

FIELD OF PLAY FOR GYMNASTICS APPEALS: A TIME FOR ARBITRAL RESTRAINT

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Abstract: *While attending the Paris 2024 Summer Olympic Games, I was excited to witness what seemed like the most amazing photo finish on the medal podium. While the Brazilian gymnast Rebeca Andrade stood on the podium to receive her gold medal, the American athletes Simone Biles and Jordan Chiles receiving their silver and bronze medals bowed down to Andrade, indicating to the world that they acknowledged that Andrade gave a better performance.² At the time, this felt like the ultimate showing of sportsmanship and humility.*

Shortly afterward, this ended up being overshadowed by a dispute regarding whether Chiles would be able to keep her bronze medal. The dispute started at the end of Chiles' floor exercise routine. After the score of the routine placed Chiles in fifth place behind the Romanian athletes Ana Barbosu and Sabrina Maneca-Voiena, Chiles' coach, Cécile Canqueteau-Landi, challenged the difficulty score that was given for Chiles' routine³. Under the rules of the sport, coaches are able to submit an inquiry challenging a difficulty score of a gymnast, with the verbal inquiry required to take place prior to the next competitor finishing their routine and the written inquiry required to take place prior to the rotation ending⁴. In the event that the gymnast competes at the end of the rotation, coaches have one minute to submit their inquiry⁵. As Chiles was the final competitor of her rotation, Canqueteau-Landi therefore had one minute to submit her inquiry. Canqueteau-Landi's challenge was successful, which increased Chiles' score from 13.666 to 13.766, thus moving her from fifth place into

1.* The author would like to thank Hooman Afzal, Gianna Flammini, Henry Zaransky, Brent Larson, and Connor Roth for their help with this article.

2. See McCarthy, Kelly (2024), "What Simone Biles, Jordan Chiles Said about Bowing to Rebeca Andrade After Paris Gymnastics Floor Final," in: ABC News, 5 August 2024, <<https://abcnews.go.com/GMA/Living/simone-biles-jordan-chiles-bowing-rebeca-andrade-after/story?id=112580694>>, for a published account interpreting the gesture as an acknowledgment of Andrade's performance.

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4. Id. paras. 115–118.

5. Ibid.

*third place to receive the bronze medal*⁶.

The following day, Barbosu and Maneca-Voiena, along with the Federation Romanian Gymnastics (“FRG”) appealed the results to the Ad Hoc Division of the Court of Arbitration for Sport (“CAS”) in two separate appeals.⁷ The appeals were consolidated, with the final appeal contending that Canqueteau-Landi failed to submit her inquiry within the one-minute time period allotted by the rules.⁸ The appeal also claimed that the Technical Committee of FIG reviewed the inquiry with bad faith since it did not consult video footage in a proper manner, that the deduction of 0.1 points to Maneca-Voiena’s score was erroneous and should be reversed, and advocated in favor of Maneca-Voiena, Chiles, and Barbosu all receiving bronze medals.⁹

In its decision, CAS determined that Canqueteau-Landi’s inquiry was not submitted within the one-minute period allotted.¹⁰ In doing so, the panel utilized evidence from Omega, the official Olympic timekeeper, indicating that the inquiry was recorded electronically one minute and four seconds following Chiles’ score being displayed.¹¹ As a result, the CAS panel hearing the case took away the bronze medal from Chiles and awarded it to Barbosu.¹² The panel should not have altered the result of the competition because it should be treated as a “field of play” decision. The CAS panel should have continued to follow the principle of leaving the decisions of referees and judges in place in the absence of extraordinary circumstances, such as arbitrariness, bad faith, or corruption.

Keywords: *field of play, sports arbitration, equivalent mischief, Court of Arbitration for Sport, gymnastics, appeal*

6. Id. paras. 6–11.

7. Id. paras. 12-14.

8. Id. para. 14.

9. Id. paras. 14-15.

10. See Sydney Bauer, Dvora Meyers (2024), “The most controversial Olympics moment came down to four seconds,” in: The Verge, 23 September 2024, <<https://www.theverge.com/24240873/paris-olympics-2024-gymnastics-jordan-chiles-controversy>>.

11. Arbitration CAS Ad hoc Division (OG Paris) 24/15 Federation Romanian Gymnastics & Ana Maria Bărbosu v. Donatella Sacchi & International Gymnastics Federation (FIG); CAS OG 24/16 Federation Romanian Gymnastics & Sabrina Maneca-Voinea v. Donatella Sacchi & FIG, award of 5 August 2024, paras. 121-123, 128-129.

12. This means that the CAS changed who was officially awarded the bronze medal and who was listed as finishing third place in the official records. They did not take away the physical medal as Chiles decided to keep it while waiting for her team’s appeal to the Swiss Federal Tribunal. See Jackson, Stacy (2024), “Jordan Chiles Hangs Onto Bronze Medal as Team USA Pursues Appeal,” in: Black Enterprise, 21 August 2024, <<https://www.blackenterprise.com/jordan-chiles-bronze-medal-us-appeal>>.

