



**TAS / CAS**

TRIBUNAL ARBITRAL DU SPORT  
COURT OF ARBITRATION FOR SPORT  
TRIBUNAL ARBITRAL DEL DEPORTE

**COURT OF ARBITRATION FOR SPORT (CAS)  
Ad Hoc Division – Games of the XXXIII Olympiad in Paris**

sitting in the following composition:

Sole Arbitrator: Kristen Thorsness, OLY

**AWARD**

in the arbitration between

Cook Islands Aquatics Federation and  
Cook Islands Sports and National Olympic Committee,

**("Applicants")**

v.

World Aquatics

**("Respondent")**

and

International Olympic Committee and  
Wesley Tikiairki Roberts

**("Interested Parties")**

## I. PARTIES

1. The Applicants are:
  - a. the Cook Islands Aquatics Federation (“CIAF”), the national aquatics sports organization for the Cook Islands and national federation member of World Aquatics for the Cook Islands; and
  - b. the Cook Islands Sports and National Olympic Committee (“CISNOC”), the National Olympic Committee for the Cook Islands.
2. The Respondent is World Aquatics, the international federation for aquatic sports, including swimming.
3. The Interested Parties are:
  - a. the International Olympic Committee (“IOC”); and
  - b. Wesley Tikiairki Roberts (“Mr. Roberts”), a citizen of the Cook Islands born on 24 June 1997, who represented the Cook Islands in the sport of swimming at the Olympic Games in 2016 and 2020.

## II. FACTS

### A. Background Facts

4. The elements set out below are a summary of the main relevant facts as established by the Sole Arbitrator by way of a chronology on the basis of the submissions of the Parties. Additional facts may be set out, where relevant, in the legal considerations of the present award.
5. Pursuant to World Aquatics’ Qualification System -- Games of the XXXIII Olympiad -- Paris 2024 (the “Qualification System”), applications for Universality Places were due to be submitted to World Aquatics by 24 June 2024.
6. Prior to that deadline, on 3 May 2024, CIAF asked World Aquatics to “*confirm that the Cook Islands will have two swimmers (1 male and 1 female) competing under Universality.*”
7. On 5 May 2024, World Aquatics responded that while Mr. Roberts was the Cook Islands’ highest ranked male swimmer, his participation in two prior Olympic Games made him ineligible for Universality Placing at the Paris Olympic Games. “*Given the above, [Mr. Roberts’] possible pathways to Paris 2024 are either achieving an Olympic Qualifying time (OQT) or getting an invitation with the Olympic Consideration Time (OCT).*”
8. On 23 May 2024, CIAF wrote to World Aquatics that, although Mr. Roberts had achieved an Olympic Consideration Time (OCT), “[*g]iven his status as the senior and highest-ranked member of the Cook Islands team, and considering he will be retiring after the Paris 2024 Olympic Games, we would prefer that he be accepted based on Universality*”

*if he does not meet the Olympic Qualifying Time (OQT). ... We would also like to include Jacob Story ... in our [Universality] considerations.”*

