

## TRANSLATION

### KOSOVO SWIMMING FEDERATION

**FROM:** Kosovo Swimming Federation, based in Prishtina, with president Agron Zeqiri;

**TO:** The Kosovo Olympic Committee-Executive Board;  
President, Mr. Ismet Krasniqi; Secretary, Mr. Besim Aliti

**CASE:** - Legal notice regarding the male athlete, Mal Gashi, who must represent Kosovo at the Olympic Games Paris 2024;

- Legal request for the implementation of local and international legislation, regarding the conditions that must be met by an athlete, for participation in international competitions, the Olympic Games Paris 2024;

- Legal notice about the possibility of filing a lawsuit and the request for security measure at the Court of Sports Arbitration in Lausanne, Switzerland, and filing a criminal report at the Basic Prosecutor's Office in Prishtina, if the name of the athlete, Adell Tsakhilov Sabovic, is sent to the Olympic Games Paris 2024;

**DATE:** 28 June, 2024, 8:30 a.m

Honorable,

We are addressing you through this legal document, regarding the letter sent by Brent J. Nowicki, on 27.06.2024, in which Mr. Nowicki has asked you to clarify the issue of the inclusion of the athlete, Adell Tsakhilov Sabovic, for the Olympic Games Paris 2024. The Kosovo Swimming Federation has analyzed this letter from Mr. Nowicki, together with the lawyers' office, an office which is committed to providing legal services for the Kosovo Swimming Federation, as well as which has represented the Kosovo Swimming Federation before the Court of Sports Arbitration in Lausanne, in the CAS2024 case /A/10263 Adell Sabovic v. Kosovo Swimming Federation. After analyzing the letter, we have come to the conclusion that this letter sent by Mr. Nowicki, conflicts local and international legislation. Any attempt to implement this letter constitutes a legal violation with criminal-legal consequences, as well as a basis to refer to the Court of Sports Arbitration in Lausanne.

First, we inform you that the letter sent by Mr. Nowicki contains untrue claims and this is distressing us. More worrying for us and the entire sports community, is the issue of how the Executive Director of World Aquatics speaks on behalf of World Aquatics, and illegally and by all means tries to send the athlete Adell Tsakhilov Sabovic, to the Olympic Games Paris 2024, without meeting the basic conditions.

In the letter sent by Mr. Nowicki, in paragraph four (4), it is stated that allegedly KSF has recognized Adell Sabovic, as a member of KSF and has authorized him to represent the Kosovo club from January 1, 2024. This is completely untrue! The letter to which is referred Mr. Nowicki, in no way foresees that Adell Tsakhilov Sabovic, is authorized to represent Kosovo in international competitions. This letter says that Adell Tsakhilov Sabovic can represent Kosovo in competitions organized by KSF, LEN and World Aquatics, and that commensurate to the decision of the board dated 09.12.2023. With the decision dated 09.12.2023, it was decided that Mr. Sabovic to become part of the Federation, and it has been decided that he does not meet the conditions to represent Kosovo in the competition in Doha, Qatar. In this decision, it is very clearly clarified that an athlete, in order to represent Kosovo in competitions, must participate in the state championship, participate in qualifying competitions, as well as follow the procedures and fulfill other necessary conditions, which Mr. Adell didn't. So, in this letter sent by Mr. Nowicki, a clear tendency is seen, to give another meaning to a text, consistent to the personal interests of Mr. Nowicki. The tendency of the group of Adell Tsakhilov Sabovic, to give a different meaning to the provisions and texts of the KSF documents, is not happening for the first time, they had tried the same earlier, but this has cost Mr. Sabovic with the loss of the case, at the Court of Sports Arbitration in Lausanne, as well as with the penalty of 2,000.00 CHF (ORDER CAS 2023/A/10263 item 4). The group of the athlete Sabovic, had tried to interpret the provision from Article 42 of the KSF Statute according to his interest, but the Court of Sports Arbitration in Lausanne, has very clearly explained to them that their claims for distorting the meaning of this provision are ungrounded. Therefore, even in the present case, a tendency to give a different meaning to the letter sent by the President of the KSF regarding Mr. Sabovic. In addition, we emphasize that it is also untrue that there is a decision, dated 23.12.2023, of the Executive Board of the KSF that authorizes Mr. Sabovic to represent the Kosovo club.

