

CHALLENGING OLYMPIC JUSTICE: JORDAN CHILES'S APPEAL AND THE LIMITATIONS OF INTERNATIONAL SPORTS ARBITRATION

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ABSTRACT

This article examines U.S. Olympic gymnast Jordan Chiles's pending appeal to the Swiss Federal Supreme Court after a decision by the Court of Arbitration for Sport (CAS) denied her a shared Olympic bronze medal. By situating the dispute in the broader framework of international sports arbitration, the article analyzes the constraints athletes face in seeking redress for judging controversies, procedural irregularities, and conflicts of interest. It highlights the legal and structural barriers within the CAS framework and Swiss arbitration law, ultimately arguing that meaningful reform is necessary to restore the legitimacy of international sporting adjudication.

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I. BACKGROUND: THE STRUCTURE OF INTERNATIONAL SPORTS DISPUTE RESOLUTION

The International Olympic Committee (IOC) established the Court of Arbitration for Sport (CAS) in 1984 to provide a centralized, specialized forum for resolving sports-related disputes through arbitration and mediation.¹ Originally envisioned as a neutral institution to enhance fairness and uniformity in the settlement of such disputes, CAS is headquartered in Lausanne, Switzerland. It is administered by

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1. *History of the CAS*, COURT OF ARBITRATION FOR SPORT, <https://www.tas-cas.org/en/general-information/history-of-the-cas.html> (last visited Apr. 16, 2025).

the International Council of Arbitration for Sport (ICAS), created in 1994 to guarantee CAS's structural and financial independence.²

CAS operates under the legal framework of Swiss private law, and proceedings are governed by the Code of Sports-related Arbitration. Panels typically comprise one or three arbitrators selected from a pre-approved list maintained by ICAS. Despite its aim of neutrality, concerns persist over CAS's independence, particularly when arbitrators have concurrent affiliations with sports federations.³

CAS awards are subject to limited judicial review by the Swiss Federal Supreme Court, the only court with authority to annul CAS decisions. Under Article 190(2) of the Swiss Private International Law Act (PILA), an award may be challenged solely on procedural grounds: improper tribunal composition, lack of jurisdiction, decision beyond the matter presented to the tribunal (*ultra petita*), violation of the right to be heard or equality of the parties, or incompatibility with Swiss public policy.⁴ The Swiss court does not review the merits of the case, preserving the finality of arbitral decisions and making successful appeals exceedingly rare.⁵

II. INTRODUCTION

In the aftermath of the 2024 Olympic Games in Paris, an intense legal battle unfolded behind the scenes of the gymnastics arena. United States Olympian Jordan Chiles, a celebrated athlete and two-time medalist, found herself in a controversy that has raised serious questions about the fairness, transparency, and structural biases in international sports arbitration. At stake is not only an Olympic bronze medal, but the legitimacy of the dispute resolution system relied upon by athletes worldwide.

This article explores Chiles's pending appeal to the Swiss Federal Supreme Court following a decision by the CAS that denied her a shared bronze medal. Her case reveals the profound limitations that athletes face when seeking redress through the current international

2. *Id.*

3. *Code: Procedural Rules*, COURT OF ARBITRATION FOR SPORT, <https://www.tas-cas.org/en/arbitration/code-procedural-rules.html> (last visited Apr. 16, 2025).

4. Nathalie Voser & Aileen Truttmann, *Swiss Supreme Court: Challenging Awards on Ground of Improper Constitution of Tribunal and Arbitrators' Duty to Warn Parties of Any Unexpected Reasoning*, THOMSON REUTERS (Mar. 12, 2013), [https://uk.practical-law.thomsonreuters.com/7-525-1117?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practical-law.thomsonreuters.com/7-525-1117?transitionType=Default&contextData=(sc.Default)&firstPage=true).