9. On 7 June 2024, CISNOC wrote to World Aquatics “*trying to get some answers as to which of our athletes will be receiving universality places....*” World Aquatics responded on 9 June 2024 that, while Mr. Roberts was the highest ranked male Cook Islands swimmer, he was “*not eligible for Universality Places due to his participation in two or more previous Olympic Games (Rio 2016 and Tokyo 2020).*”
10. On 10 June 2024, CISNOC again wrote to World Aquatics, stating that they “*were not aware*” that Mr. Roberts would not be eligible for Universality Placing because of his participation in two prior Olympic Games. “*Given [Mr. Roberts]’ exceptional accomplishments, ongoing training, and funding support, the Cook Islands Sports and National Olympic Committee’s policy and recommendation are to send [Mr. Roberts] to the Paris 2024 Olympics. We kindly request further guidance on how to proceed, considering that [Mr. Roberts] was our primary focus for the men’s Universality Place. Should we explore any alternative options or follow a specific process to address this situation?*”
11. World Aquatics responded on 14 June 2024, acknowledging Mr. Roberts’ achievements but “*regret[fully]*” informing Applicants that “*the eligibility criteria for the Olympic Games Paris 2024 are strictly defined in the Qualification System for Paris 2024, particularly concerning athletes entering through the Universality Places. These requirements, which were announced on 14 July 2022, remain unchanged. We trust that you share our understanding of the importance of maintaining the integrity of the established Qualification System and the Games. Consequently, any deviation from the established rules and regulations is not feasible.*”
12. On that same day, 14 June 2024, Applicants requested a “special exemption” to allow Mr. Roberts to occupy the Cook Islands’ Universality Place in swimming. Applicants restated that they were not previously aware that Mr. Roberts’ two prior Olympic participations would render him ineligible for future Universality Placing. They noted he will be under 30 years of age on 1 January 2025, “*ensuring that he meet the age eligibility criteria.*” They asked that a special exemption be granted in “*recognition of his exceptional talent, unwavering dedication, and the honor he brings our nation through his athletic achievements.*”
13. As noted above, the deadline for submission of applications for Universality Places passed on 24 June 2025.
14. On 25 June 2024, “*further to [its] letter on the 14<sup>th</sup> June 2024,*” Applicants again wrote to World Aquatics seeking Universality Placing for Mr. Roberts as a “special exemption” from the Universality eligibility rules because Mr. Roberts’ two prior Olympic invitations were based on qualifying times, not through Universality.
15. On 3 July 2024, World Aquatics instead invited Mr. Story (through CIAF and CISNOC) to be the male Universality Places swimming athlete for the Cook Islands.
16. Under separate cover on 3 July 2024, World Aquatics’ Executive Director Brent Nowicki responded to Applicants’ 25 June 2024 request for a special exemption for Mr. Roberts to be given Universality Placing. That letter stated that “[*t]he World Aquatics Bureau*

*have examined this issue very closely and similarly consulted the IOC*” but concluded that Mr. Roberts “*is ineligible for Universality Places for the Olympic Games Paris 2024 having already competed in 2 Olympic Games.*” Mr. Nowicki referenced article D.3 of the Qualification System, noting that under “*Article D.3 Universality Places (Unqualified Athletes), athletes entering through Universality are limited to a maximum of up to two Olympic Games in their career or not being older than the age of thirty (30) years as of 1<sup>st</sup> January 2025*” (emphasis in original) and noted that the Qualification System made no distinction between the qualification pathways. That letter asked Applicants to confirm Mr. Story’s participation as the Cook Islands’ male Universality swimming athlete no later than later that day.

17. Also on 3 July 2024, Applicants wrote via email to Mr. Nowicki, objecting to World Aquatics’ invitation of Mr. Story and to the rejection of Mr. Roberts “*on the basis that [he] is already a two-time Olympian.*” Applicants quoted language from the essentially identical provisions in articles C.2 and D.3 of the Qualification System which state that “*an athlete entering through Universality will be limited to a maximum of up to two Olympic Games in their career or not being older than the age of thirty (30) years as of 1<sup>st</sup> January 2025.*” Applicants argued that, because Mr. Roberts will not be older than thirty years old on 1 January 2025, his two prior Olympic competitions do not preclude his participation at the 2025 Paris Olympics.
18. On 4 July 2024, Mr. Nowicki responded that the two prongs of the limitation language quoted above are “mutually exclusive” and that “[y]ou are ineligible for a Universality place if you competed in multiple Olympics Games or are over the age of 30” (emphasis in original).

