

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
WORLD ATHLETICS**

Before:

Christopher Quinlan KC (Chair)

Julien Berenger

Harveen Thauli

BETWEEN:**WORLD ATHLETICS****Anti-Doping Organisation****and****MR NORBERT KOBIELSKI****Athlete**

DECISION OF THE DISCIPLINARY AND APPEALS TRIBUNAL ON COSTS

I. INTRODUCTION

1. In paragraph 84 of the decision dated 19 May 2025, the Tribunal stated:

“The AIU seeks ‘a contribution towards its legal and other costs (including the costs of the proceedings before the Disciplinary Tribunal)’ pursuant to Rule 10.12.1 ADR. The Athlete asserts, ‘Due to his financial situation, shall not to be ordered to bear any costs of these proceedings’. No details were provided to support this claimed impecuniosity. The Tribunal directs:

- a. Within seven (7) days of the date hereof, the AIU must particularise the costs it seeks.*
- b. Within fourteen (14) days thereof, the Athlete must provide such details of his financial circumstances he wishes the Tribunal to consider in relation to this issue.”*

2. This document constitutes the Tribunal's reasoned and unanimous Decision on the issue of costs.

II. WORLD ATHLETICS SUBMISSIONS ON COSTS

3. World Athletics ("WA"), formerly the International Association of Athletics Federations, is the International Federation governing the sport of Athletics worldwide. WA was represented in these proceedings by the Athletics Integrity Unit ("AIU") which has delegated authority for results management and hearings on behalf of WA pursuant to Rule 1.2.2 2024 WA Anti-Doping Rules ("ADR").
4. On 27 May 2025, the AIU submitted as follows:

"The AIU agrees with the Panel's characterisation of the procedure in this matter as 'protracted' at paragraph 39 of the Decision. This matter was originally set down for a hearing on 24 February 2025, but that date was vacated solely due to the Athlete's failure to engage with his appointed legal representative for a period of months prior. The hearing was then rearranged for 28 and 29 April 2025 following the Athlete's confirmation 'of his full participation and availability in the proceedings' as set out in Mr Klimczyk's email of 14 February 2025. Notwithstanding that commitment given by the Athlete, he ultimately abandoned his request for an oral hearing in his case at the very last minute, immediately before the hearing commenced on the morning of 28 April 2025 (on alleged personal and health related grounds which remain entirely unspecified and unsubstantiated).

The Athlete's conduct in this case is unreasonable and unjustifiable. His decision to abandon his request for a hearing on the morning of the hearing itself is unprecedented in the AIU's experience before the Disciplinary and Appeals Tribunal. The AIU has dedicated substantial resources and has incurred significant legal and other costs in relation to the determination of this matter, including in relation to preparation of its written submissions and in preparing for the hearing on 28 and 29 April 2025 (by instructing external counsel and preparation for the hearing with counsel and witnesses). In addition, the AIU anticipates that the Panel's costs in this matter will necessarily reflect the 'protracted' nature of the proceedings, which the Athlete is entirely culpable for. On that basis, the AIU anticipates that its legal and other costs incurred in the context of these proceedings (including the costs of the Panel) will exceed €10,000 and the AIU therefore respectfully requests that it be awarded a substantial contribution to those costs in this matter."

5. On 30 May 2025, the AIU further submitted:

“Thank you for your e-mail. We are grateful to the Chair for his clarification. The AIU maintains that the Athlete’s request to abandon the hearing was manifestly late; the Athlete did not provide any indication or any instructions confirming his position viz. the hearing until his email on the morning of the hearing on 28 April 2025.

As to Mt Klimczyk’s comments concerning supporting evidence for the amount of costs, the AIU would be content to provide the evidence of its costs in this procedure to the Chair, if necessary/required.”

6. The correspondence above, sent via email was a response to the directions sent by the Chair on 28 May 2025, though what was said to have been clarified was unclear. In response thereto, the Chair informed the AIU and the Respondent (together, the Parties) that it was a matter for them to place the material they wished before the Tribunal on this issue. The Tribunal received nothing further.

III. ATHLETE’S SUBMISSIONS ON COSTS

7. On 28 May 2025, Mr Klimczyk, who represented the Athlete, submitted:

“First and foremost, I would like to respectfully clarify that the protracted nature of the proceedings in this matter did not result from any inaction or negligence on the part of counsel. On the contrary, I have made every effort to act with due diligence throughout these proceedings. Unfortunately, due to circumstances entirely beyond my control, it was not always possible to ensure timely and effective communication with the Athlete.

I must also correct the suggestion that Mr Kobielski cancelled his appearance just hours before the hearing. This is inaccurate. As his appointed counsel, I had raised concerns several days in advance regarding the continued lack of contact with Mr Kobielski and formally requested that the hearing be vacated - specifically to avoid the unnecessary generation of costs. This motion, however, was not granted for reasons that remain unclear to me, especially considering that I was that time officially acting as his legal representative and had standing to make such a request.