The Principle of “Field of Play”

One of the important principles that has become a part of CAS jurisprudence is not overturning the decisions of referees, judges, or other sporting officials who govern the game for calls that occur in the “field of play.”¹³ Anyone who likes knowing the result of a game, match, or other competition at the end of the competition should appreciate this concept. To understand its importance, one can look to the sport of basketball. In this sport, there can be disagreement regarding whether a foul was committed, as well as the type of foul that occurred. Thus, if the referee’s calls could be appealed following the game, one could have a situation resembling a trial where a representative for each team would object to each foul in order to preserve the opportunity to appeal. It is likely that if an athlete earned free throws following a foul, the points for the player shooting the baskets would later be taken away, thus impacting the result of the game. With the large number of fouls that can occur during a basketball game, it would become anyone’s guess what the final score would be at the end of many games and it would often be difficult to know who won until after the tribunal making determinations has made a decision on every foul.¹⁴ While this is an extreme example, this illustration indicates why it is important for a referee or judge’s determination regarding what happened during the game to be final and unappealable.

According to Adam Lewis and Jonathan Taylor, another reason that it is important for arbitrators to avoid reviewing “field of play” decisions is the fear of “opening the floodgates.”¹⁵ While one may think that the earlier example of every foul in a basketball game being appealed is far-fetched, it is likely that if a few challenges relating to fouls were heard by tribunals, the “flood gates” would be opened with it becoming increasingly common for teams to challenge any foul. If this was the case, it would likely feel that the results of every game were being rewritten following its completion. It is important for this to be avoided.¹⁶ Otherwise, the outcome of games would depend more on the decisions of judges than the athletes on the field.

13. McLaren, Richard (2004), “The CAS Ad Hoc Division at the Athens Olympic Games,” in: *Marquette Sports Law Review*, Vol. 15, pp. 167, 198m, stating “The approach of CAS in the field of play decisions has been very constant throughout the history of CAS decisions.”

14. See Hamilton, Jack (2022), “Please, Enough With the NBA Playoffs’ Incessant Officiating Problem,” in: *Slate*, <<https://slate.com/culture/2022/05/nba-playoffs-officiating-problem-replay-review.html>>, for a description of how the subjective nature of referee calls can bring about issues in the sport of basketball.

15. Adam Lewis, Jonathan Taylor (2009), “Sports Law and Practice,” Tottel Publishing Ltd: London, p. 346.

16. *Id.* pp. 347-348.

According to Michael and Rupert Beloff, “One of the key objectives of sports law (or the *lex sportiva*) is indeed to immunise sport from the reach of the law.”¹⁷ Arbitrators respecting “field of play” decisions help move in the direction of that goal by providing complete autonomy to sports officials. This provides the benefit of deferring to the officials who are the experts in the sport for which they are making decisions. An arbitrator might not have expertise in the technical level of the sport.¹⁸ There is also “the inevitable element of subjectivity, resulting in part from different physical perspectives.”¹⁹ With a wider view, arbitrators deferring to referees or judges for “field of play decisions” can be seen as providing autonomy to the sports themselves, rather to an outside panel of arbitrators.

In addition to holding expertise in the sport for which they are calling, another reason that it makes sense for “field of play” decisions to be final is that referees and sports judges are neutral observers who are present in the moment where and when things happen on the field. This provides a different perspective from that of a person looking into what parties claim to be the facts at a later time. While in some instances video evidence may provide arbitrators with a better view of a situation than a referee on a basketball court who is not directly facing the action, in many instances, “the camera may not lie but it can be economical with the truth,”²⁰ thus a sports arbitrator will likely still have to make a decision and it will likely be less authentic than that of one who is in the heart of the action. Also, in a sport like basketball, there are many subjective things relating to a foul for which an experienced referee may decide in a consistent manner relating to their other calls.²¹ While not official, this type of consistency can have an impact on how players play the game and arbitrators overturning these decisions of discretion would bring about more inconsistency to the game.

While arbitrators generally follow the principle of not changing the results of “field of play” cases, it is not because they lack the jurisdiction to do so.²² Instead, it has been described as a form of self-restraint.²³ Thus, just because arbitrators are able to review a “field of play” decision does not mean that they should do so.

17. Michael Beloff, Rupert Beloff (2007), “The Field of Play,” in: Halsbury’s Laws of England Centenary Essays, LexisNexis: London, p. 147.

18. Id, p. 148.

19. Ibid.

20. Id, para.149.

21. See Hamilton, *supra* note 13.

22. McLaren (2004), p. 198.

23. Beloff & Beloff (2007), p. 148.

The Protest that Improved Chiles' Score was a Part of the Competition

In the CAS case which awarded Chiles' medal to Barbosu, CAS argued that the case did not constitute a field of play judgement. The tribunal stated that instead, the case consisted of determining whether a clear and objective rule was followed.²⁴ The tribunal stated that the rule was not flexible but that it was mandatory.²⁵ They described how there was no system in place to flag whether an inquiry was late as well as that there was no person at FIG who checked to see whether the rule was followed correctly and that the person who entered inquiries was not an FIG official.²⁶ This led them to determine that the review was a result of a system failure instead of a referee call.²⁷

