SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)

CENTRE DE RÈGLEMENT DES DIFFÉRENTS SPORTIFS DU CANADA (CRDSC)

Citation: *Bennett v. Alpine Canada Alpin*, 2026 CASDRC 39
File No.: SDRCC 26-0820
(Ordinary Tribunal)
Date: 2026-08-20

SARAH BENNETT

(Claimant)

and

ALPINE CANADA ALPIN (ACA)

(Respondent)

and

KIARA ALEXANDER

(Affected Party)

Translation Notice:

This version is a translation of the decision originally rendered in French.

Before:

Annie Lespérance (Arbitrator)

Appearances:

For the Claimant:	Sarah Bennett, Athlete
	Louis Mazurette, Counsel
	David Pelletier, Counsel
For the Respondent:	Jean-François Rapatel, High-Performance Director
	Adam Klevinas, Counsel

DECISION WITH REASONS

I. INTRODUCTION

1. This final decision concerns the appeal brought by the Claimant, Sarah Bennett, from the May 27, 2026 decision of Alpine Canada Alpin ("**ACA**"), whereby she was not selected to the Canadian women's alpine ski team for the 2026-2027 season (the "**Decision**"). ACA selected Kiara Alexander (the "**Affected Party**") as the seventh and final athlete on the team.

2. I was appointed as Arbitrator by agreement of the Parties on June 25, 2026, in accordance with the Canadian Sport Dispute Resolution Code (the "**Code**").

3. The SDRCC asked the Affected Party to sign and return a confidentiality agreement and to submit an intervention request in order to participate in this proceeding. The Affected Party was granted access to the case file but did not submit an intervention request. She did not participate in the Arbitration proceedings.

II. PROCEDURAL HISTORY

4. On May 29, 2026, the Claimant filed her Request for Arbitration with several supporting exhibits (C-01, C-02, and C-03). She appealed the Decision.

5. On June 8, 2026, ACA filed its answer (R-01).

6. An administrative meeting was held among the Parties and the SDRCC on June 15, 2026, followed by a resolution facilitation session on June 22, 2026.

7. As noted above, I was appointed as Arbitrator on June 25, 2026.

8. The preliminary meeting was held by videoconference on July 9, 2026. At that time, the following procedural calendar was established:

   (i) filing of the Claimant’s and ACA’s submissions on July 17 and July 29, 2026, respectively;

   (ii) a deadline of July 30, 2026, for the Claimant to seek leave to file a reply to ACA's submissions;

   (iii) I was to advise the Parties no later than July 31, 2026, whether written questions and/or a hearing for clarification were warranted; and

(iv) a hearing by videoconference on August 5, 2026, if necessary.

9. On July 17, 2026, the Claimant filed her written submissions, her statement, and the related exhibits and authorities (C-04 to C-07).

10. On July 29, 2026, ACA filed its written submissions and the related exhibits and authorities (R-02 to R-05).

11. On July 31, I issued Procedural Order No. 1, noting that the Claimant had not sought leave to file a written reply within the prescribed deadline, confirming that a hearing by videoconference on Wednesday, August 5, 2026, and providing a list of questions to assist the Parties in preparing their oral submissions.

12. On August 5, 2026, the hearing was held by videoconference. It allowed the Parties to present their oral submissions and provide clarification in response to my questions. Neither Party called witnesses.

13. On August 5, 2026, in accordance with my directions, the Parties filed their respective outlines of oral submissions (C-08 and R-07). ACA also filed the Word version of its written submissions (R-06) so that I could access the hyperlinks to its authorities, as ACA had not filed a separate book of authorities.

14. On August 13, 2026, I issued my short decision. I set aside the Decision and remitted the matter to ACA for reconsideration.

III. BACKGROUND

15. The Claimant, Sarah Bennett, has been alpine skiing since the age of two. She has not been a member of the Canadian Alpine Ski Team ("**CAST**") since April 2024 and currently trains independently. During the 2025-2026 season, she planned, funded, and managed her own training and competition program.