Moreover, it is important to emphasize that Mr Kobielski’s financial situation makes it entirely impossible for him to bear any of the costs. Accordingly, I hereby submit a formal request

that Mr Kobielski not be ordered to bear any part of the costs, or - should the Panel deem otherwise - that any potential cost order be limited to the minimum amount possible.

If the Panel requires any documentation to assess the Athlete's financial status in connection with this request, I kindly note that such inquiries should be directed to Mr Kobielski directly (I'm also adding Mr Kobielski to this email). As I have repeatedly indicated, I'm no longer in contact with him and believe, in substance, that I no longer act as his representative in this matter. Nevertheless, out of respect for the Tribunal and all Parties involved, I remain responsive to the correspondence I continue to receive."

8. The Tribunal has never criticised Mr Klimczyk's professional conduct of this matter. In response to that submission, the Chair replied (on the same day) in these terms:

"Would you please:

- 1. Thank Mr Klimczyk for his email and repeat my ruling on 25/4/25, since he asserts it 'remains unclear' to him why we did not accede to the application to vacate the hearing before 28 April:*

We were told that the secretariat was trying to contact the Athlete. We infer that it has been unsuccessful.

Having considered the application two things are apparent:

- 1. For the reasons explained, it is not made on the Athlete's instructions.**
- 2. There is no indication from him that he will not attend the hearing on Monday.**

Therefore, the only appropriate course is for this matter to remain as fixed for an oral hearing on 28/4/25 at 13.00 (BST).

- 2. Ask the Athlete to set out his financial position no later than 17.00 BST on 4 June. If he does not do so, we shall then determine the costs application."*

9. The Tribunal received no submissions, information, or contact from the Athlete.

IV. DECISION ON COSTS

10. Rule 10.12 ADR provides:

“10.12.1 Where an Athlete or other Person is found to have committed an anti-doping rule violation or other breach of these Anti-Doping Rules, the Disciplinary Tribunal or CAS (or, in cases where Rule 8.5.6 applies, the Integrity Unit), taking into account the proportionality principle, may require the Athlete or other Person to reimburse World Athletics for the costs that it has incurred in bringing the case, irrespective of any other Consequences that may or may not be imposed.

10.12.2 Any costs order pursuant to this Rule will not be considered a basis for reducing the Ineligibility or other Consequences that would otherwise be applicable under these Anti-Doping Rules.

10.12.3 Where fairness requires, World Athletics may establish an instalment plan for repayment of any prize money forfeited pursuant to Rule 9 or 10 and/or for the payment of any costs awarded pursuant to Rule 10.12.1. The schedule of payments pursuant to such plan may extend beyond any period of Ineligibility imposed on the Athlete or other Person.”

11. There is no guidance on the application of that provision.

12. The Tribunal wishes to address the following statement relied upon by the AIU:

“In addition, the AIU anticipates that the Panel’s costs in this matter will necessarily reflect the “protracted” nature of the proceedings, which the Athlete is entirely culpable for.”

13. The Tribunal states that this assertion is not correct. Given that this matter was resolved without a hearing, even though that decision was made at a late stage, the Tribunal’s costs (fees) were significantly reduced. The protracted nature of the proceedings caused by the Athlete’s conduct did result in considerably more work for the Tribunal but that is not reflected by any higher costs.

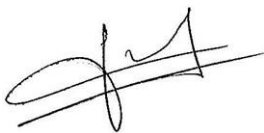
14. The AIU has not provided the Tribunal with a definitive figure for costs nor any evidence to support their request. As the Chair made clear, the provision of materials in support of the costs application was a matter entirely for the AIU. The Tribunal accepts that Mr Klimczyk passed on in good faith the observation that the Athlete’s *“financial situation makes it entirely impossible for him to bear any of the costs”*.

However, the Athlete has not engaged in this process and has not provided any evidence in support of his financial position. Therefore, the Tribunal cannot evaluate the merit of that submission nor is satisfied as to its accuracy.

15. The Tribunal has concluded that the Athlete should pay a contribution towards the costs incurred by the AIU. It is right that the AIU would have had to prepare and thus, finance the preparation of this case for a determination *on the papers*. However, the Tribunal is satisfied that the Athlete's conduct incurred "*additional and unnecessary*" costs for the AIU's preparation for an oral hearing, which he requested for himself. He then abandoned said hearing very late, once the preparatory work was done.
16. The Tribunal therefore assesses the sum that the Athlete should contribute towards these proceedings be €3,000 rather than the "*at least*" €10,000 requested by the AIU. The Tribunal's assessment reflects the principle of proportionality, ensuring that the costs are fair and reasonable in the circumstances, despite the Athlete's lack of cooperation.
17. Pursuant to Rule 10.12.3 ADR, the Tribunal invites WA to establish an instalment plan for payment of the above costs.



Christopher Quinlan KC
Tribunal Chair



Julien Berenger
Tribunal Member



Harveen Thauli
Tribunal Member

London, UK
20 June 2025

1 Paternoster Lane, St Paul's London EC4M 7BQ resolve@sportresolutions.com 020 7036 1966

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