It is problematic that FIG did not have a better system for determining whether an appeal was submitted on time. Because they did not have a system for this, it was up to the judges to determine whether they believed an appeal was submitted prior to the deadline.²⁸ Thus, this constituted a judge's decision. CAS case law has established that decisions relating to protest timing fall into the category of field of play. In the case *Saarrinen v. FIS*, the jury for a race found that the cross-country skier Saarinen was accused of purposefully obstructing another skier, which caused her to fall.²⁹ The race jury disqualified Saarinen based upon video review as well as their own observations.³⁰ Saarinen claimed that there was a flaw in the procedure and that the jury made up its mind prior to a hearing taking place.³¹

The CAS panel reviewing the appeal determined that in addition to the field of play doctrine protecting judgements during the event, the timing of protests falls within the doctrine of field of play.³² Based upon this case, the *Federation Romanian Gymnastics* case should be viewed as a field of play decision, since the case was regarding the timing of a protest. While the procedures for review-

24. CAS Ad Hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, para. 137.

25. *Id.*, para. 119.

26. *Id.*, para. 134.

27. *Id.*, para. 138.

28. CAS Ad Hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, para. 127.

29. CAS 2010/A/2090, *Aino-Kaisa Saarinen v. FIS*, par. 4.

30. *Id.*, paras. 4, 11, 16.

31. *Id.*, paras. 11-12.

32. *Id.*, paras. 40-41.

ing the timing was flawed, there was no evidence of bad faith, fraud, bias, or arbitrariness. The gymnastics judges likely did the best that they could with the poor system that FIG had in place and it is unfair to challenge their judgement further.

Following the *Federation Romanian Gymnastics* panel decision, part of why the case did not constitute field of play is that following the rule does not provide any flexibility, thus it is mandatory for judges to follow this.³³ However, as nothing indicates that the judges did anything other than put their best effort toward determining whether the appeal was submitted based upon the resources that they had at the time, one should not be able to infer that they acted outside of the mandate.³⁴

There are many rules in sports that are inflexible where referees or judges can get things wrong and they are still viewed as falling into field of play. One example of this is line calls in tennis. Based upon the scoring rules of tennis, it can be construed as mandatory that when a player hits a ball out of bounds, the point goes to the opposing player.³⁵ However, many line judges and umpires have gotten the call wrong for whether the ball was in or out and for many years, there was no system better than indicating what they believe they saw to make the call.³⁶ When video replay first came to the television networks, there was a lengthy period where fans could determine that the line judge got the call wrong but the calls of the line judges and umpires remained.³⁷

More recently, there have been issues where looking at the markings that balls leave on clay courts to indicate whether the ball is in or out, which has been the traditional way of determining this, has brought about different results

33. CAS Ad Hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, paras. 117-119.

34. *Id.*, paras. 102, 134.

35. See Mather, George (2008), "Perceptual uncertainty and line-call challenges in professional tennis," in: *Proceedings of the Royal Society B: Biological Sciences*, Vol. 275, pp. 1645–1651, <<https://doi.org/10.1098/rspb.2008.0211>>.

36. See Carboch, Jan, Vejvodova, Katerina & Suss, Vladimir (2016), "Analysis of errors made by line umpires on ATP tournaments," in: *International Journal of Performance Analysis in Sport*, Vol. 16:1, pp. 264–275, <<https://doi.org/10.1080/24748668.2016.11868885>>, for research showing that line-umpires made errors in 27% of reviewable calls.

37. Prior to many of the major tournaments having completely electronic line calls, there was a period where player challenges became part of the game, where players were able to challenge a limited number of calls that they believed to be incorrect. See Tennis Majors (2025), "The Birth of Hawk-Eye and The Challenge System," in: *Tennis Majors*, <<https://www.tennismajors.com/atp/march-6-2006-the-birth-of-of-hawk-eye-and-the-challenge-system-325509.html#:~:text=March%206%2C%202006:%20The%20birth,%20ATP>>.

from what has been found by more advanced computer equipment.³⁸ Just as tennis calls are mandatory but the call during the game constitutes field of play despite instances where there is not the best system to reach a determination of whether a ball landed in or out, judge determinations for whether appeals have been submitted on time in gymnastics should be viewed as constituting field of play despite whether or not the judges had the best system of making this determination.

Additionally, it is questionable why one would think that these CAS arbitrators had a better understanding of the situation than the judges who were present. Following the hearing, new evidence surfaced supporting that the initial determination was correct and that Canqueteau-Landi submitted the appeal prior to the deadline. Footage from a live broadcast of the event displaying a running clock, along with a video from a Simone Biles documentary, show that coach made her appeal on-time.³⁹ This new evidence further illustrates it being problematic that CAS reviewed the field of play decision.

Another reason that the case should be viewed as field of play is because the rules relating to appeals, including the time limits, fall within the rules of the sport.⁴⁰ Thus, the appeals during competition should be considered as part of the competition itself. This means that any decision relating to them, including whether an appeal should be accepted falls into the category of field of play.

Additionally, CAS case law supports that determinations of protest timeliness and filing requirements constitutes field of play when it takes place during an event. In the case *NAOC v. IAAF*, Churandy Martina, who represented the Netherlands Antilles, finished second in the Men's 200-meter final at the 2008 Olympic Games while Wallace Spearmon, who represented the United States, finished third but was disqualified for a lane violation.⁴¹ Following the race, the United States Olympic Committee filed a late appeal which alleged that Martina also committed a lane violation.⁴² The IAAF Jury of Appeals accepted the protest

38. See Charlie Eccleshare (2025), "Tennis Adopted Electronic Line Calling on Clay and Created a Ball-Mark Monster," in: *The Athletic*, 30 April 2025, <<https://www.nytimes.com/athletic/6320584/2025/04/30/tennis-electronic-line-calling-clay-ball-marks-umpires>>.

