

Arbitration Rules applicable to the CAS Anti-doping Division

Preamble

WHEREAS the Executive Board of the International Olympic Committee (hereinafter the “IOC”) has delegated its power to decide upon any violation of the World Anti-doping Code arising upon the occasion of the Olympic Games (hereinafter the “OG”), based on Rule 59.2.4 of the Olympic Charter.

WHEREAS such delegation of power is to devolve upon a specially created Division of the Court of Arbitration for Sport, to be described as the CAS Anti-doping Division (hereinafter the “CAS ADD”).

WHEREAS the CAS ADD and these procedural rules have been established for the resolution by arbitration of alleged anti-doping rule violations referred to it in accordance with the IOC Anti-Doping Rules applicable to the Olympic Games (hereinafter the “IOC ADR”).

Article 1 Application of the Present Rules and Jurisdiction of the CAS Anti-doping Division

The CAS ADD shall be the first instance authority for doping-related matters, responsible for the conduct of the proceedings and the issuance of decisions when an alleged anti-doping rule violation has been asserted and referred to it under the IOC ADR.

The CAS ADD shall have jurisdiction in cases of alleged doping violations linked with any subsequent re-analysis of samples collected on the occasion of the OG. With the agreement of the parties concerned, any alleged doping violations linked with the re-analysis of samples collected on the occasion of OG prior to 2016 may be referred to the Court of Arbitration for Sport.

Article 2 CAS Anti-doping Division

The CAS ADD comprises a President, a Deputy President, arbitrators appearing on a special list and a Court Office.

Article 3 Special List of Arbitrators

The ICAS, acting through its Board, shall draw up the special list of arbitrators, experienced in anti-doping matters, referred to in Article 2.

This special list consists only of arbitrators who appear on the CAS general list of arbitrators. None of these arbitrators may act for the regular CAS ad hoc Division during the same edition of the OG, nor thereafter in matters connected to the said edition of the OG.

The special list of arbitrators shall be published prior to the opening of the OG. It may be subsequently modified by the ICAS Board.

Article 4 Presidency

The ICAS Board shall elect the President and the Deputy President of the CAS ADD from among the members of the ICAS appointed to ICAS pursuant to Article S4 e) of the Code of Sports-related Arbitration. The President shall be independent from the parties and she/he shall perform the functions conferred upon her/him by the present Rules and all other functions relevant to the proper operation of the CAS ADD. The Deputy President shall be independent from the parties and may substitute for the President at any time if the latter is prevented from carrying out her/his functions.

Article 5 Court Office

The CAS shall establish a Court Office of the CAS ADD at the site of the OG. Such office shall be placed under the authority of the CAS Secretary General. Outside the period of the OG, the Court Office of the CAS ADD is in Lausanne/Switzerland.

Article 6 Language of Arbitration

The arbitration shall be conducted in English or French as determined by the President of the CAS ADD or her/his Deputy.

Article 7 Seat of Arbitration and Law Governing the Arbitration

The seat of the CAS ADD and of each arbitral Panel is in Lausanne, Switzerland. However, the CAS ADD and each arbitral Panel may carry out all the actions which fall within their mission at the site of the OG or in any other place they deem appropriate.

The arbitration is governed by Chapter 12 of the Swiss Act on Private International Law.

Article 8 Representation and Assistance

The parties may be represented or assisted by persons of their choice insofar as circumstances permit, particularly with regard to the time limit set for any award. The names, addresses, electronic mail addresses and telephone numbers of the persons representing the parties by which they may be reached shall appear in the application referred to in Article 10 or be submitted at the start of the hearing.

Article 9 Notifications and Communications

a) All notifications and communications from the CAS ADD (Panel, Presidency or Court Office) shall be transmitted, by delivery to their address at their seat/domicile or at their OG site (during the period of the OG) or at their usual electronic mail address, to:

- the IOC legal affairs department;
- the athlete or any other person involved, as defined in the IOC ADR, or their representative;
- the National Olympic Committee(s) (NOC(s)) concerned;
- the International Federation(s) (IF(s)) concerned;
- the World Anti-doping Agency (WADA).

In case of urgency, the CAS ADD may also give notifications and communications by telephone and confirm them subsequently in writing, or by electronic mail. In the absence of written confirmation, the communication is nevertheless valid if the addressee had knowledge of it.

b) Notifications and communications from the parties shall be delivered or emailed to the CAS Court Office at the site of the OG or to the main Court Office in Lausanne (outside the period of the OG), with the exception of the application referred to in Article 10, which must be delivered to the CAS ADD Court Office, which will issue a time-dated receipt.