Regarding this matter, we refer to case CAS 2023/A/10263, where the aforementioned KSF document, dated 23.12.2023, was handled by the sports court in Lausanne, evidence: on page 2, Chapter 2 Factual Background, page 3 item 10, as evidence that this document presented by Adell Sabovic - his lawyers' office and has not produced a legal effect by the court, for the inclusion of Adell Sabovic in the representatives of Kosovo for Doha - Qatar.

We inform you that the decision of the EB of KSF of the date 22.06.2024, for the inclusion of athletes for the Olympic Games:

- MAL GASHI 701 FINA points



• HANA BEIQI 695 FINA points

Coach: BESART SHALA

is the final decision of the Executive Board of the KSF, referring to local and international legislation and above all, referring to the Decision of the Court in Lausanne.

In the case issue CAS 2023/A/10263, on page 5 and 6, item 33, it has been addressed and taken into consideration, the letter sent by World Aquatics Executive Director, Mr Brent Nowicki, who has strongly supported the inclusion of Adell Sabovic, in the World Championships in DOHA, in February 2024, but has not been able to succeed, in convincing the court for a restraining order in the aforementioned case and the involvement of Adell Sabovic.

We emphasize in particular, the item 79 on page 13 of the case issue CAS 2023/A/10263, as evidence in CAS, the correspondence between Sabovic-Ardian Hamiti (23.03.2023) was treated in the original version: *"I just saw that FINA said a minimum of 3 years after citizenship, to represent a national team. I will redo the documentation process starting from Monday, but is there any way I can represent Kosovo before 3 years or not?"*. Therefore, the attempt to justify the case in favor of Adell Sabovic by Brent Nowicki, with a strange interpretation of article 3.1.1 is quite disturbing, in relation to the factual evidence presented above, where Sabovic himself is aware, when he personally declares that he understands that it takes 3 years of being a resident, before the first representation, and requires other alternatives to represent Kosovo before this period, therefore the previous actions of the KSF, and finally on 22.06.2024, are in accordance with local and international legislation (point addressed refers to case issue CAS 2023/A/10263 ORDER, operative part notified on 9 February 2024, and corrected on 28 March 2024, Lausanne, 28 March 2024, page 28).

We must refer to a very important paragraph of the letter dated 27.06.2024 of Mr. Brent Nowicki, namely paragraph 6, which states *"Given the above, and in accordance with the World Aquatics Regulations, Part One, Article 3.1.1, regarding Sport Nationality, we advise you that Mr. Sabovic is identified as the male athlete who has achieved the highest score on the WA points table, in every individual Olympic discipline, as achieved in a qualifying event approved by the World Aquatics during the Paris 2024 qualifying period, representing Kosovo."* This sentence constitutes a fundamental violation of the very acts that World Aquatics issued regarding the conditions that must be met by an athlete to participate in international competitions. Article 3.1.1 of the World Aquatics Regulation, which is strangely referred to, by Mr. Nowicki in his letter, in no way gives the right to Mr. Sabovic, to participate in an international competition such as the Olympic Games Paris 2024 on behalf of Kosovo. Provision of article 3.1.1. of *the World Aquatics Regulations*, expressly foresees it that *"An athlete shall be eligible to compete in an International Competition representing a World Aquatics Member if he/she is affiliated with a single World Aquatics Member and a national of that country won by:*

*a) being a citizen of the country by birth; OR*

***b) being a citizen of the country through naturalization and continuous residence in the country for at least three years before his/her first international competition."***