39. See Chuck Schilken (2024), "A Crew Filmed Simone Biles at Olympics. Netflix doc may help Jordan Chiles get bronze medal back," in: *Los Angeles Times*, 17 September 2024, <<https://www.latimes.com/sports/story/2024-09-17/jordan-chiles-appeal-netflix-simone-biles-documentary>>, for a news report describing footage suggesting Chiles' inquiry was timely.

40. See FIG Technical Regulations, Article 8.5, <https://www.gymnastics.sport/publicdir/rules/files/en_1.1%20-%20Technical%20Regulations%202024>.

41. CAS 2008/A/1641, *Netherlands Antilles Olympic Committee (NAOC) v. International Association of Athletics Federations (IAAF) & United States Olympic Committee (USOC)*, award of 6 March 2009, p. 2.

42. *Id.* at 3.

and disqualified Martina following a video review of the race.⁴³ The Netherlands Antilles Olympic Committee appealed to CAS arguing that the appeal was too late, that the jury that ran the appeals process was procedurally flawed, and that CAS should intervene and reinstate Netherlands' medal.⁴⁴ The case was decided by a sole arbitrator who did not intervene as he found that the jury's decision constituted field of play.⁴⁵ His opinion stressed that officiating discretion applies to the handling of protests in addition to discretion in officiating.⁴⁶ Thus, the precedent of this decision indicates that the *Federation Romanian Gymnastics* case also falls into field of play.

The American Arbitration Association Olympic eligibility dispute *Beaman v. USA Shooting* further supports that challenges to in-event scoring falls into the field of play category.⁴⁷ In this case, the shooter Janessa Beaman challenged her being left off the U.S. Olympic shooting team, claiming that during the team trials, there were scoring irregularities and that there was an improper application of selection rules.⁴⁸ Her coach failed to file a timely protest during the event or to use any internal mechanism to challenge the results.⁴⁹ The sole arbitrator who heard the case found that the field of play doctrine applies and emphasized that challenges to in-event scoring and judgment fall under field of play and that absent bad faith or fraud, they cannot be reviewed.⁵⁰ This further supports that the appeal, including the timing of the appeal, for the case *Federation Romanian Gymnastics* should be viewed as constituting field of play

43. Ibid.

44. Id, pp. 2-3.

45. Id, paras. 29-36.

46. Id, paras. 36-38.

47. While this case was not a CAS case, the arbitrator who decided the case, Jeffrey Benz, is a prominent CAS arbitrator. See Jeffrey Benz, professional profile, <https://clay.earth/profile/jeffrey-benz>. One can thus rely on this case to provide advisory authority, especially since CAS's use of precedents has come about in a de facto manner. See Fernandez, Luis, "Does CAS Jurisprudence Exist?":text=This%20means%20that%2C%20in%20theory,way%20to%20past%20case%20law.

48. AAA Case No. 01-16-0002-3596, *Janessa Beaman v. USA Shooting*, paras. 1.1, 5.1.

49. Id, paras. 5.1-5.3.

50. Id, paras. 6.7-6.12, 6.19, 7.1.

Chiles' Case Does Not Fall Into Field of Play Exception

In Chiles' case, the panel stated that arbitrators are not always prevented from being able to review decisions by the field of play doctrine.⁵¹ This is correct. As described in *Saarinen*, "Abstinence by CAS from ruling on field of play decisions is not a matter of jurisdiction, but of arbitral self-restraint."⁵² This means that arbitrators can review field of play cases, however, they should exercise discipline to prevent themselves from doing so.

In *Chiles*, the appellants cited *KOC v. ISU* in its argument that field of play does not shield all decisions.⁵³ However, the *KOC* panel upheld a high threshold for arbitrators reviewing field of play decisions. Based upon the case, only instances with direct evidence of bad faith, arbitrariness, or corruption permit a CAS panel to intervene when cases constitute field of play.⁵⁴ There is no evidence of any of these in the *Chiles* case, so the case actually leads to the conclusion that the CAS panel should not have overturned the case.

Other arbitrations have reached similar conclusions such as that minor procedural irregularities do not justify overriding competition results absent serious misconduct.⁵⁵ As discussed earlier, the procedure that FIG had for determining whether a filing was problematic as it seemed that there was no solid system in place to determine this type of thing. However, because there was no serious misconduct involved, the precedent of *KOC* reads that the field of play decision relating to the timing of the appeal should not be reviewed.

According to the scholar and arbitrator Leanne O'Leary, "accepting a monitoring failure and human error as an exception to the 'field of play' doctrine interferes with the underpinning logic of the 'field of play' doctrine, which is to intervene primarily in circumstances of bad faith, and confirms the scope of exceptions as including negligence, with significant consequences for the doctrine's application."⁵⁶ Human error is common in all areas of refereeing and judging when electronic equipment is not present to aid the referee or judge's

51. CAS Ad Hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, para. 55.

52. CAS 2010/A/2090, *Saarinen v. FIS*, para. 35.

53. CAS Ad Hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, para. 82.

54. *Id.*, para. 17-18.