16. ACA is a non-profit amateur sport association and the national governing body for alpine skiing in Canada. As the national governing body for alpine skiing, para-alpine skiing, and ski cross in Canada, ACA is responsible for selecting athletes to the CAST each year.

17. The 2026-2027 Team Nomination Criteria (C-02, hereinafter the "**Criteria**") describe the selection process applicable to athletes for the purpose of nomination to the CAST.

18. Section 3 of the Criteria reserves to ACA the right to determine *"the number of Athletes that can be nominated to CAST based on available financial resources."* ACA determined

that the maximum number of female athletes for the 2026-2027 season was seven due to the resources available. In fact, the evidence shows that, for 2026-2027 period, ACA received $300,000 less in high-performance funding from the *Own the Podium* program than it had received to support the 2025-2026 season (ACA's Exhibit 3).

19. The objective of the Criteria is set out in Section 2. The primary objective is to select *"athletes who have demonstrated evidence of podium potential at the WSC and for the 2026 OWG will be selected in priority, and the next level of priority will be to select athletes who have demonstrated evidence of podium potential at the 2030 OWG."*

20. Section 5 of the Criteria describes the criteria on the basis of which athletes will be considered for nomination.

21. Three "objective" categories are established and ranked in order of priority: (1) Automatic Nomination ("AN"); (2) Current Olympic Quad ("COQ"); and (3) Next Olympic Quad ("NOQ"). As stated:

    […] Within each category of nomination, nomination identification will progress from the first line of criteria within the category down throughout each following line of criteria. Ties will be broken by WCSL/WC rank and, if a tie still exists, by the FIS WR in the same discipline. Age markers have been established based on Olympic Podium Pathway metrics. Rankings will be based off of the FIS Base List released in May 2026.

    In its discretion, ACA may make additional discretionary nominations to reach a desired team size according to financial considerations. […] "

22. The Claimant does not dispute that she failed to meet the objective performance standards. Accordingly, her only avenue for selection to the CAST was the discretionary nomination process, which provides as follows in Section 5.6:

    *"**5.6 Discretionary Nominations***

    If an Athlete does not satisfy the objective performance standards indicated in Sections 5.1-5.5, the CAST Alpine Staff shall have the sole discretion to recommend or not recommend any Athlete for nomination to the CAST teams under Coaches Discretion.

    Athletes may be nominated to the CAST under Coaches Discretion considering the following factors/circumstances:

    - *History of hitting significant performance markers at:*

o Olympics and World Championships

o World Cup

o Europa Cup

o World Cup Start List/World Standings Rank, World FIS Rank

- *Ideal functional size of training and competition groups*
- *Attitude, commitment, and positive contribution to the athlete development system and team culture*

[…]

23. Section 5.7 describes the conditions that apply to discretionary nominations:

[…]

d. The CAST Alpine Staff shall complete the individual evaluations and reserves the right to not-nominate an Athlete pursuant to Coaches Discretion.

e. Proposed discretionary selections will be reviewed and discussed during the Coaches Nomination Meeting. An explanation of the discretionary selections proposed during the Coaches Nomination Meeting will be provided to the ACA Team Selection Advisory Committee (TSAC) for review.

24. Section 6 of the Criteria sets out the nomination process as follows:

[…]

6.3. The CAST Alpine Staff shall meet as a Coaches Nomination Meeting and shall make recommendations for nomination to the CAST teams. ACA will advise the TSAC and CAST Alpine Staff of the TSAC Nomination Meeting date at minimum, 14 days prior prior to the selected date.

6.4. All recommendations for nomination shall be provided to the TSAC at least two (2) days in advance of the TSAC Nomination meeting. This will include a complete written explanation of all Athletes considered for discretion. An athletes Discretionary Nomination Package will be provided for athletes being nominated through discretion and will include without limitation, the applicable previous results considered, any

specific information applicable and any other relevant comments, finding or conclusions arising from the Coaches Nomination Meeting

6.5. At the TSAC Nomination Meeting, the TSAC shall review the CAST Alpine Staff recommendations and determine if the Nomination Criteria have been applied to each Athlete under consideration. If the TSAC is satisfied that the Nomination Criteria have been properly applied, then they shall accept the CAST Alpine Staff nominations.