5. Jean Marguerat et al., *Challenging and Enforcing Arbitration Awards: Switzerland*, GLOB. ARB. REV., <https://globalarbitrationreview.com/guide/the-guide-challenging-and-enforcing-arbitration-awards/3rd-edition/article/switzerland> (Mar. 12, 2024).

sports arbitration framework. Chiles's appeal is rare not only because it challenges a CAS ruling at the Swiss Federal Supreme Court, but because it combines two seldom-successful arguments, procedural due process and arbitrator conflict, in a system where both are notoriously hard to prove. Specifically, it underscores the restrictive nature of the "field of play" doctrine, the structural opacity of CAS proceedings, and the narrow path available for judicial review under Swiss law. This case is uniquely compelling, not only for what it says about arbitration but for what it reveals about the fragility of justice in public arenas.

III. THE CONTROVERSY: A FOUR-SECOND DELAY

The controversy stems from the women's gymnastics floor event in Paris on August 5, 2024. Jordan Chiles initially appeared to come in fifth place, with Romanian gymnast Ana Bărbosu receiving the bronze. Chiles's coach submitted an inquiry challenging the difficulty score awarded to her routine, arguing that a connection bonus (points awarded for combination of elements in a routine) was improperly omitted, which otherwise would have raised Chiles's final score and put her in third place with a spot on the podium. The inquiry was initially successful: Chiles's name moved to third place on the scoreboard, and Chiles stood on the podium as the bronze medalist.⁶ However, Romania appealed the score change to the CAS on behalf of Bărbosu.⁷ The CAS tribunal overseeing the dispute identified four key issues, the most consequential being whether Chiles's coach submitted the inquiry after the one-minute deadline established under Article 8.5 of the 2024 Fédération Internationale de Gymnastique (FIG) Technical Regulations,⁸ which governed scoring of gymnastics events at the Paris Olympics. According to the CAS panel, the verbal inquiry was made one minute and four seconds after Chiles's score appeared on the scoreboard, rendering the inquiry untimely and disqualifying Chiles from any further relief.⁹ As a result, Chiles's original score was restored on

6. Juliet Macur, *Jordan Chiles Lost a Bronze Medal Because an Appeal Was Four Seconds Late*, N.Y. TIMES (Aug. 11, 2024), <https://www.ny-times.com/2024/08/11/world/olympics/jordan-chiles-gymnastics-medal.html>.

7. *Id.*

8. FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE, TECHNICAL REGULATIONS, art. 8.5 (2024) ("For the last gymnast or group of a rotation, [the] limit [on inquiries of the score] is one (1) minute after the score is shown on the scoreboard.").

9. Vanda Kopic, *2024 in Review: Sports Arbitration Developments in the Aftermath of the Olympic Games and CJEU Insights*, KLUWER ARB. BLOG (Feb. 4, 2025), <https://arbitrationblog.kluwerarbitration.com/2025/02/04/2024-in-review-sports-arbitration->

August 14, 2024, removing her from the podium and reflecting only Romanian gymnast Ana Bărbosu as the bronze medalist.¹⁰ Chiles then appealed the case to the Swiss Federal Supreme Court, seeking to have the CAS decision overturned.

The interpretation of the inquiry's timeliness was crucial: it allowed the panel to sidestep the other substantive questions raised, including whether penalties assessed to other competitors were valid, and whether a tie for the bronze was a more equitable outcome. In effect, procedural technicality outweighed the merits of the case, a recurring concern in arbitration, where rigid formalism often prevails over substantive fairness. Chiles's case exemplifies the pitfalls of overly rigid proceduralism in high-stakes, split-second contexts where procedural perfection is often impossible. It is difficult to imagine the emotional and mental toll of losing an Olympic medal, one you may have rightfully earned, because of a four-second delay of a coach's inquiry. The law, while neutral on its face, does not always exemplify neutrality in practice.

IV. THE "FIELD OF PLAY" DOCTRINE

At the core of the CAS decision lies the often-invoked "field of play" doctrine, a principle that typically insulates on-field officials' decisions from subsequent review, even where clear error occurs. The doctrine holds that decisions made by judges or officials during athletic competitions are final and beyond legal challenge unless bad faith or bias is shown.¹¹ In Chiles's case, the doctrine was invoked by the Respondents, including FIG, to defend the original score and shield it from review, in a way that would have preserved Chiles's medal. The CAS tribunal declined to apply the doctrine rigidly, finding that the dispute concerned procedural timing rather than a judging decision, and therefore fell outside of the doctrine's protective scope.