55. See AAA 01-16-0002-3596, *Beaman v. USA Shooting*. See also CAS OG 96/006, *Segura v. International Association of Athletics Federations (IAAF)*; CAS OG 00/013, *M. v. International Boxing Association (AIBA)*.

56. O'Leary, Leanne (2025), "Jurisprudence of the CAS Ad Hoc Division: Themes from Paris 2024," in: *International Sports Law Journal*, 23 June 2025, <<https://doi.org/10.1007/s40318-025-00302-2>>, p. 10.

decision. Following the precedent of determining that human error and monitoring failures move a decision out of field of play could theoretically make most referee and sports judging decisions subject to challenge.

Precedent even supports that the wrong methodology being applied by a referee does not exclude the case from falling into field of play. In the case *Swedish NOC & STF v. ITU*, the Swedish triathlete Lisa Norden and Swiss triathlete Nicola Spirig finished close enough together that the referee used photo-finish technology to award Spirig the gold medal.⁵⁷ Sweden protested the methodology of the review with the argument that the belly, as opposed to the torso, was used to determine the finish of the race.⁵⁸ It was appealed to the CAS Ad-Hoc division where the panel determined that the situation fell into field of play.⁵⁹ The panel determined that misapplication of the rule was not enough to bring about a need to intervene the field of play case since a photo-finish was used and the correct rule was cited.⁶⁰

CAS Case Law Supports Field of Play Doctrine in Gymnastics

While one may associate the field of play doctrine with sports such as football that are played on a field, some of the top field of play precedents come from the sport of gymnastics. In the case *Yang Tae Young & Korean Olympic Committee (KOC) v. FIG*, a judging error caused the South Korean gymnast Yang to be given a start value 0.1 lower than what he should have been given.⁶¹ Following the competition, FIG admitted that they made the mistake and the South Korean Olympic Committee appealed the case to CAS hoping for Yang to receive the gold medal.⁶² CAS determined that in order for there to be finality in sports, deference to the sports judge's decisions was needed even if the decisions were incorrect. It stated that an "error identified with the benefit of hindsight" is insufficient to overturn the results.⁶³ The panel emphasized certainty, systematic

57. CAS Ad Hoc Division OG 12/010, *Swedish National Olympic Committee (SNOC) & Swedish Triathlon Federation (STF) v. International Triathlon Union (ITU)*, award of 11 August 2012, pp. 1-2.

58. *Id.* at p. 4.

59. *Id.*, pp. 2-5.

60. *Id.*, paras. 10-12.

61. CAS 2004/A/704, *Yang Tae Young & Korean Olympic Committee (KOC) v. International Gymnastics Federation (FIG)*, award of 21 October 2004, p. 2.

62. *Id.*, pp. 1-2.

63. *Id.*, paras. 25-27.

integrity, and finality, as core reasons for the importance of not changing field of play decisions.⁶⁴

This provides precedential value indicating that the CAS panel should not have changed the medal decision in *Chiles*. First, the case provides precedent for tribunals respecting field of play decisions in the sport of gymnastics. Second, it provides precedent for a tribunal to not overturn results because an error was identified after the competition. In *Yang*, the error was even more egregious than in the *Chiles* case, as it was obvious enough after the competition that FIG admitted to it, whereas in *Chiles*, the new video evidence that has come to light makes it appear that the judges were likely correct in their initial determination.

Kiroi-Bogatyreva v. Gymnastics Australia provides further precedent for the field of play doctrine being exercised in gymnastics cases. In this case, two gymnasts competed for a single quota spot to represent Australia in the Olympic Games.⁶⁵ One of the gymnasts, Lidiia Iakovleva, submitted a score inquiry relating to the difficulty score,⁶⁶ which is similar to the inquiry submitted by Canqueteau-Landi for *Chiles*' routine. The appeal was successful and an additional 1.9 points were added to the score, which gave Iakovleva the spot on the Olympic team.⁶⁷ This meant that the other athlete, Alexandra Kiroi-Bogatyreva, was excluded from the team.⁶⁸ However, the judge who approved the score change acted as a Superior Jury member despite not being qualified for this under FIG rules.⁶⁹ KB appealed the case to CAS, which decided not to review the case because of the field of play doctrine.⁷⁰

The CAS panel found that judging decisions, even when they are made with improper procedure or personnel, constitute field of play decisions.⁷¹ Its decision should be viewed as setting the precedent that all challenges relating to accuracy, legitimacy, or methods of reviewing the score were inextricable from competition decision-making and that CAS should not intervene absent the type of field of play exceptions that were mentioned earlier in this article.