[...]

6.8. Nominations shall be forwarded by the CEO to the BOD for final ratification.

[...]

25. According to Section 9.17 of the Criteria, the Team Selection Advisory Committee ("**TSAC**") is:

a committee constituted by ACA that may include the following representatives: COC representative; Integrated Support Team ("IST") representative; ACA High Performance Director, Alpine and ACA Vice-President, Domestic Sport Programs and Events; ACA Board representative; Alumni representative; and any other individuals appointed by the TSAC in its discretion.

26. The Coaches Nomination Meeting was held on May 6, 2026. Four athletes were nominated to the 2026-2027 CAST based on the objective Criteria.[1] Two were nominated under coaches' discretion for season-ending health-related reasons (injury). The discretionary nomination for the final spot on the team therefore came down to the Claimant and the Affected Party.

27. The minutes of the Coaches Nomination Meeting (ACA Exhibit 2) state the following in this regard:

[...]

- *Kiki Alexander – 5.6 Coaches Discretion*
    - *Did not meet criteria and does not qualify under injury discretion.*
    - *Considered under coach discretion due to age and long-term potential.*
    - *Coach Discussion:*
        - *She qualified for her first World Cup second run at the Semmering World Cup which is a major step for her career.*

[1] See above, para. 21.

- *Season impacted by delayed return from injury and lack of competitive training environment.*
- *Strong NorAm performances indicate long-term potential*
- *Considered highly coachable and extremely dedicated to all aspects of her program.*
- *Her demonstrated speed in training against the other athletes on the team and from other nations demonstrates she has the potential to regularly finish in the top 30 in World Cup Slalom.*

4. Other Athletes Reviewed

- *Sarah Bennett – Reviewed*
  - *Did not meet criteria*
  - *Discussion included:*
    - *World Cup performance consistency*
    - *DNF/DNQ rate*
      - *DNF 3 of 5 WC SL starts*
      - *Levi WC SL – DNQ1 – 0:00.22 behind Kiki*
      - *Kranjska Gora WC SL – DNQ1 – 0:05.10 behind leader*
    - *She is the same age as Kiki Alexander, but she is behind Kiki in Head to Head for both NorAm and World Cup results in almost*
  - *We will continue to offer her opportunities to train with us when possible.*

28. The minutes also state the following:

[…]
6. Appeals Process
• Discussed the importance of maintaining clear documentation and evidence-based rationale in anticipation of potential appeals.

7. Action Items:
• Kiki:
o Substantiate discretion recommendation using performance tracking data (Jenni's projections toward 2030/2034).
o <u>Complete race-by-race comparison between Sarah Bennett and Kiki from season.</u>[2]
o Build clear and defensible selection rationale focused on results trajectory and podium potential.
[…]

[2]Emphasis added.

29. The head-to-head comparison between the Claimant and the Affected Party (ACA Exhibit 4) is reproduced below:

	World Cup SL	
	Kiki Alexander - 2001	**Sarah Bennet - 2001**
	Result - Pos. run 1 - Time	Result - pos. Run 1 - Time
Levi 11-15-2025	DNQ 51st 1.00.19	DNQ 53rd 1.00.41
Gurgl 11-23-2025	DNF1 	 Did not race
Copper Mtn 11-30-2025	DNQ 44th 58.28	 Did not race
Courchevel 12-16-2025	DNQ 38th 55.23	 Did not race
Semmering 12-28-2025	**24th** 29th 1.00.59	DNF1
Granjska Gora 01-04-2026	DNF1 	DNQ 45th 55.34
Flachau 01-13-2026	DNF1 	 Did not race
Spindleruv 01-25-2026	DNQ 42th 53.04	DNF1

