



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: Mr Lars Hilliger, Denmark

AWARD

in the arbitration between

Mahmoud Al Hamid

("Applicant")

v.

International Weightlifting Federation

("Respondent")

and

Saudi Olympic & Paralympic Committee

Saudi Weightlifting Federation

International Olympic Committee

("Interested Parties")

I. PARTIES

1. The Applicant is Mr Mahmoud Al Hamid, who is a Saudi Arabian leading weightlifter in his weight class (the “Applicant” or the “Athlete”)
2. The Respondent is the International Weightlifting Federation (IWF)
3. The First Interested Party is the Saudi Olympic & Paralympic Committee
4. The Second Interested Party is the Saudi Weightlifting Federation (SWF)
5. The Third Interested Party is the International Olympic Committee (IOC)

II. FACTS

A. Background Facts

6. 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.
7. On 25 November 2023, the Saudi Doping Control Committee took a urine sample from the Athlete in connection with the Saudi Games competitions in Riyadh, Saudi Arabia. This sample resulted in a positive test result being returned from the Qatar Anti-Doping Laboratory, indicating the presence of Erythropoietin (EPO) as a banned substance.
8. On 21 January 2024, the Athlete was notified of the positive test result, was informed about his right to have the sample B opened and attend a hearing. Further, with effect from the same date, a provisional suspension was imposed on him.
9. On 24 January 2024, the Athlete requested the sample B to be analysed.
10. Such analysis was conducted on 26 and 29 March 2024, the analysis of the sample B returned a negative result, and the provisional suspension of the Athlete was lifted.
11. On 10 May 2024, the Applicant filed an Application for Exemption to Compete in the Paris 2024 Olympics with the IWF, submitting, *inter alia*, that due to his provisional suspension, he had not been able to participate in two crucial qualifying events, which made it impossible for him to meet the qualification criteria for the Olympic Games 2024 in Paris.
12. During his provisional suspension, which overlapped the qualifying period, the Athlete was excluded from participating in the 2024 IWF World Cup, Phuket, THA (Mandatory Event) and the Asian Championship in Uzbekistan (Additional Event).
13. By letter of 24 May 2024 (the Appealed Decision), the IWF informed the Athlete that, due to his provisional suspension, he had “*missed the second mandatory event (2024 IWF World Cup, Phuket, THA) and also at least one additional event, thus failed to fulfil the minimum eligibility requirements*”.

14. The IWF further stated:

“Note that as per the IOC Olympic Qualification System (OQS) rule the application for exemption only applies to the compulsory event and not to the additional events and can only be requested once and within a short time limit after the end of the respective event (5 days).

In view of the above, we regret to inform you that as specified in detail in the OQS, the athlete’s application of 10 May 2024 is unfortunately filed out of time and cannot be brought forward to the qualification Commission for a decision.”

III. THE CAS PROCEEDINGS

15. On 22 July 2024 at 12h16 (Paris time), the Applicant filed an Application with the CAS Ad Hoc Division against the Respondent with respect to the Appealed Decision.
16. On 22 July 2024 at 16h06 (Paris time), the CAS Ad Hoc Division notified the Application to the Respondent and the Interested Parties and invited them to file their respective written submissions by 23 July 2024 at 14h00 (time of Paris).
17. On 22 July 2024 at 16h20 (Paris time), the CAS Ad Hoc Division notified the Parties of the composition of the Arbitral Tribunal:

Sole Arbitrator: Mr Lars Hilliger, Denmark

18. On 23 July 2024, the Respondent and the Interested Parties filed their Replies. Immediately after, the Applicant filed his further submission on jurisdiction.
19. By email of 23 July 2024, the Parties were informed that the Sole Arbitrator considered himself sufficiently well informed with the written submissions filed by the Parties and the Third Interested Party. Therefore, the Sole Arbitrator had decided not to hold a hearing pursuant to Article 15 of the CAS Arbitration Rules for the Olympic Games (the “CAS AD Hoc Rules”).

IV. THE PARTIES’ SUBMISSIONS AND REQUESTS FOR RELIEF

20. 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

21. The Applicant’s submissions may be summarised, in essence, as follows:
- The possible test result of Sample A was a mistake, which is proven by the negative test result of Sample B.

- The provisional suspension caused by the erroneous test result of Sample A prevented the Athlete from participating in sporting events which were mandatory for the qualification for the Olympic Games.
- Missing the Olympic Games will cause a significant setback for the Athlete's career, in particular due to the Athlete's age (31 years old) and will represent a missed opportunity for Saudi weightlifting.
- The Olympic Charter emphasises fair play and integrity, which principles support that the Athlete should be allowed to compete since the suspension was caused by the erroneous test result of Sample A and since the Athlete is innocent.
- The IOC allows flexibility in qualification systems to accommodate athletes facing exceptional circumstances.
- Athletes have the right to fair and equal treatment, including the right to compete if they meet the qualification criteria.
- Article 1.3 of the IWF Qualification System allows for exemptions based on exceptional circumstances.
- The CAS has previously recognised the right of athletes to compete when their participation is unfairly restricted due to circumstances beyond their control.
- Under Article 10 of the Universal Declaration for Human Rights, the Athlete is entitled to a fair and public hearing. His case of wrongful suspension and subsequent acquittal should be given due consideration to ensure that his human rights are protected and upheld. This principle is repeated in the WADA Code, specifically in Article 13.1.
- Article 1 of the CAS Ad Hoc Rules provides jurisdiction over disputes arising during the Olympic Games or within the ten days preceding the Opening Ceremony.
- Although the Appealed Decision date (24 May 2024) predates this period, the ongoing impact and the timing of the negative sample B test result place this dispute within the spirit and intent of the said rule, which is why the CAS Ad Hoc Division has jurisdiction in the dispute at issue.