This case adds to the precedent that process flaws do not strip a case of field

64. Ibid.

65. See CAS 2021/A/8119, *Alexandra Kiroi-Bogatyreva v. Gymnastics Australia*, award of 18 October 2021, pp. 2-3.

66. Id. at p. 3.

67. Ibid.

68. See Id. pp. 1-2.

69. CAS 2021/A/8119, *Kiroi-Bogatyreva v. Gymnastics Australia*, para. 23, paras. 10-12, 14, 23.

70. Id, paras. 67-71.

71. Id, paras. 64-66.

of play protection. Here, the process that was used to determine that the difficulty score for a gymnast should be added was flawed, as it involved a judge who was not qualified to make the decision based upon FIG regulations. This is similar to the way the process was flawed in the *Federation Romanian Gymnastics* case as FIG had no good method in place for determining whether appeals were filed on time. Thus, the arbitrators for Chiles' case should have followed the precedent from *Kiroi-Bogatyreva* and left the additional points added from Chiles' appeal undisturbed since it was a field of play decision.

According to *Kiroi-Bogatyreva*, “all submissions by a party in relation to the judging and scoring of a competition are within the ‘field of play’ doctrine and cannot be reviewed by a CAS Panel. Consequently, any challenge to the assessment of difficulty in a performance, assessment of artistry and execution—including the results of the performances—are all matters within the doctrine of ‘field of play.’”⁷² In Chiles' case, the appeal to CAS was regarding a submission relating to the judging. Thus, based upon the precedent of *Kiroi-Bogatyreva*, it constitutes field of play. Also, this was relating to a “challenge to the assessment of difficulty in a performance,” further indicating that it constitutes field of play.⁷³

As mentioned earlier, *Kiroi-Bogatyreva* should be interpreted as precedent indicating that challenges to the method of score review are deemed to be inextricable from the decision making for the competition. The Chiles appeal is a challenge to the method of score review. The method of score review for the case involved the coach lodging an appeal with the competition judges and their determining whether or not to add points to the athlete's difficulty score. This included the competition judges determining, with the best information that they had available to them, whether the appeal was filed on time. FIG did not have quality tools for the judges to make this determination. Nonetheless, the competition judges having to make this determination without any quality tools was part of the method of decision making. Thus, the decision should be deemed as part of field of play.

Kiroi-Bogatyreva brings up one of the great arguments supporting field of play decisions remaining undisturbed, which is that “CAS Panels are not sufficiently trained in the rules of any or all sports and do not have the advantage to observe the event.”⁷⁴ It is difficult to imagine how the CAS panel in Chiles was better able to observe the timing of the appeal in a manner than the competition judges to make a more accurate determination of whether the appeal was submitted on-time. The Netflix documentary and broadcast television that came to light

72. Id, para. 68.

73. Ibid.

74. Id, p. 1.

after the panel reached its decision further illustrate this point by bringing about evidence that the CAS Ad-Hoc Committee was likely incorrect in its determination of when the appeal was filed.

It is difficult to see how competition judges putting forth their best effort to reach the correct decision regarding the timing of an appeal, but not having quality tools to do so, is worse than a competition judge who is not allowed to make a decision under the rules making the decision. Yet, the flawed reasoning relating to field of play that the *Federation Romanian Gymnastics* panel used brings about a situation where the former case was upheld but the latter case was changed.

Addressing the CAS Panel’s Equivalent Mischief Argument

In its analysis of why the timing of the appeal does not constitute field of play, the *Federation Romanian Gymnastics* panel stated that even if one did find the situation to be a field of play decision, the exception to field of play still applies.⁷⁵ They stated that the “Panel finds that such failure is tantamount to an error of law or de facto arbitrariness in the process or equivalent mischief.”⁷⁶ This reasoning is problematic.

Throughout the history of competitive sports, there have been countless cases in which the best system for making determinations was less than optimal. As mentioned earlier, there have been cases in tennis where referees and line judges did not have the best system to guide them for making a line call regarding whether something is in or out.⁷⁷ In other sports, there have been instances where referees have not seen things correctly and not had access to use technology to access information to make a better call. Even in instances where attempts have been made to incorporate technology for the best decision, disputes have come about regarding a call. For example, for the 2023 Rugby World Cup final, there was a controversy following a Television Match Official reviewing the New Zealand player Aaron Smith scoring to bring his team a one point lead over South Africa.⁷⁸ A Television Match Official (“TMO”) was utilized to review this, as the use of a TMO had brought forth a way to use technology to try to bring about

75. CAS Ad Hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, paras. 138-140.

76. *Id.*, para. 138.

77. See Mather (2008).

78. See Reason, Mark (2023), “Why Aaron Smith’s Try Should Not Have Been Wiped Out in Rugby World Cup Final,” in: Stuff, 13 Nov. 2023, <<https://www.stuff.co.nz/sport/rugby-world-cup-2023/300998686/mark-reason-why-aaron-smiths-try-should-not-have-been-wiped-out-in-rugby-world-cup-final>> ; See “World Champions Crowned! New Zealand v. South Africa Rugby World Cup 2023 Final Full Match,” Rugby World Cup, 2023, <<https://www.youtube.com/watch?v=...>>

correct calls,⁷⁹ and it was later determined that based upon the rules of the sport, the try should not have been taken away.⁸⁰ These are all examples of results remaining in place as opposed to being overturned for either being arbitrary or constituting equivalent mischief.