	NorAm SL	
	Kiki Alexander - 2001	**Sarah Bennet - 2001**
	Result - Pos. run 1 - Time	Result - pos. Run 1 - Time
Copper Mtn 11-12-2025	 Did not race	1st - 1.50.43 2nd 56.48
Saint-Sauveur 08-01-2026	1st - 1.40.86 1st 50.24	3rd - 1.41.00 3rd 50.65
Saint-Sauveur 09-01-2026	4th - 1.39.17 3rd 48.37	3rd - 1.38.99 4th 48.63
Owl's Head 09-02-2026	 Did not race	13th - 1.28.15 17h 47.66
Bromont 12-02-2026	 Did not race	DNF1
Bromont 13-02-2026	 Did not race	6h - 1.34.38 5th 46.59
Aspen Highland 23-03-2026	6th - 1.53.51 4th 57.40	12th - 1.54.44 15th 59.36
Aspen Highland 24-03-2026	14th - 1.54.98 12th 55.83	5th - 1.53.63 6th 54.50

Summary:
Both athletes faced each other 8 times. 4 times in WC and 4 times in NorAm.
there was 5 races where they both recorded a result where they can be compared: Kiki was fastest 3 times out of 5
Main difference is Kiki recorded her first top 30 result, a 24th place in WC in Semmering which is the result the closest from making the objective criteria and a breakthrough result in her career. In comparison, Sarah best WC result was a 45th.
World Cup result have more weight than NorAm, as athletes at this level of their development should be performing at World Cup, not NorAm.

30. The text appearing beneath the head-to-head comparison tables is reproduced below:

Both athletes faced each other 8 times. 4 times in WC and 4 times in NorAm.

There was 5 races where they both recorded a result where they can be compared: Kiki was fastest 3 times out of 5

Main difference is Kiki recorded her first top 30 results, a 24th place in WC in Semmering which is the result the closest from making the objective criteria and a breakthrough result in her career. In comparison, Sarah best WC result was a 45th.

World Cup result have more weight than NorAm, and athletes at this level of their development should be performing at World Cup, not Nor Am.

31. In addition to this head-to-head comparison, ACA staff also prepared an overall ranking table (ACA Exhibit 6). With respect specifically to the Affected Party and the Claimant, the table shows the following, respectively:

Rank	Name	DOB	Age	Age at 2030 OWG	# of years with CAST (Devo+WC) incld 2025-26	2025-26 Results (2026 Intern Base List)	Criteria Met for 2026-27 Season	Injury Notes	Coach Nomination Notes and Recommendation for 2026-27
7	Alexander, Kiki	2001-06-09	24	28	4	10 SL NAC 22 SG NAC 51 SL WR	5.6 Coaches discretion		**Nominated for Women's World Cup Team.** -Demonstrates podium potential 2030
14	Sarah Bennett	17-06-2001	24	28	2	3rd NAC overall 3rd NAC SL & SG 5 WC SL Start (3 DNF 2 DNQ)			**No nomination**

32. For the Affected Party, under the column entitled "*2025-26 Results (2026 Intern Base List)*" the table refers to the following *NorAm Cup* results: "*10 SL NAC*" and "*22 SG NAC*," as well as the following FIS slalom world ranking: "*51 SL WR*." The column entitled "*Coach Nomination Notes and Recommendations for 2026-27*," it is then states: "*Nominated for Women's World Cup Team. Demonstrates podium potential 2030*."

33. For the Claimant, the table refers, under the column entitled "*2025-26 Results (2026 Intern Base List)*," to the following NorAm Cup results: "*3rd NAC overall*" and "*3rd NAC SL & SG*," as well as the following World Cup results: "*5 WC SL Start (3DNF 2 DNQ)*." It then indicates: "No nomination" under the column entitled "*Coach Nomination Notes and Recommendations for 2026-27*."

34. The TSAC Nomination Meeting was held on May 13, 2026. The minutes of that meeting (ACA Exhibit 7) state:

    "*The call concluded with all members satisfied that the Nomination Criteria have been applied to each athlete under consideration and that the Nomination Criteria have been properly applied for the CSCT, CPAST and CAST nominations.*"

35. Accordingly, and in accordance with Section 6.8 of the Criteria, the CAST nominations were accepted and then forwarded by the CEO to ACA's Board of Directors for final ratification.

IV. POSITIONS OF THE PARTIES

36. Although I have reviewed and considered all of the Parties' arguments, I refer only to those that are central to my analysis.