*“It seems you may be reading this provision from an ‘eligibility lens’ as opposed to an ‘ineligibility lens.’ In doing so, you seem to be asserting that eligibility for a Universality place is available so long as your client has not competed in 2 Olympic Games or is younger than the age of 30. And, because your client is younger than 30, your [sic] consider that he is eligible.”*

This email also noted that “[w]e understand that yesterday, [CIAF] confirmed (without prejudice to the foregoing) the entry of Mr. Jacob Story. To the extent you do wish to file a challenge and are successful, we would work with the IOC to enter Mr. Roberts under the replacement athlete process in place of Mr. Jacob Story.”

19. On 7 July 2024, Applicants informed the Paris 2024 Organizing Committee that Mr. Story would not be competing at the Paris Olympic Games. This information was conveyed by the IOC to World Aquatics on 8 July 2024, which then assigned the unused quota spot to another athlete from a different country.
20. The next communication between the parties was on 18 July 2024, when Applicants submitted their “*Appeal to World Aquatics Bureau*” of World Aquatics’ 4 July 2024 “*Decision.*” Applicants stated that Mr. Story would not compete in the Paris Olympic Games because he “*does not meet the relevant and applicable nomination criteria and selection criteria determined by*” CISNOC and CIAF. It offered no additional substantive discussion of Mr. Roberts’ candidacy, but requested that all documents regarding the Decision, including Applicants’ 3 July 2024 correspondence, be presented to the World Aquatics Bureau for its review on appeal.

### III. THE GROUNDS OF THE APPEALED DECISION

21. On 19 July 2024, World Aquatics responded to Applicants' "appeal to the Bureau seeking reconsideration of the World Aquatics application of the Qualification System." World Aquatics reasoned that:

*"... World Aquatics has historically applied, and will continue to apply, the two limitations as mutually exclusive. In other words, World Aquatics interprets the Rule in that an athlete is ineligible for a Universality quota place if he or she has competed in multiple Olympic Games or is over the age of 30" (emphasis added).*

Accordingly, because Mr. Roberts had previously competed at two Olympic Games, he was deemed "*not eligible for a Universality quota place for the Paris Olympics.*" This response further stated that it "*is final and subject to appeal to the Court of Arbitration for Sport in accordance with Article 31 of the World Aquatics Constitution.*"

### IV. THE CAS PROCEEDINGS

22. On 21 July 2024 at 8:30 (Paris time), the Applicant filed an Application with the CAS ad hoc Division against the Respondent with respect to the Decision.
23. On 21 July 2024 at 11:44 (Paris time), the CAS ad hoc Division notified the Respondent of the Application and invited Respondent and the Interested Parties to file their Answers by 4:00 p.m. (Paris time) on 20 July 2024.
24. On 21 July 2024 at 13:46 (Paris time), the CAS ad hoc Division notified the Parties of composition of the Arbitral Tribunal: Sole Arbitrator Ms. Kristen Thorsness, OLY, and of the Hearing set for 23 July 2024 at 8:00 a.m. (Paris time) via Webex video conferencing.
25. On 21 July 2024 at 16:54 (Paris time), the CAS ad hoc Division issued the Procedural Directions and Summons to appear to Applicant, Respondent and the Interested Parties.
26. On 22 July 2024, the Respondent and the Interested Party submitted their written submissions at 03:58 p.m. and 03:36 p.m. (Paris time), respectively.
27. On 23 July 2024, at 8:00 a.m. (Paris time) a hearing was held with the participation of the following persons, in addition to the Sole Arbitrator, and Pauline Pellaux and Alexandra Veuthey, Counsel to the CAS:

For the Applicants:

- Mr. Darren Kane (Counsel)
- Mr. Romani Katoa (President, Cook Islands Aquatics Federation)

For World Aquatics:

- Ms. Caroline Cusinato (Counsel)

- Mr. Namhee Cho (Senior Sports Manager, World Aquatics)

For the International Olympic Committee (IOC):

- Mr. Antonio Rigozzi (Counsel)
- Mr. Eolos Rigopoulos (Counsel)

Mr. Roberts: appearing individually without counsel

28. There were no objections to the appointment of the Sole Arbitrator. Before the hearing was concluded, the Parties expressly stated that they did not have any objection to the procedure adopted by the Sole Arbitrator and confirmed that their right to be heard and to be treated equally was respected.