In the Chiles case, the arbitrators did not find any bad faith in the decision.⁸¹ According to the sports law professor and arbitrator Leanne O’Leary, “Accepting a monitoring failure and human error as an exception to the ‘field of play’ doctrine interferes with the underpinning logic of the ‘field of play’ doctrine, which is to intervene primarily in circumstances of bad faith, and confirms the scope of exceptions as including negligence, with significant consequences for the doctrine’s application.”⁸² Expanding the exemption to field of play to make procedural errors without bad faith reviewable is problematic because it brings about the potential for the issues that were referenced earlier in this article that would come about if field of play cases were reviewable to come into play.

In her analysis, O’Leary also states “On the other hand, fairness may require that the doctrine should be properly confined to the original officiating decision and not extend to any subsequent internal review body’s decision, particularly if the internal review body’s procedure is flawed.”⁸³ One could interpret this as meaning that perhaps the field of play doctrine should be viewed as applying to the initial decision where Chiles was given a lower difficulty score but not the decision relating to the coach’s appeal. The reason that this interpretation is problematic is because the appeals process for the difficulty score is part of the rules of the sport. Even though the appeal for this case took place at the end of the competition, there could have been an appeal for any athlete in the rotation. Thus, the internal review body’s decision should be considered as much a part of the game as the initial determination by a judge. Also, case law supports this. As

com/watch?v=V0UKtnwL7Ss&t=1s>, to view a replay of the 2023 Rugby World Cup to see the event at which this occurred.

79. See Cameron, Ian, “World Rugby Take Next Step in Introducing ‘TMO Bunker,’ Rugbypass, Apr. 17, 2003.

80. Reason, Mark (2023), “Why Aaron Smith’s Try Should Not Have Been Wiped Out in Rugby World Cup Final,” in: Stuff, 13 Nov. 2023, <<https://www.stuff.co.nz/sport/rugby-world-cup-2023/300998686/mark-reason-why-aaron-smiths-try-should-not-have-been-wiped-out-in-rugby-world-cup-final>>.

81. CAS Ad Hoc Division 24/15 & 24/16, Federation Romanian Gymnastics v. Sacchi & FIG, paras. 102, 134.

82. O’Leary (2025), p. 10.

83. Ibid.

mentioned earlier in the article, the case law as *NAOC* states that the handling of protests falls into field of play.⁸⁴

Procedural errors falling into the “equivalent mischief” category is not supported by CAS case law. The procedural mischief concept was cited in *Saarinen* when stating “If there were no internal mechanisms for appeal, but an appeal was direct to CAS, CAS would not interfere other than if bias or other equivalent mischief or error of law were identified.⁸⁵ The usage of the term “equivalent mischief” in this case makes it seem like it is used to describe some sort of mischief along the lines of bias or error of law. As the panel found that there was no bad faith, there is no reason to find that there was any sort of mischief at the level equivalent of bias.⁸⁶ As everyone involved seemed to be aware of what the rule was, it was clear that any error was a mistake of fact rather than an error of law. If a mistake of fact was deemed to be an “equivalent mischief” of an error of law, then it would bring about an exception to most areas of “field of play.”

The “equivalent mischief” concept was also mentioned in the case *Horse Sport Ireland v. Federation Equestre Internationale* by citing the quotation mentioning the word in *Saarinen*. In this case, an arena crew member ran in front of a jump and startled the horse of the Irish rider Cian O’Connor.⁸⁷ The arena Ground Jury failed to stop the round or allow any type of a retry even though the rules of the game permitted a restart upon the occurrence of an unexpected obstruction.⁸⁸ The CAS panel hearing the appeal for the case found the decision to constitute field of play. The panel stated “If there were no internal mechanisms for appeal, but an appeal was direct to CAS, CAS would not interfere other than if bias or other equivalent mischief or error of law were identified.”⁸⁹ It did not find this case to constitute “equivalent mischief.”⁹⁰

While the panel did not define “equivalent mischief,” its statement implies that it constitutes something similar to bad faith or a legal error. The panel in *Federation Romanian Gymnastics* determined that there was no bad faith in the decision.⁹¹ Since it is a question of fact and the parties involved were aware of

84. CAS 2008/A/1641, *NAOC v. IAAF & USOC*, paras. 36-38.

85. CAS 2010/A/2090, *Saarinen v. FIS*, para. 38.

86. *Id.*, para. 35.

87. CAS 2015/A/4208, *Horse Sport Ireland (HSI) & Cian O’Connor v. Fédération Equestre Internationale (FEI)*, award of 15 July 2016, pp. 2-3.

88. *Id.*, para. 6.

89. *Id.*, para. 52.

90. See *Ibid.*

91. See CAS Ad hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, para. 113.

the one-minute time limit, it was not a legal error. Thus, it seems unlikely that the situation in the case resulted in an area akin to these categories.

It is notable that the *Horse Sport Ireland* panel did not find the case of a race crew member's messing up a rider's jump to constitute equivalent mischief. This type of situation seems far more mischievous than an institution not having an adequate system to time the submission of appeals. Thus, to be consistent with CAS case law, the tribunal in *Federation Romanian Gymnastics* should not have utilized an exception for equivalent mischief.

Not having an adequate system in place to monitor the timing of appeals is a procedural flaw. According to Beloff & Beloff, a tribunal should only intervene in instances of field of play for procedural flaws if they create the same type of institutional breakdown that would be caused by bias, bad faith, or fraud.⁹² Not having a strong system in place does not rise to this level.