A. Claimant's Position

37. Having independently managed and funded her 2025-2026 season, the Claimant explains in her statement that she focused her program on the North American (NorAm) circuit to improve her FIS world ranking, in accordance with ACA's Criteria and with the legitimate expectation that this ranking would be considered in making discretionary nominations.

38. In comparing herself with the Affected Party, the Claimant submits that the FIS world ranking was the principal marker that could objectively distinguish between the two candidates. In this regard, she emphasizes that she ranked ahead of the Affected Party in every discipline, including ranking 29th in the world (and first among Canadians) in slalom, 129th in Super-G, 168th in *Giant Slalom*, and 251st in downhill. She adds that, without consideration of this ranking, the two athletes' performances remained very close, and their direct results were tight, making this indicator determinative.

39. It is in this context that the Claimant articulates her central grievance, namely that ACA allegedly failed to consider a factor expressly provided for in Section 5.6 of its Criteria: the FIS world ranking. She asserts that this factor was clearly among the significant performance markers and could not be applied selectively. She submits that no contemporaneous document demonstrates that this factor was debated at the selection meeting, even though it was precisely the parameter in which she stood out most favourably.

40. The Claimant further submits that this omission forms part of a vague and imprecise assessment framework. She faults the selection criteria for failing to define the concept of significant performance markers, specify either the comparative value of the various athletic achievements or the weighting of the factors, or allow athletes to determine what was actually required to obtain a discretionary nomination, thereby compromising the predictability and transparency of the process.

41. Lastly, she asserts that the decision under appeal lacks intelligible reasons. The non-selection email merely indicated that her performances had not gone unnoticed, while concluding that she had not been selected in light of the applicable criteria. It did not explain the methodology used or the analytical process that led ACA to prefer the Affected Party. She adds that the subsequent justifications advanced by ACA constitutes *a posteriori* rationalization that does not appear in the contemporaneous record and cannot remedy the absence of contemporaneous reasons.

42. Characterizing the Decision as manifestly unreasonable and arbitrary, she asks the Tribunal primarily to conduct its own analysis, substitute its decision for ACA's, and order that she receive a discretionary nomination. In the alternative, she seeks clarification of the process set out in Section 5.6 of the Criteria.

B. ACA's Position

43. For its part, ACA notes that the Criteria are aimed above all at high performance, giving priority to athletes with short-term podium potential or podium potential for the 2030 Olympic Games.

44. ACA submits that the Affected Party distinguished herself at a higher level of competition, which it considers determinative for selection. The Affected Party achieved a 24th-place finish at a World Cup event in Semmering, which ACA characterizes as a major breakthrough in her career. By comparison, the Claimant's best World Cup finish was 45th place. In ACA's view, World Cup performances necessarily take precedence over results on the NorAm circuit.

45. As for the FIS world ranking relied on by the Claimant, ACA submits that it deliberately disregarded this factor. ACA explains that the FIS points system does not adequately reflect the difference in competitive level between the lower-tier NorAm circuit and the World Cup. This calculation allowed an athlete to accumulate results on the secondary circuit and artificially lower their total FIS points, thereby improving their world ranking without demonstrating competitiveness at the highest level. The FIS has, moreover, recognized this bias and has since introduced a multiplier that increases the points awarded at secondary events.

46. ACA therefore chose instead to examine the underlying race results. In addition to the World Cup results noted above, ACA points out that, of the five NorAm events in which both athletes competed, the Affected Party finished ahead of the Claimant on three occasions.

47. These key results were supplemented by other factors favourable to the Affected Party, including her "coachability," her commitment to her program, and the technical experts' assessment that she could regularly finish in the top 30 at World Cup events and had podium potential for 2030.

48. In response to the Claimant's submissions, ACA first argues that the selection rules did not require it to apply every criterion or assign each criterion a fixed weight, leaving room for judgment by its technical staff. It next asserts that its criteria are clear and guided by its performance objectives. Lastly, it submits that its decision is sufficiently reasoned when considered in light of the entire record and the contemporaneous internal documents. Considering its decision was reasonable, transparent, and justified, ACA asks that the appeal be dismissed and the selection upheld.