Article 10 Application

An alleged anti-doping rule violation shall be referred to the CAS ADD by way of a written application, in accordance with the IOC ADR.

The application shall include:

- the address and/or electronic address of the athlete or of any other person involved, as defined in the IOC ADR, or their representative, at the site of the OG;

- a brief statement of the material facts and legal arguments on which the application is based, including any relevant materials;
- request for relief and, where applicable, request for provisional measures;
- any appropriate comments on the basis for CAS ADD jurisdiction;
- if the application is filed during the period of the OG, the address of the IOC Medical and Scientific Games Group at the site of the OG and, where applicable, the electronic mail address at which it can be reached for the purposes of the proceedings and, where applicable, the same information for the person representing the IOC Medical and Scientific Games Group.

The application shall be written in English or French.

Article 11 Appointment of the Panel

Upon receipt of an application, the President of the CAS ADD, or her/his Deputy, shall appoint a Panel composed either of a Sole Arbitrator or of three arbitrators appearing on the special list described in Article 2 of the Rules, taking into account all the circumstances of the case.

If an application is filed which is related to an arbitration already pending before the CAS ADD, the President of the CAS ADD, or her/his Deputy, may assign the second dispute to the Panel appointed to decide the first dispute. In order to decide upon such assignment, the President of the CAS ADD, or her/his Deputy, shall take into account all the circumstances, including the relation between the two cases and the progress already made in the first case.

The CAS ADD Court Office shall convey the application to the appropriate arbitral Panel and inform the parties of the arbitrator(s) appointed.

Article 12 Independence and Qualifications of the Arbitrators

All arbitrators must have legal training and possess recognized competence with regard to anti-doping matters. They must be independent of the parties and disclose immediately any circumstance likely to compromise their independence.

They must be available for the CAS ADD at any time during the OG, and also outside the period of the OG if necessary.

No CAS arbitrator may act as counsel for a party or other interested person before the CAS ADD.

Article 13 Challenge, Disqualification and Removal of Arbitrators

An arbitrator must disqualify herself/himself voluntarily or, failing that, may be challenged by a party if circumstances give rise to legitimate doubts as to her/his independence. The President of the CAS ADD, or her/his Deputy, is competent to take cognizance of any challenge requested by a party. She/he shall decide upon the challenge immediately after giving the parties and the arbitrator concerned the opportunity to be heard, insofar as circumstances permit. Any challenge must be brought as soon as the reason for the challenge becomes known, otherwise the parties' right to challenge the arbitrator based on that particular reason shall be deemed waived.

Any arbitrator may be removed by the President of the CAS ADD, or her/his Deputy, if she/he is prevented from carrying out the assignment or fails to perform her/his duties in accordance with the present Rules.

If an arbitrator disqualifies herself/himself voluntarily or if the President of the CAS ADD, or her/his Deputy, accepts a challenge by a party or removes the arbitrator, the President of the CAS ADD, or her/his Deputy, shall immediately appoint a new arbitrator to fill the vacancy.

Article 14 Provisional suspensions

The Panel, where already appointed, or otherwise the President of the CAS ADD, or her/his Deputy, may rule on an application for a provisional suspension as defined in the IOC ADR.