## **V. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF**

29. The Parties' submissions and arguments shall only be referred to in the sections below if and when necessary, even though all such submissions and arguments have been considered.

### **A. The Applicant**

#### **a. Applicant's Submissions**

30. The Applicant's submissions may be summarized, in essence, as follows:
- a. The CAS ad hoc Division has jurisdiction to hear this admissible appeal;
  - b. Articles C.2 and D.3 of the Qualification System provide two alternative "gates" through which an athlete may qualify to be a Universality competitor at the Olympic Games. So long as an athlete: (1) has not competed in more than one Olympic Games, or (2) is no more than 30 years old on 1 January 2025, he or she qualifies for Universality Placement;
  - c. Because Mr. Roberts will be under 30 years old on 1 January 2025, he is eligible for Universality Placement, despite his participation in two prior Olympic Games;
  - d. If this Appeal is unsuccessful, there will be no Universality athlete in swimming from the Cook Islands at these Games, which is contrary to the IOC Qualification System Principles for the Paris Olympic Games; and
  - e. Any ambiguity in Articles C.2 or D.3 should be interpreted against World Aquatics.

#### **b. Applicant's Requests for Relief**

31. The Applicant's request for relief is as follows

- 1) World Aquatics' 19 July 2024 Decision should be set aside;
- 2) A declaration that Article C.2 of the Qualification System does not prohibit the Cook Islands from allocating its Universality Place for the 2024 Paris Olympic Games in swimming to Mr. Roberts;
- 3) An order directing World Aquatics to allocate a Universality Place to Mr. Roberts for the 2024 Paris Olympic Games; and
- 4) Any other relief deemed fit by the CAS ad hoc Division.

## **B. The Respondent**

### **a. Respondent's Submissions**

32. The Respondent's submissions may be summarized, in essence, as follows:

- a. World Aquatics accepts the jurisdiction of the CAS ad hoc Division over this matter;
- b. World Aquatics has historically interpreted and applied sections C.2 and D.3 to render an athlete ineligible for Universality Placement if he or she has competed in multiple Olympic Games or is over the age of 30 on 1 January 2025;
- c. The Qualification System has been publicly available since 18 July 2022, which provided ample time for Applicants to understand it and ensure the eligibility of its swimmers or ask any clarifying questions of World Aquatics;
- d. The purpose of the Universality quota program is to encourage participation by new athletes and grow the sport of swimming in emerging countries, not to allow one athlete to monopolize Universality status over numerous Olympic cycles to further his or her career;
- e. Once Applicants declined the invitation for Mr. Story to occupy the Cook Islands' Universality Placing, it passed to the next eligible swimmer and the swimming entries are now full; and
- f. Deference must be given to World Aquatics interpretation of its Qualification System.

### **b. Respondent's Requests for Relief**

- 1) The Applicants' appeal should be dismissed.

## **C. The Interested Parties**

33. The IOC's submission focused solely on the question of whether the present dispute arose within the ten (10) day period before Opening Ceremonies of the Paris Olympics, as required under Art. 1(1) of the CAS ad hoc Division Rules. The IOC reasoned that Applicants' 17 July 2024 appeal was merely a "reiterat[ion]" or request for "reconsideration" of the arguments previously rejected by the World Aquatics Bureau on

3 July 2024. It concluded that the present dispute arose no later than 3 July 2024, and possibly as early as 14 June 2024. Because both dates are outside of the ten-day requirement, the IOC asserted that the CAS ad hoc Division lacks jurisdiction to decide this matter on the merits.

## **VI. APPLICABLE RULES ON JURISDICTION AND ADMISSIBILITY**

34. Rule 61.2 of the Olympic Charter provides as follows:

“61 Dispute Resolution

.2 Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport (CAS), in accordance with the Code of Sports-Related Arbitration”.