V. ANALYSIS

A. Issues

49. I have determined that the following issues must be addressed in this appeal:

    a) What is the scope of ACA's discretion under Section 5.6 of the Criteria, and does it require consideration of all of the listed factors, including the FIS world ranking?

    b) Has ACA demonstrated, under Section 6.11 of the Code, that the Decision was made in accordance with Section 5.6 of the Criteria?

    c) If the preceding point not been established, what is the appropriate remedy in the circumstances?

B. Standard of Review and Deference

50. In reviewing this appeal from the Decision, and in accordance with the Supreme Court of Canada's guidance in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, the applicable standard of review is reasonableness, not correctness.

51. I do not substitute my own selection choice for that of ACA. Rather, I must examine the initial decision to determine whether it is coherent, rational, and justified, and whether it is free from arbitrariness, discrimination, or bad faith.

52. As explained in the often-cited decision *Larue v. Bowls Canada Boulingrin*, SDRCC 15-0255, the Arbitrator's role is not to rewrite or improve the selection criteria, or to substitute their own assessment for that of a committee of experts; it is to determine whether the outcome of the selection process was reached in accordance with the applicable criteria and falls within a range of possible, reasonable outcomes that are defensible in light of the facts and the selection criteria.

53. The degree of deference afforded to the initial selection is proportional to the scope of discretion conferred by the nomination criteria. Clearly worded, objective criteria bind ACA to what it has written and attract little deference. Truly discretionary criteria attract considerable deference, but that deference gives way when a factor expressly stated factor is omitted, an unlisted criterion is introduced, or the factors are applied in an asymmetrical, opaque, or contradictory manner (*McMurray v. Rowing Canada Aviron*, SDRCC 23-0681).

C. Onus of Proof

54. Under Section 6.11 of the Code, in a team selection dispute:

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

55. The Code thus imposes a sequential onus of proof on the Respondent. ACA must first demonstrate, on a balance of probabilities, that the Criteria were appropriately established and that the disputed Decision was made in accordance with them. It is only once this twofold showing has been properly made that the onus shift to the Claimant, who must then prove that she should have been selected under the Criteria.

56. In this case, the validity of the Criteria is not at issue. ACA established that the Nomination Criteria were developed by its High-Performance Director and duly approved by its performance committee, thereby discharging its onus under the first step of Section 6.11 of the Code. Moreover, the Claimant expressly confirmed that she did not dispute that the Criteria had been appropriately established.[3]

57. The dispute therefore turns exclusively on the second step of that onus. I must determine whether ACA has demonstrated that the Decision was made in accordance with the Criteria.

D. Interpretation of Section 5.6 of the Criteria

58. For the reasons set out below, I find that Section 5.6 of the Criteria conferred broad nomination discretion on ACA. That discretion, however, remained circumscribed by the factors expressly listed in the Criteria and had to be exercised consistently and uniformly between the assessed athletes assessed. ACA could assign different weight to the factors in accordance with the objectives and structure of the Criteria, but it could not apply them variably or opaquely depending on the athlete in question. In particular, because the FIS world ranking is expressly provided for in Section 5.6, it could not be omitted entirely from the analysis in favour of the underlying race results alone.

59. The starting point is to refer to the text and structure of the Criteria themselves.

60. Section 2 states that the objective of the Criteria is to "*select athletes who have demonstrated evidence of podium potential at the 2030 OWG*."

61. Section 5.6, for its part, provides that an athlete may be nominated at the coaches' discretion *"considering the following factors/circumstances."* These factors include, in particular, the

[3] Claimant's outline of oral submissions, para. 1.

history of hitting significant performance markers (at the Olympics and World Championships, the World Cup, the Europa Cup, as well as the World Cup Start List/World Standings Rank and the FIS world ranking), the ideal functional size of training and competition groups, and the athlete's attitude, commitment, and positive contribution to the athlete development system and team culture.[4]

62. Although no mathematical formula or specific weighting is assigned to the discretionary factors in Section 5.6, the hierarchical logic governing the objective criteria must also govern the interpretation of the document as a whole. Under the objective criteria (Sections 5.1 to 5.5), progression is from the most prestigious competition to the lowest level, and the FIS world ranking serves as the formal tiebreaker immediately after the World Cup ranking.