Yet even as it set aside the "field of play" doctrine, CAS substituted one form of procedural rigidity for another. Days before the final hearing, Chiles's team produced timestamped video and audio evidence showing the timeliness of the coach's inquiry. Still, CAS declined

developments-in-the-aftermath-of-the-olympic-games-and-cjeu-insights (discussing the CAS panel's reliance on the timeliness requirement under the FIG Technical Regulations).

10. Dylan Farley & Manali Kulkarni, *Jordan Chiles Olympic Medal Controversy: Background to Dispute & CAS Decision*, LAWINSPOrT (May 2, 2025), <https://www.lawinsport.com/topics/item/jordan-chiles-olympic-medal-controversy-background-to-dispute-cas-decision> (providing a detailed analysis of the procedural timeline and the CAS decision regarding Jordan Chiles's medal appeal).

11. *Id.*

to consider the new evidence, citing its own evidentiary rules barring late submissions.¹² As a result, the tribunal's ruling hinged not on the merits of the challenge or the fairness of the judging, but on a procedural technicality that effectively foreclosed meaningful review.¹³

By rejecting the inquiry on grounds of timing, CAS avoided examining allegations of manifest unfairness (refusal to consider video evidence, scoring inconsistencies in the application of deductions and bonuses, and the arbitrators' own impartiality). This outcome exemplifies how legal doctrines, whether substantive like the "field of play" doctrine or procedural like evidentiary cutoffs, can paradoxically undercut the very legitimacy they purport to defend. This tension between substantive justice and procedural order is central to Chiles's challenge.

V. THE RIGHT TO BE HEARD AND THE ROLE OF EVIDENCE

One of the primary claims in Chiles's appeal to the Swiss Federal Supreme Court is that her procedural right to be heard was violated. Under Swiss arbitration law, this right is fundamental and includes the opportunity to present and have relevant evidence considered. Chiles, represented by Los Angeles-based Gibson Dunn partner Maurice Suh, argues that CAS erred in refusing to accept video and audio evidence showing that the inquiry was, in fact, submitted on time.¹⁴ Further, CAS had the authority to reopen proceedings based on newly discovered evidence. As noted in Chiles's filings, the CAS rules do not explicitly prohibit reconsideration where objectively new and previously unavailable evidence becomes available. Nevertheless, the CAS tribunal insisted that no further review was possible according to its procedural rules and refused to admit the video.¹⁵

12. Ryan Glasspiegel, *USA Gymnastics Has Evidence Jordan Chiles Inquiry Was Made on Time Amid Olympics Medal Controversy*, N.Y. POST (Aug. 11, 2024), <https://ny-post.com/2024/08/11/sports/usa-gymnastics-has-evidence-jordan-chiles-inquiry-was-made-on-time/> (reporting that USA Gymnastics submitted time-stamped video evidence indicating the inquiry into Chiles's score was made within the required timeframe).

13. *Id.*

14. Press Release, Gibson, Dunn & Crutcher LLP, Jordan Chiles Submits Additional Appeal Brief Seeking Reinstatement of Bronze Medal (Sept. 24, 2024), <https://www.businesswire.com/news/home/20240924993546/en/Jordan-Chiles-Submits-Additional-Appeal-Brief-Seeking-Reinstatement-of-Bronze-Medal> (arguing that CAS failed to consider conclusive video and audio evidence).

15. USA Gymnastics (@USAGym), X (Aug. 12, 2024, 4:54 PM), <https://x.com/USAGym/status/1823100703797068224>.

The Swiss Federal Supreme Court rarely overturns CAS decisions, and the scope of review is narrow. However, procedural irregularities such as denial of the right to be heard fall within the court's mandate. Chiles's argument that the CAS decision was issued without considering dispositive evidence therefore strikes at the legitimacy of the arbitration process itself. It also aligns with broader procedural justice concerns: the legitimacy of any adjudicatory body rests not merely on the correctness of its conclusions, but on the integrity and transparency of the process itself.