Article 15 Procedure before the Panel

- a) Defense of lack of jurisdiction
Any defense of lack of jurisdiction of the Panel must be raised at the start of the proceedings or, at the latest, at the start of the hearing.
- b) Procedure
The Panel organizes the procedure as it considers appropriate while taking into account the specific needs and circumstances of the case, the interests of the parties, in particular their right to a fair hearing, and the particular constraints of speed and efficiency specific to the particular procedure. The Panel shall have full control over the evidentiary proceedings and argument.
- c) Hearing
Except where it considers another form of procedure more appropriate, the Panel shall summon the parties to a hearing on very short notice as soon as all relevant documents have been served on the parties. It shall append a copy of the application to the summons to appear addressed to the athlete or to any other person involved.
The Panel may also invite to the hearing the NOC and IF concerned and/or other persons or entities concerned with the alleged anti-doping rule violation who or which may not be parties to the proceedings. A WADA Independent Observer may attend the hearing.
At the hearing, the Panel shall hear the parties and take all appropriate action with respect to the evidence. The parties shall introduce at the hearing all the evidence they intend to adduce and produce the witnesses, who shall be heard immediately.
If it considers itself to be sufficiently well informed and the athlete or any other person involved waives the holding of a hearing, the Panel may decide not to hold a hearing and to render an award immediately.
- d) Other evidentiary measures
If a party requests an opportunity to introduce additional evidence which, for legitimate reasons, it was not able to produce at the hearing, the Panel may permit such introduction, to the extent necessary to the resolution of the dispute and provided that the additional evidence can be brought within the time limit set to render the final award (see Article 18 below).
The Panel may at any time take any appropriate action with respect to evidence. In particular, it may appoint an expert and order the production of documents, information or any other evidence. It may also decide whether to admit or exclude evidence offered by the parties and assess the weight of evidence. The Panel shall inform the parties accordingly.
- e) Failure to appear
If any party fails to appear at the hearing or to comply with directions issued by the Panel, the latter may nevertheless proceed.
- f) Proceedings outside the period of the OG
The proceedings shall be conducted by the Panel taking into account the existing time constraints and the right of the parties to be heard within a reasonable period of time.

Article 16 The Panel's Power to Review

The Panel shall have full power to establish the facts on which the application is based.

Article 17 Law Applicable

The Panel shall rule on the dispute pursuant to the IOC ADR, the applicable regulations, Swiss law and general principles of law.

Article 18 Time limit to issue the decision

During the period of the OG, the Panel shall give a decision within 24 hours from the conclusion of the hearing or, if no hearing is held, from the conclusion of the evidentiary proceedings, subject to Article 20. In exceptional cases, this time limit may be extended by the President of the CAS ADD, or her/his Deputy, if circumstances so require. Outside the period of the OG, the Panel shall give a decision within a reasonable time.

Article 19 Decision-making, Form and Communication of the Decision

Unless a Sole Arbitrator has been appointed, decisions are taken by a majority or, in the absence of a majority, by the President of the Panel.

Decisions shall be written, dated and signed by the President of the Panel or by the Sole Arbitrator and, in principle, brief reasons will be stated. Before the award is signed, it shall be reviewed by the President of the CAS ADD, or her/his Deputy, who may make amendments of form and, without affecting the Panel's freedom of decision, may also draw the latter's attention to points of substance.

The award shall be communicated to the parties immediately. The Panel may decide to communicate the operative part of the award, prior to the reasons. The award shall be final from such communication.

If the NOC and/or the IF concerned have not taken part to the proceedings and have not received a copy of the award, this award shall be communicated to them for information purposes.

Article 20 Award

a) Final award at the OG or after the OG

Taking into account all the circumstances of the case, including the nature and complexity of the dispute, the urgency of its resolution, the extent of the evidence required and of the legal issues to be resolved, the parties' right to be heard and the state of the record at the end of the evidentiary proceedings, the Panel may make a final award either during the period of the OG or outside the period of the OG. The Panel may also make a partial award during the period of the OG and decide the remaining issues in a final award after the period of the OG.

b) Final award outside the period of the OG

If the Panel does not issue a final award during the period of the OG, the following provisions shall apply:

- i) The Panel formed during the OG remains assigned to the resolution of the dispute.
- ii) After consultation with the parties, the Panel shall determine the procedural directions applicable to the remaining part of the arbitration.

Article 21 Enforceability; Appeal

Once notified, the award is enforceable immediately. It may be appealed to the CAS ad hoc Division according to the Arbitration Rules for the OG or, if the CAS ad hoc Division is no longer in operation, to the permanent CAS in Lausanne/Switzerland pursuant to Articles R47ff of the Code of Sports-related Arbitration, within 21 days from the notification of the award.

Article 22 Cost-free Nature of the Proceedings

The facilities and services of the CAS ADD, including interpretation services and the provision of the Panel to the parties to a dispute, are free of charge to the parties.

Article 23 Miscellaneous Provisions

The English and the French texts are authentic. In the event of any discrepancy, the English text shall prevail.

The present Rules have been adopted by the ICAS in Lausanne, on 18 April 2016, on the basis of the IOC ADR and Articles S6, paragraphs 1, 8 and 10, S8 and S23 of the Code of Sports-related Arbitration. They form an integral part of the Code of Sports-related Arbitration.

The present Rules may be amended by the ICAS pursuant to Article S8 of the Code of Sports-related Arbitration.