63. The overall structure of the Criteria therefore establishes a clear analytical framework: achieving performance markers at the Olympic Games or the World Cup has greater intrinsic value than results achieved on secondary circuits. ACA thus had the authority to weight results according to the level of competition, but it remained obligated to consider all of the factors expressly listed in the text, including the FIS world ranking.

64. However, ACA confirms at paragraph 49 of its outline of oral submissions that it did not expressly take into account the FIS world ranking provided for in the Criteria. To justify this omission, ACA submits that this ranking was not relevant in this case, on the grounds that the equal allocation of points across all circuits would inflate the athlete's actual level of performance. ACA thus chose to substitute an analysis of the underlying races for this expressly stated criterion.

65. For her part, the Claimant does not argue that the FIS world ranking is a separate and independent performance indicator, since it is derived from FIS points obtained as a result of competition results. She rightly argues, however, that because the FIS world ranking is expressly identified in Section 5.6, (translation) *"if race results could be analyzed as part of an analysis of the FIS world ranking, the FIS world ranking itself could not be completely disregarded by ACA."*[5]

66. I agree with this analysis. The FIS world ranking is based on a points total influenced by complex variables that transcend race results (such as race time relative to the winner, the race penalty value, and participation in specific races where competition is strong). By limiting its assessment to the underlying race results alone, ACA circumvented the application of an express factor in Section 5.6. While ACA was entitled to put the

[4] See above, para. 22.
[5] Claimant's outline of oral submissions, para. 27.

significance on the FIS world ranking into perspective and give it less weight in light of its podium objective for 2030, it was incumbent upon ACA to expressly consider the ranking in its analysis.

67. In this regard, while ACA claims in its submissions that it deliberately disregarded this factor in its analysis, a review of the contemporaneous documentary evidence, as analyzed below in Section E, reveals an even more ambiguous reality: the FIS world ranking was not consistently disregarded in practice, but was instead recorded asymmetrically and selectively in the record (notably in ACA's Exhibit 6), heightening the opacity of the process.

68. For these reasons, I conclude that Section 5.6 of the Criteria is sufficiently clear to be applied, in that:

    a) ACA has broad discretion to weigh the expressly stated in light of the objectives and structure of the Criteria;

    b) analyzing the underlying races is a valid approach, but it does not relieve ACA of its obligation to consider the FIS world ranking as a factor expressly provided for in the text;

    c) the exercise of this discretion must be documented and applied uniformly, transparently, and consistently across all athletes evaluated;

    Accordingly, I dismiss the Claimant's alternative request that the discretionary nomination process set out in Section 5.6 of the Criteria be clarified.

E. Application of Section 5.6 of the Criteria to This Case

69. The foregoing analysis establishes the normative framework: although ACA had latitude in weighting the factors set out in Section 5.6, it could not disregard an expressly stated criterion such as the FIS world ranking in favour of the underlying race results alone, and it had to conduct a coherent, uniform, and intelligible assessment across all athletes evaluated.

70. I must now examine whether ACA's exercise of discretion complies with this normative framework, in light of the contemporaneous documentary evidence, and whether that discretion was exercised consistently throughout the decision-making process.

71. The evidence reveals four key contemporaneous documents tracing ACA's decision-making process:

a) the minutes of the Coaches Nomination Meeting (ACA's Exhibit 2);

b) the direct comparison between the Claimant and the Affected Party (ACA's Exhibit 4);

c) the overall ranking table (ACA's Exhibit 6); and

d) the minutes of the TSAC Nomination Meeting (ACA's Exhibit 7).

72. I am of the view that the evidence on the record does not demonstrate that a coherent and uniform application of the normative framework in two respects.