So, the provision of article 3.1.1. of the World Aquatics Regulations, expressly forbids that an athlete such as Mr. Sabovic, who acquired the citizenship of Kosovo by naturalization, to participate in international competitions, without fulfilling the condition of uninterrupted stay for at least three (3) years in Kosovo. Mr. Sabovic, who acquired the citizenship of the Republic of Kosovo by naturalization in October 2023, therefore he does not meet the basic condition to participate in the Olympic Games Paris 2024. The reference made by Mr. Nowicki, that the athlete Sabovic allegedly meets the conditions from article 3.1.1. of the World Aquatics Regulation, is a wrong reference and an attempt to alienate the Kosovo Olympic Committee.

Furthermore, Brent Nowicki's claim that Adell Sabovic has represented Kosovo in qualifying competitions is untrue because:

- Adell Sabovic to represent Kosovo must have a proposal from the Selector and the Professional Council, and Decision of the EB of KSF, therefore, KSF officially declares that such a thing has never happened.
- The representation of Adell Sabovic was made on behalf of the Ilirida swimming club, not on behalf of Kosovo.

Also, the Athlete Adell Tsakhilov Sabovic, does not even meet the criteria set by Article 18 of the Regulation on the Kosovo Swimming Representative, which it foresees that *"The athlete who previously possessed the citizenship of another country, before the first representation of the RKS (Republic of Kosovo), must be resident in RKS for one (1) year and must not be in conflict with the rules of FINA and LEN."*

From the official data released by the Department for Citizenship, Asylum and Emigration at the Ministry of Internal Affairs of Kosovo, it is concluded that the athlete Adell Tsakhilov Sabovic, acquired the citizenship of the Republic of Kosovo by naturalization. The athlete Adell Tsakhilov Sabovic, acquired the citizenship of the Republic of Kosovo on 16.10.2023. Therefore, ultimately, the same does not meet the basic criteria to participate in international competitions such as the Olympic Games Paris 2024, because the same has not completed the uninterrupted stay in the Republic of Kosovo even for one (1) year.

Athlete, Adell Tsakhilov Sabovic, has not fulfilled the condition set by Article 33 of the Regulation of the Swimming Representative of Kosovo, with which provision it is foreseen that *"For the selection of the national team, the selector and the Professional Council are independent in the case of selection, but respecting basic assessment criteria: \* FINA POINTS- By using official international publications, the World Aquatics database and the KSF database for information about athletes and their results; \*Participation in the state championship of the Republic of Kosovo as the main competition activity organized by the KSF in the Republic of Kosovo."* From the official data, it can be seen that Adell Tsakhilov Sabovic, achieved 755 FINA POINTS in the last competition he took part in, but he does not meet the second condition set by the above regulation, which foresees participation in the state swimming championship in the Republic of Kosovo. We emphasize that neither the Professional Council nor the Selector has any knowledge about the athlete Adell Tsakhilov Sabovic. The same have not proposed Adell Tsakhilov Sabovic



for participation in the Olympic Games Paris 2024, therefore the same does not even meet the condition set by Article 33 of the Regulation on the Swimming Representative of Kosovo.

The fact that FINA points is not the only criterion that must be fulfilled, also shows the practice built by World Aquatics itself, where the same has written an official email to the Albanian Swimming Federation (24.06.2024), and has announced that athlete the Nikol Merizaj even though has the most FINA points (the highest ranked) the same cannot represent Albania at the Olympic Games Paris 2024, because she does not meet the other conditions.

We have the same situation for Adell Tsakhilov Sabovic, he may have the highest points in swimming competitions, but he does not meet the other basic conditions for representing Kosovo at the Olympic Games Paris 2024. If we take into consideration from what Mr. Nowicki is claiming, and ignore the rule 3.1.1, of the World Aquatics Regulation, then a country could take the best athlete of another country, grant him citizenship by naturalization, and send him to international competitions and win competitions and medals with that athlete. However, World Aquatics itself has prohibited this, with very clear provisions, where with the regulation as mentioned above, it has foreseen that it is an unsurpassed condition that an athlete who acquires citizenship by naturalization must stay in that country for at least three (3) years before his first international representation.