35. Sections 31.1 and 31.2 of World Aquatics’ Constitution state that:

“World Aquatics recognises the Court of Arbitration for Sport (CAS), with seat in Lausanne, Switzerland, as exclusive court to resolve any kind of disputes between World Aquatics, World Aquatics Members, members of World Aquatics Members, Continental Organisations, National Aquatics bodies, Athletes, Officials and any person or organisation subject to this Constitution and/or any World Aquatics rule or regulation. ...

Provided no internal legal remedy is available, any appeal against a final decision of World Aquatics shall be submitted to the exclusive jurisdiction of CAS within twenty-one (21) Days from the date of the decision being appealed. Unless otherwise specified in the applicable World Aquatics Rules, an appeal shall not have suspensive effect: subject to any other decision by CAS, the decision being appealed shall therefore remain in full force. World Aquatics is entitled to file an appeal to CAS against any final and binding decision of a body of World Aquatics.”

36. Article 1 of the CAS Arbitration Rules for the Olympic Games (the “CAS Ad Hoc Rules”) provides as follows:

“Article 1. Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)

The purpose of the present Rules is to provide, in the interests of the athletes and of sport, for the resolution by arbitration of any disputes covered by Rule 61 of the Olympic Charter, insofar as they arise during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games.

In the case of a request for arbitration against a decision pronounced by the IOC, an NOC, an International Federation or an Organising Committee for the Olympic Games, the claimant must, before filing such request, have exhausted all the internal remedies available to him/her pursuant to the statutes or regulations of the sports body concerned, unless the time needed to exhaust the internal remedies would make the appeal to the CAS Ad Hoc Division ineffective.”



## **VII. APPLICABLE LAW**

37. These proceedings are governed by the CAS Ad Hoc Rules enacted by the International Council of Arbitration for Sport ("ICAS") on 14 October 2003 (amended on 8 July 2021). They are further governed by Chapter 12 of the Swiss Private International Law Act of 18 December 1987 ("PILA"). The PILA applies to this arbitration as a result of the express choice of law contained in art. 17 of the Ad Hoc Rules and as the result of the choice of Lausanne, Switzerland as the seat of the ad hoc Division and of its panels of Arbitrators, pursuant to art. 7 of the CAS Ad Hoc Rules.
38. According to art. 16 of the CAS Ad Hoc Rules, the Sole Arbitrator has "full power to establish the facts on which the application is based."
39. Under art. 17 of the CAS Ad Hoc Rules, the Sole Arbitrator must decide the dispute "pursuant to the Olympic Charter, the applicable regulations, general principles of law and the rules of law, the application of which it deems appropriate."
40. The Sole Arbitrator notes that the applicable regulations and law in this case shall be the World Aquatics Qualification System – Paris 2024 and the IOC Qualification System Principles, as interpreted by Swiss law.

## **VIII. DISCUSSION**

### **A. Jurisdiction and Admissibility**

41. The presence or absence of CAS ad hoc jurisdiction in this case turns on whether this dispute "arose" within ten (10) days of the 26 July 2024 Opening Ceremonies of the Paris Olympic Games, as required under Article 1 of the CAS ad hoc Rules.
42. The record establishes that, as early as 5 May 2024, World Aquatics told Applicants that Mr. Roberts was ineligible for Universality Placing because he had competed in two prior Olympic Games. This conversation continued through several exchanges of correspondence through 3 July regarding Applicants' representations that they had not been aware of this limitation and requests that a "special exemption" should be granted to Mr. Roberts.
43. Applicants first raised the theory that the Qualification System only requires that Mr. Roberts be under thirty years of age, regardless of his prior Olympic participation, on 3 July 2024. World Aquatics rejected Applicants' new interpretation of sections C.2 and D.3 on 4 July 2024 and invited Applicants to "file a challenge." This response did not say where or with whom Applicants should file such a challenge.
44. However, this was not the end of the exchanges between Applicants and World Aquatics. On 18 July 2024, Applicants submitted their "Appeal" from World Aquatics' 4 July 2024 denial of their new theory of relief. While this might be viewed as a play to extend this dispute into the 10-day CAS ad hoc window, World Aquatics played along, agreeing to review the appeal and taking it to World Aquatics' Bureau for further consideration.
45. While the IOC argues that this "appeal" was merely a request for "reconsideration" the distinction is immaterial because World Aquatics allowed it. Rather than refuse to