VI. INDEPENDENCE AND IMPARTIALITY

Compounding concerns over fairness, Chiles's appeal also challenges the composition of the CAS panel, particularly the involvement of Hamid Gharavi, who presided over the arbitration.¹⁶ Chiles's legal team argues that Gharavi's role constituted a conflict of interest, given his long-standing legal representation of Romania in other matters, including at the time of the arbitration in question.¹⁷ This is particularly concerning because the Romanian gymnast who ultimately received the bronze medal was a beneficiary of the decision rendered by the panel Gharavi chaired.

The claim is more than speculative. Chiles's team argues that Gharavi's conflict was not disclosed in a timely manner, nor was Chiles given an adequate opportunity to object. CAS itself did not permit sufficient time for her team to investigate or present objections, thereby breaching both due process and CAS's own procedural rules.¹⁸ CAS rules require that parties have seven days to object to the appointment of arbitrators;¹⁹ however, Chiles's team contends that they were not

16. Besides Gharavi, who is a citizen of Iran and France, the CAS tribunal that considered the case included Philippe Sands, a British and French citizen, and Song Lu, a Chinese citizen. The tribunal issued a unanimous decision. Katherine Simpson, Benjamin G. Davis & Odette Lagacé, *BREAKING—Did Romania's Lawyer Strip Jordan Chiles of a Bronze Medal?*, CPR INSTITUTE (Aug. 12, 2024), <https://www.cpradr.org/news/breakingdid-romanias-lawyer-strip-jordan-chiles-of-her-bronze-medal> (analyzing potential conflicts of interest in the CAS arbitration that led to the revocation of Jordan Chiles's Olympic bronze medal).

17. Gibson, Dunn & Crutcher LLP, *Jordan Chiles Appeal Before the Swiss Supreme Court 4–5* (Sept. 16, 2024), <https://www.gibsondunn.com/wp-content/uploads/2024/09/Jordan-Chiles-Appeal-Before-the-Swiss-Supreme-Court.pdf>.

18. *Id.* at 6.

19. Stuart C. McInnes, *User Guide to the Court of Arbitration for Sport*, SQUIRE PATTON BOGGS (Mar. 2017), <https://media.squirepattonboggs.com/pdf/misc/User-Guide-to-the-Court-of-Arbitration-for-Sports-Booklet.pdf> (providing a comprehensive overview of CAS procedures and the Code of Sports-related Arbitration).

granted the full period to investigate and raise objections.²⁰ These failures add to growing criticisms that CAS panels, often composed of arbitrators with ongoing ties to national federations or Olympic bodies, are insufficiently independent.²¹ Chiles's team argues that such structural entanglement undermines the neutrality of arbitration, a fundamental tenet of any adjudicatory process. In many domestic legal systems, undisclosed conflicts of interest can be grounds for vacating a judgment. International arbitration should demand no less.

VII. STRUCTURAL BARRIERS TO JUSTICE

The Jordan Chiles case is emblematic of a broader issue: the asymmetry of power between athletes and governing bodies in international sports. The arbitration system, as currently designed, offers athletes limited procedural protections and few avenues for meaningful redress. Even where compelling evidence or conflicts of interest are present, athletes face an uphill battle when challenging arbitration outcomes.

Additionally, Swiss law's narrow grounds for setting aside arbitral awards mean that the Federal Supreme Court's hands are often tied, regardless of the merits of the athlete's case. Unless there is a clear procedural violation, such as denial of the right to be heard or arbitrator bias, the Swiss court will not intervene. This deference may be justifiable in commercial arbitration, where parties typically bargain from positions of relative parity. However, in the sports context, where individual athletes face institutional barriers, such a standard exacerbates the imbalance. Sports law exceptionalism, the idea that sport warrants distinct legal treatment to preserve its unique need for competitive integrity, should be invoked.²² Chiles's case also raises deeper questions about the legitimacy of systems that deny reconsideration even in light of conclusive new evidence. If the law cannot accommodate truth when it arrives late, can it still claim to serve justice? In her appeal, Chiles is not only seeking a medal, but she is also seeking recognition of the principle that rules should serve fairness, not frustrate it.

