federations.
- 9.7 Accordingly, the SKU's appeal succeeds.

10. Postscript

- 10.1 The Panel is mindful of the fact that membership of the WKF is a matter for the WKF alone to decide. It is also mindful of the fact that there is considerable criticism of the WKF in this Award. It is the Panel's hope that the WKF will accept this criticism and take steps to remedy the deficiencies in its Statutes and internal procedures which the Panel has pointed out.
- 10.2 In particular, the Panel hopes that the WKF will react to this Award in accordance with the Olympic spirit, and restore the SKU to membership. The Panel cannot look into the future and dictate to the WKF who should be admitted to membership in the future. So far as karate is concerned, the Panel is confident that, in the light of this Award, the WKF will take steps, together with the SKU, to promote and enhance karate in Slovakia in an effort to bring unity rather than division in the Slovakian karate world.

11. Costs

- 11.1 Pursuant to Art. R65.1 and 2 of the Code, appeals arbitration is free, subject to the payment of a minimum court office fee of CHF 500, which the CAS retains in any event.

- 11.2 Art. R65.3 provides that in the Award, the Panel shall decide which party shall bear the costs of the parties, witnesses, experts and interpreter, or in what proportions the parties shall share these costs, taking into account the outcome of the proceedings, as well as the conduct and the financial resources of the party.
- 11.3 In the present case, the Panel concludes that it is reasonable for each party to bear its own costs and expenses incurred in connection with the appeal.

ON THESE GROUNDS

Tie Court of Arbitration for Sport:

1. Allows the appeal by the Slovak Karate Union,
2. Declares the suspension of the Slovak Karate Union by the World Karate Federation on the 9th October 2002 to be void and of no effect.
3. Declares that each party shall bear its own costs

Done in Lausanne, 31 July 2003

THE COURT OF ARBITRATION FOR SPORT

President of the Panel

A handwritten signature in black ink, appearing to read 'Peter Leaver', written in a cursive style.

Peter Leaver QC