Through this official letter, the Kosovo Swimming Federation informs you that according to local and international legislation, National Federations have full competence to govern a certain sport, and this means that they have full autonomy to decide to choose athletes representing Kosovo in an international competition. This right of theirs originates from the democratic principles as well, on which the governing bodies of a Federation are elected. So, the bodies of the Federation are elected by the will of the majority of sports clubs which express their will to elect the bodies in question. This means that initially the right of a Federation to choose its representative, is a democratic and absolute right of only that Federation. In accordance with internal acts and international acts, the Federation selects the athlete who will best represent the country.

As for local legislation, with Article 27 of Law no. 2003/24 on Sport, it is foreseen that *"Sports Federations are established and operate in accordance with the provisions of this Law, their statutes and internal regulations, issued in accordance with this Law, as well as adapted to the statutes of the relevant International Federations of Sports."* In accordance with this provision, the Kosovo Swimming Federation has issued its statute, which is accepted by the relevant bodies of the Republic of Kosovo as well as by World Aquatics. The statute of the Kosovo Swimming Federation foresees that the Federation, through its bodies, selects athletes who will represent Kosovo in international competitions, in accordance with local and international rules. While the Olympic Committee of Kosovo, the Ministry of Culture, Youth and Sports as well as World Aquatics have accepted this statute, they have also accepted that the Federation chooses the athletes who will represent it, in international competitions. As explained in the Decision of the date 05.06.2024 of the Executive Board of the Kosovo Swimming Federation and the Decision of the date 22.06.2024 of the Executive Board, athlete Adell Tsakhilov Sabovic has not fulfilled the conditions set by internal acts nor the conditions set by the World Aquatics regulations for the representation of Kosovo at the Olympic Games Paris 2024.



With Article 6, of Law no. 06/L-043 on Freedom of Association in Non-Governmental Organizations, it is provided that Non-Governmental Organizations such as the Kosovo Swimming Federation are independent in defining their objectives and activities, as well as being independent in their internal organization and management, for defining the field of their activity, as well as act at the local, national or international level. So even according to this legal provision, the Kosovo Swimming Federation has the independence to decide on its internal issues, which in this case, is the selection of the representative of Kosovo for the representation of Kosovo at the Olympic Games Paris 2024 .

We have to emphasize that the autonomy and discretion in decision-making is also foreseen by article 5, paragraph 5.1, of the Constitution of World Aquatics, where it is foreseen that the National Federations govern the local sport. Consequently, this means that the Kosovo Swimming Federation also decides on the selection of its representatives, and that any foreign intervention in this selection constitutes a violation of Article 5 of the World Aquatics Constitution.

Article 7, item a) of the World Aquatics Constitution, expressly foresees that Federations have an obligation to manage their affairs independently and without regard to external influence from third parties or government(s).

While Article 8.3 of the World Aquatics Constitution foresees that if a Member Federation is not independent of external influences, to make a decision, that Federation commits an offense and the same may be suspended or expelled from World Aquatics.

Consequently, in accordance with these provisions of the highest Act of World Aquatics, KSF makes sporting decisions independently and any interference by World Aquatics or the Kosovo Olympic Committee is prohibited. If the Kosovo Olympic Committee includes the athlete, Adell Sabovic, in the Kosovo representative for the Olympic Games Paris 2024 , then article 7, item a) of the World Aquatics Constitution will be violated.