73. On the one hand, with respect to the FIS world ranking, ACA maintained that it had not expressly considered this factor, instead preferring a direct comparison of the underlying race results. Yet this approach appears to be contradicted by the overall ranking table (ACA's Exhibit 6). At paragraph 57 of its outline of oral submissions, ACA confirms the centrality of this document, stating that it [translation] "*also presents the performances that were considered in deciding between the Claimant and the Affected Party to determine who would be nominated to the CAST under Coaches Discretion*." However, ACA's Exhibit 6 explicitly mentions the Affected Party's FIS slalom world ranking ("51 SL WR"), despite its being lower, while omitting the Claimant's higher ranking. Such differing treatment precludes a finding that Section 5.6 of the Criteria was applied uniformly.

74. On the other hand, with respect to the other race results, ACA's Exhibit 6 departs from the initial analyses in ACA's Exhibits 2 and 4. The table selectively highlights the Claimant's negative World Cup results ("5 WC SL Start (3DNF 2DNQ)"), while omitting the Affected Party's positive World Cup result, which was nevertheless described as decisive in her selection, as recorded in the minutes of the Coaches Nomination Meeting (Exhibit 2) and the direct comparison (Exhibit 4). Furthermore, Exhibit 6 incorporates the *NorAm Cup* results, absent from the direct comparison, which favour the Claimant, without it being possible to understand whether and how they were incorporated or weighted.

75. This asymmetrical presentation plays a determinative role when considered in relation to TSAC's mandate. Under Section 6.5 of the Criteria, the TSAC was required to verify whether the nomination criteria had been applied reasonably and fairly to each athlete. However, given the inconsistencies and asymmetry identified above, it is impossible to discern how the TSAC, could, in practice, have rigorously distinguished between the two athletes. The minutes of the May 13, 2026, TSAC nomination meeting (ACA's Exhibit 7) state that the committee members were satisfied with the application of the Criteria, but shed no light on this issue, remaining silent as to any discussion concerning the actual application of Section 5.6.

76. In these circumstances, I conclude that ACA has failed to discharge its onus under Section 6.11 of the Code to demonstrate, on a balance of probabilities, that the Decision was made in accordance with the Criteria. It follows that the Decision, whose compliance with the Criteria has not been established, is unreasonable. To avoid any confusion, I emphasize that the evidence in the record does not support a finding of bad faith, bias, or discrimination on the part of ACA.

F. Remedy

77. Because ACA has failed to discharge its onus of proof, the appropriate remedy must be determined. The Claimant asks the Tribunal to substitute its decision for ACA's, while ACA submits that the matter should be remitted for reconsideration.

78. Section 6.12 of the Code gives the Panel broad remedial authority, including the power to substitute its decision or order any measure that it deems just and equitable in the circumstances. Paragraph (c) also provides:

In a team selection or carding dispute, no deference need be given by the Panel to any discretion exercised by the Person whose decision is being appealed, unless the Party seeking such deference can demonstrate that Person's relevant expertise.

79. I accept that, in team selection matters, SDRCC jurisprudence calls for restraint. Even where the power of substitution exists, the Tribunal should not, except in exceptional circumstances, assume the role of a selection committee, particularly where the assessment rests on specialized technical expertise. Substitution is therefore reserved for rare situations in which remittal is no longer practicable and the evidence in the record permits only one outcome consistent with the selection criteria (*Beaulieu et al. v. Canada Snowboard*, SDRCC 22-0544/45/46/48/49, para. 89).

80. Given the level of sport expertise required to apply Section 5.6, it is not my role in this case to conduct a discretionary team-selection assessment in place of ACA's technical experts.

81. Accordingly, the appropriate remedy is to set aside the Decision and remit the matter to ACA so that it may reassess the Claimant and the Affected Party transparently, ensuring that all of the factors in Section 5.6 are considered uniformly.

VI. DECISION

82. The appeal is allowed in part. The Claimant's requests (i) that the Tribunal substitute its decision for ACA's and (ii) that the discretionary nomination process set out in Section 5.6 of the Criteria be clarified are dismissed.

83. The Decision is set aside. The matter is remitted to ACA for reconsideration in accordance with Section 5.6 of the Criteria and these reasons.

84. Given the team's schedule, this reconsideration must be conducted without delay.

Montreal, August 20, 2026

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Annie Lespérance, Arbitrator