consider the 18 July 2024 appeal and simply refer the Applicants to the decision of 4 July 2024, World Aquatics instead accepted to entertain the request and took the matter back to its Bureau. Accordingly, Applicants reasonably could hold out hope that World Aquatics might change its mind. With such a possibility remaining, it would be unreasonable to expect Applicants to have abandoned their efforts with World Aquatics and appealed to CAS at that time. The Sole Arbitrator finds that the authorities cited by the IOC are distinguishable, as they are based on different facts and circumstances.

46. Only on 19 July 2024, when World Aquatics' Bureau rejected the Appeal and stated that "*[t]his decision is final and subject to appeal to the Court of Arbitration for Sport in accordance with Article 31 of the World Aquatics Constitution*" were Applicants finally given a clear indication that there was no more discussion to be had with World Aquatics. A reasonable interpretation of this statement is the World Aquatics' prior responses to Applicants' requests, even the prior rejection by World Aquatics' Bureau, were not final.
47. Applicants alternatively assert that, even if the dispute "arose" outside of the ten-day period for appeal to the CAS ad hoc Division, they had not exhausted their administrative remedies until they submitted their 18 July 2024 appeal to World Aquatics Bureau. As set out above, under Article 1 of the CAS ad hoc Rules, the date a dispute is deemed to have arisen may be delayed while the claimant exhausts "*all the internal remedies available to him/her pursuant to the statutes or regulations of the sports body concerned.*"
48. However, the IOC correctly noted that World Aquatics does not have any formal internal appeal process, and there were no internal remedies for Applicants to satisfy. Nevertheless, the mere fact that World Aquatics agreed to reconsider the Applicants' request and issued a new – final – decision is sufficient to create a new starting point to determine the moment when the dispute has arisen. In any event, World Aquatics expressly recognized the CAS jurisdiction in this matter and both Parties have agreed that the CAS ad hoc division should rule on their dispute.
49. Therefore, the Sole Arbitrator finds that the conditions for the jurisdiction of the CAS ad hoc Division have been met here.

#### **B. Interpretation of Sections C.2 and D.3 of the World Aquatics Qualification System for the Paris 2024 Olympic Games**

50. The interpretation of the rules of a sporting body is a question of law. "*While it is always necessary to seek a purposive and contextual construction of such rules so as to discern their true intent and effect, a body cannot impose by discussion or decision after the coming into force of the rules, a meaning which they do not otherwise bear. ... [I]t is the Panel which is vested with the function of finally determining that meaning, subject only to any recourse (if any) to the Swiss Federal Tribunal (see Article 21 of the ad hoc Rules)*" (CAS ad hoc Division OG 04/001, para. 19).
51. "*The Qualification System is a legal document. It contains the provisions concerning the requirements that must be fulfilled in order to allow athletes to compete at the [Paris Olympic Games]. General rules of interpretation must be applied. The ordinary meaning of the words used must be considered in the context of the document under consideration, the document being considered as a whole*" (CAS ad hoc Division OG 10/003, para. 5). "*There is no reason to depart from the plain text, unless there are*

*objective reasons to think that it does not reflect the core meaning of the provision under review*” (CAS 2017/0/5264, 5265 & 5266, para. 4).