Although FIG should have had a better system in-place, it is understandable why it might not have been the organization's priority to install such a system. The one-minute time limit for submitting appeals only applied to instances of appeal for the final gymnast in a rotation.⁹³ For other gymnasts, the appeal needed to be filed prior to the end of the next gymnast's completing their routine. This means that it is more likely for an appeal to not run into the timing issue that came about for Chiles' case. Because this time limit only applies to a minority of appeals, it is understandable why having the best system for this was not FIG's priority prior to the competition. Further, this one-minute time limit for the final appeal feels like it is in place as accommodation since it is there because there are no more gymnasts competing. Thus, the time limit of the rule seems to be in place only because a limit is needed. Although the situation was unfortunate, the lack of this being done in any purposeful manner provides another reason that the instance does not follow into a field of play exception relating to equivalent mischief.

Finally, the Chiles decision is inconsistent in terms of what it counts as constituting equivalent mischief. In one part of its opinion, it states that "Finally, the Applicants make no colourable argument – and provide no evidence whatsoever – as to fraud, bias, arbitrariness, corruption or bad faith, or 'equivalent mischief or error of law'.⁹⁴ There may have been a hint of a suggestion as to 'bad faith', but in the view of the Panel there is no basis whatsoever for any such claim, and it must be completely and fully rejected."⁹⁵ Thus, it indicates that it did not

92. Beloff & Beloff (2007), p. 150.

93. CAS Ad hoc Division 24/15 & 24/16, *Federation Romanian Gymnastics v. Sacchi & FIG*, para. 117.

94. *Id.*, para. 113.

95. *Ibid.*

believe that there was equivalent mischief relating to the actions of the judge who decided upon the appeal.⁹⁶ However, the panel also finds that the system failure constituted equivalent mischief.⁹⁷ While one could argue that one the first description is for the referee's actions and the second is for the overall description, the referee's making a determination was part of the system. The difference in description relating to equivalent mischief makes the opinion inconsistent and thus makes it troubling to rely upon the argument.

Conclusion

The timing dispute regarding the appeal in the Paris 2024 Olympic Games Women's Artistic Gymnastics floor exercise final brought about a very unfortunate situation. Instead of making the event about outstanding gymnastics performance and great sportsmanship, the event became about a dispute for which none of the athletes involved were at fault.

There is no dispute that CAS had jurisdiction to hear this case. As O'Leary described in her article, the Ad Hoc panel concluded that the field of play doctrine failed to apply to the case as the respondent seemed to accept the CAS Ad Hoc panel's ability to review the case.⁹⁸ Indeed, "the counsel for FIG stated: *"If the default is part of the system you have the right to challenge."*⁹⁹ However, as mentioned earlier in the paper, the field of play principle is not about jurisdiction but is a matter of arbitral restraint. Thus, even though the arbitrators had the ability to look into the case, they should not have done so because the appeal decision constituted field of play.

Past CAS case law has indicated that technical decisions, including those relating to appeals, fall into the field of play category. As the rules of gymnastics describe the appeal procedure, it should be deemed as part of the game. Although FIG did not have a good system in place for determining whether appeals were submitted on-time, there was no indication that this was a result of bad faith or bias.¹⁰⁰ Similarly, this situation should not be deemed to be excluded from the field of play doctrine for constituting equivalent mischief as CAS case law shows an even more egregious case, where an arena crew member ruined the jump of an equestrian athlete, which was not deemed to constitute equivalent mischief.¹⁰¹

96. Id, para. 141.

97. Id, para. 138.

98. Leanne O'Leary (2025), p. 10.

99. CAS Ad hoc Division 24/15 & 24/16, Federation Romanian Gymnastics v. Sacchi & FIG, para. 136.

100. Id., paras. 102, 134.

101. CAS 2015/A/4208, HSI & Cian O'Connor v. FEI, para. 6.

One of the reasons for the field of play doctrine is finality. Unfortunately, the CAS Ad-Hoc division's failure to apply this doctrine took away the finality of the competition results. There is now a challenge relating to the CAS Ad-Hoc Division decision. Indeed, there have been other issues raised with the decision which are outside of the scope of this paper.¹⁰² Regardless of how things are resolved, there will likely always be some question over who really deserved to win the medal, based upon the way the appeal has been handled.

For any sport, the focus should be on the athletes and their performance. It is a shame when the focus becomes other issues for which the athletes bear no fault. Hopefully, arbitrators will learn from this and will apply the field of play principle consistently in the future including for appeals within a competition.

102. See Gianna Flammini, "The Independence and Impartiality of the Court of Arbitration for Sport," *Northwestern Journal of International Law and Business* (forthcoming, fall 2025) .for a description of allegations of another issue relating to the CAS decision and CAS's response to this The author of the article that you are reading is not taking any position relating to these other issues and is only addressing the issue of field of play. The only reason that this example is included is so that the reader can understand that these issues have been raised and the author of this article is not taking any side regarding these issues. The author also would like to mention that it is important that disputes such as that in *Federation Romanian Gymnastics* continue to be resolved by CAS as the alternative of relying on courts would bring about many other issues and even less finality.