20. Katherine Simpson, *The Olympics Chiles Arbitration Debacle, Part III: A Sham Award Following a Sham Arbitration?*, CPR INSTITUTE (Aug. 22, 2024), <https://www.cpradr.org/news/the-olympics-chiles-arbitration-debacle-part-iii-a-sham-award-following-a-sham-arbitration> (analyzing procedural irregularities and potential conflicts of interest in the CAS arbitration involving Jordan Chiles).

21. See, e.g., Suela Dervishi, *How Independent is the Court of Arbitration for Sport?*, ARBITRAS (June 19, 2020), <https://www.arbitras.org/blog/2020/6/19/how-independent-is-the-court-of-arbitration-for-sport> (examining the structural and procedural factors influencing the perceived independence of CAS, including insights from the Pechstein case and the selection process of arbitrators).

22. Sherman J. Clark, *Why Sports Law?*, 28 STAN. L. & POL'Y REV. 151 (2017).

VIII. THE PATH FORWARD

While the outcome of Chiles's appeal remains uncertain, its implications are already resonating. The case has galvanized support from key stakeholders, including the U.S. Olympic and Paralympic Committee, which submitted a letter in support of Chiles's appeal.²³ Independent legal experts have also weighed in. Arbitrator Dr. Katherine Simpson and law professors Benjamin Davis and Odette Lagacé publicly questioned the panel's impartiality and criticized its refusal to admit new evidence as inconsistent with fundamental fairness.²⁴ Chiles's case also invites deeper scrutiny of CAS procedures and the need for reforms that promote fairness, transparency, and independence.

Potential reforms include stricter conflict-of-interest disclosures for arbitrators, greater deference to video evidence, and more robust mechanisms for reconsideration of arbitral awards in light of new facts.²⁵ Another possibility is the introduction of an independent ombuds mechanism or appellate body within the CAS framework to review claims of procedural error without requiring the extraordinary step of appealing to the Swiss judiciary. Even incremental reforms can give athletes a stronger sense that they are not just participants, 60 stakeholders with agency in the institutions that judge them.

Ultimately, the Chiles appeal invites us to reconsider not only the mechanics of sports arbitration but its values. In the Olympic spirit, fairness should be more than a slogan. It should be practiced and embodied in the institutions that govern the games. If medals are symbols of excellence, the processes that award them must meet that same standard. The Olympic motto calls for "faster, higher, stronger," but perhaps it is time we added "fairer." Justice, like sport, should inspire faith, not frustration. And that begins with the courage to reimagine systems, just as Jordan Chiles is doing now.

23. James Pratt, *Jordan Chiles Submits Appeal Over Paris 2024 Bronze Medal Ruling to Swiss Federal Supreme Court*, OLYMPICS.COM (Sept. 17, 2024, 6:49 AM), <https://www.olympics.com/en/news/jordan-chiles-submits-appeal-paris-2024-bronze-medal-ruling-swiss-federal-supreme-court> (highlighting the support of the U.S. Olympic and Paralympic Committee for Chiles's appeal).

24. Simpson, Davis & Lagacé, *supra* note 16.

25. See, e.g., Antoine Duval, *The Rules of the Game: Three Pillars for a Reform of the Court of Arbitration for Sport – Independence, Transparency and Access to Justice*, PLAY THE GAME (Mar. 12, 2015), <https://www.playthegame.org/news/the-rules-of-the-game-three-pillars-for-a-reform-of-the-court-of-arbitration-for-sport-independence-transparency-and-access-to-justice>; Saverio Spera, *Time for Transparency at the Court of Arbitration for Sport*, ASSER INT'L SPORTS L. BLOG (Jan. 31, 2017), <https://asser.nl/SportsLaw/Blog/post/transparency-at-the-court-of-arbitration-for-sport-by-saverio-spera>.