52. The Qualification System provides for Olympic Games entry through: (a) individual qualification by time, (b) relay qualification and (c) Universality Places.
53. Section B.2 of the Qualification System provides that “*NOC’s without any qualified athlete or relay team may enter a maximum of two (2) athletes – one (1) man and one (1) woman (universality Places) in one (1) event each (see section D.3 Universality places below)*”.
54. Section C.2 the Qualification System, entitled “Age”, states that:

“*An athlete entering through Universality will be limited to:*

  - *a maximum of two Olympic Games in their career; or*
  - *not being older than the age of thirty (30) years as of 1<sup>st</sup> January 2025.*”
55. Section D.3 essentially echoes section C.2, stating “*[a]s outlined in Section C, Athletes Eligibility, an athlete entering through Universality will be limited to a maximum of up to two Olympic Games in their career or not being older than the age of thirty (30) years as of 1<sup>st</sup> January 2025....*”
56. As pointed out by World Aquatics, the autonomy of sporting bodies to determine their governance, membership and competitions are generally entitled to “*a considerable amount of deference*” and their interpretation of such rules only disturbed when such interpretation is “*unreasonable*” (CAS 2017/0/5264, 5265 & 5266, para. 3).
57. “*It is not for the Panel to engage with the reasons behind the Qualification System and whether or not there could be a better system*” (CAS ad hoc Division OG 22/003, para. 8.15). Put another way, “*[t]his Panel is not in the position to make policy for any international federation or the IOC ....*” (CAS ad hoc Division OG 22/005, para. 7.18).
58. In light of the foregoing standards, the Sole Arbitrator finds that World Aquatics’ interpretation of sections C.2 and D.3 of the Qualifying Standards is reasonable and appropriate.
59. Applicants view sections C.2 and D.3 as qualification or eligibility standards, when in fact they are expressly “*limit[ing]*” standards, that is, they describe the circumstances under which an athlete will not qualify for Universality Placing. In other words, the use of the term “*limited*” here relates to ineligibility thresholds. Consequently, an athlete will not qualify for Universality Placing if they have competed in more than one Olympic Games “*or*” are more than 30 years old on 1 January 2025.
60. Moreover, while Applicants did not present evidence to the contrary, World Aquatics presented evidence that it has applied these provisions consistent with its asserted interpretation before, indicating a consistent interpretation over time.
61. World Aquatics’ interpretation is also consistent with the goal of encouraging participation and developing new athletes to expand the range of swimming around the world. If it were to allow anyone under the age of 30 to claim a Universality Placement, regardless

of the number of Olympic Games in which they compete, it would do the opposite, potentially creating a “bottleneck” preventing new athletes from competing at the Olympic Games and discouraging participation.

62. The fact that there will apparently be no male swimmer at the Paris Olympic Games from the Cook Islands after Mr. Roberts is excluded is not the fault of World Aquatics. Rather, any such injury to the Cook Islands is self-inflicted. Applicants initially suggested Mr. Story for consideration for Universality Placing, and World Aquatics extended an invitation to him, but Applicants refused to allow him to accept that place.

#### **IX. COSTS**

63. According to Article 22 para. 1 of the CAS Ad Hoc Rules, the services of the CAS ad hoc Division “are free of charge”.
64. According to Article 22 para. 2 of the CAS Ad Hoc Rules, parties to CAS ad hoc proceedings “*shall pay their own costs of legal representation, experts, witnesses and interpreters*”.
65. It was confirmed at the hearing that none of the Parties seek costs. Accordingly, there is no order as to costs.

#### **X. CONCLUSION**

66. In view of the above considerations, the Applicants’ application filed on 21 July 2024 shall be dismissed.

## **DECISION**

**The Ad Hoc Division of the Court of Arbitration for Sport renders the following decision:**

The application filed by the Cook Islands Aquatics Federation and the Cook Islands Sports and National Olympic Committee on 21 July 2024 is dismissed.

Award with grounds: Paris, 24 July 2024

**THE AD HOC DIVISION OF THE COURT OF ARBITRATION FOR SPORT**

Kristen Thorsness, OLY  
Sole Arbitrator