Also, from the official data, the athlete Adell Tsakhilov Sabovic, has lost the case CAS2024/A/10263 Adell Sabovic v. Kosovo Swimming Federation, in which case the same has submitted a request, to be part of the representative of Kosovo, in competitions in Doha Qatar, but the Court of Sports Arbitration in Lausanne has not approved his request. From the case of the Court of Sports Arbitration in Lausanne CAS2024/A/10263, Adell Sabovic v. Kosovo Swimming Federation, it can be seen that Adell Tsakhilov Sabovic, also had the most FINA POINTS in that case, but the Court of Sports Arbitration had not approved his request, because Adell Tsakhilov Sabovic, had not respected the procedural provisions. So, it is not enough for an athlete to have only FINA points, but it is necessary that the same one fulfills the other conditions, so that it can be considered that he fulfills the criteria for a competition. Consequently, in the specific case Adell Tsakhilov Sabovic, as in the case of the Court of Sports Arbitration in Lausanne CAS2024/A/10263 Adell Sabovic v. The Kosovo Swimming Federation, once again, does not meet the conditions for it to represent Kosovo at the OLYMPIC GAMES PARIS 2024.

As we explained to you before, KSF explains to you once again for the last time with this letter, that Adell Tsakhilov Sabovic, does not meet the conditions to be part of the Kosovo representative for the Olympic Games Paris 2024 . All the conditions to participate in this competition are met

only by Mal Gashi, whom we have proposed in the GMS system, and this decision, which we have clarified, is the final decision of the KSF and an irrevocable decision, because it is in full compliance with the legislation in base of which KSF operates.

We inform you that if the Olympic Committee of Kosovo, decides to send the name of Adell Tsakhilov Sabovic, for the Olympic Games Paris 2024 , then the people involved in this decision, commit the criminal offense: The violation of the equal status of citizens and residents of the Republic of Kosovo, from Article 190, paragraph 1, of Criminal Code of the Republic of Kosova, no. 06/L-074, because with such a decision, Mal Gashi, would be prevented from participating in the Olympic Games Paris 2024, even though he fulfills all the conditions set by National and International Acts. Provisions from article 190, paragraph 1, of the Criminal Code of the Republic of Kosova, no. 06/L-074, is very clear and foresees that *"Anyone who, due to national or ethnic affiliation, race, religion, or because he does not belong to any affiliation, or due to political beliefs or other beliefs, gender, disability, gender identity, sexual orientation, language, education, social position, social background, material condition, or any other personal characteristic, denies or limits the rights defined by the Constitution, law or other provisions, other general acts or ratified international agreements, or grants privileges or favors based on these differences, shall be punished by imprisonment for up to three (3) years."*

**Also, we inform you that if eventually happens that the name of Mr. Adell Tsakhilov Sabovic, is sent for the Olympic Games Paris 2024, then the KSF will sue the Kosovo Olympic Committee at the Court of Arbitration for Sport in Lausanne and will request a security measure to stop the execution of such an illegal decision until a final decision by the court.**

In these circumstances, we call on the Olympic Committee of Kosovo, to fulfill its duty for which it is established by the Law on Sports of the Republic of Kosovo. It is necessary to protect athletes, and to prevent an athlete who does not meet the conditions set by local and international acts from participating in an international competition on behalf of Kosovo. If the name of Mr. Adell Tsakhilov Sabovic is sent to the Olympic Games Paris 2024, then this would constitute a scandal in local and international sport, and in particular, such a scandalous decision will have negative impacts on the demotivation and destruction of the existing swimming sports base in KSF.



## SWIMMING FEDERATION OF KOSOVO

**President Agron Zeqiri** [signature]

**Vice President Bashkim Haxhimusa** [signature]

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Ministry of Culture, Youth and Sports - Cabinet of the Minister, Mr. Hajrullah Ceku

Ministry of Culture, Youth and Sports - Sports Council, Mr. Besim Kelmendi

Translation by:

The image shows a handwritten signature in blue ink, which appears to read 'Argjiro Shaqiri', written over a circular official stamp. The stamp contains the text 'Argjiro Shaqiri' and 'Court Translator for English Language'.

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