b. Applicant's Requests for Relief

22. The Applicant requests "*the Paris 2024 CAS ad hoc Division to urgently consider [his] case and grant him exceptional entry into the Paris 2024 Olympic Games Weightlifting competition [...]*"

B. The Respondent

a. Respondent's Submissions

23. The Respondent's submissions may be summarised, in essence, as follows:
- With reference to Article 1 of the CAS Ad Hoc Rules, in order for the CAS Ad Hoc Division to be able to entertain the appeal at hand, the dispute at issue should have

arisen on or after 16 July 2024, which is 10 days before the Opening Ceremony of the upcoming Games.

- Considering that the Applicant provided no arguments, let alone evidence, that the dispute arose on or after 16 July 2024, there is nothing in the case file to support the position that the dispute at hand was within the required period for the CAS Ad Hoc Division to have jurisdiction *ratione temporis*.
- In any case, the Applicant failed to exhaust the internal remedies available to him pursuant to the provisions of the IWF Qualification System for the Games of the XXXIII Olympiad, Paris 2024 (the “**IWF OQS**”). In other words: the Applicant did not submit on time an application for exemption from participation in one mandatory event based on exceptional circumstances, which, according to the IWF OQS, should have been filed no later than five days from the last competition day of the event in which the athlete did not participate and would be heard by the IWF Commission responsible for reviewing and deciding on applications of athletes for exemption based on exceptional circumstances.
- The IWF letter of 24 May 2024, which is enclosed with the Application, even if it can be considered as an appealable decision, *quod non*, was issued by the IWF and notified to the Applicant’s National Member Federation 60 days ago, i.e. more than the 21-day time limit for appeal which is applicable in the absence of any specific provision setting out a different time limit.
- The Applicant further failed to specify in his Application the grounds for his appeal/legal arguments on which his application is based in accordance with Article 10 of the CAS Arbitration Rules for the Olympic Games and Article R48 of the CAS Code.
- For these reasons, the CAS Ad Hoc Division has no jurisdiction to hear the Appellant’s Application.

b. Respondent’s Requests for Relief

- “1) to dismiss the Appellant’s Application as inadmissible and terminate the present proceedings; and
- 2) in the unlikely event that the Sole Arbitrator deems that the Appellant’s Application is admissible, to allow IWF to submit its position on the merits of the case.”

C. The Interested Parties

24. The Third Interested Party submitted that “*the Applicant’s application is manifestly late by any standard and must thus be summarily dismissed, in accordance with Article R49 of the CAS Code.*”

V. JURISDICTION AND ADMISSIBILITY

25. 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”.

26. Article 1 of 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.”

27. Article 1 of the CAS Ad Rules provides that the relevant dispute must **arise** during the Olympic Games or **during a period of ten days preceding the Opening Ceremony of the Olympic Games** (*emphasis added*).

28. The Opening Ceremony for the Paris Olympic Games is 26 July 2024.

29. The Respondent and the IOC have specifically raised the question of jurisdiction, submitting that the dispute is not covered by Article 1 of the CAS Ad Hoc Rules as the dispute did not arise during the relevant 10-day period preceding the Opening Ceremony.

30. The Athlete does not dispute that the Appealed Decision was notified to him on 24 May 2024, and he does not dispute that it is issued outside of the relevant 10-day period before the Opening Ceremony.

31. However, according to the Player, the ongoing consequences of the Appealed Decision bring the present dispute within the jurisdiction of the CAS Ad Hoc Division.

32. The Sole Arbitrator, however, cannot accept this submission.

33. The relevant date with regard to Article 1 of the CAS Ad Hoc Rules is when the dispute between the Athlete and the Respondent arose, which the Sole Arbitrator finds to be on 24 May 2024, when the Athlete was informed by means of the Appealed Decisions that the IWF had found that the Athlete’s application for exemption could not be brought forward to the qualification Commission for a decision.

34. A dispute does not arise on any subsequent day of a given decision regardless of whether the consequence of such a decision still have an impact on the recipient or not on any given day.

35. Based on the above, the Sole Arbitrator concludes that the CAS Ad Hoc Division for the Olympic Games has no jurisdiction in this case as the dispute arose prior to a period of ten days preceding the Opening Ceremony of the Paris Olympic Games.
36. Furthermore, the Sole Arbitrator notes that if the Applicant had filed appeal with the Court of Arbitration for Sport in accordance with the Rules applicable to the CAS Appeals Arbitration procedures, the appeal will be in any event inadmissible because he failed to timely file an appeal in accordance with Article R49 of the Code of Sports-related Arbitration.
37. Finally, the Sole Arbitrator fully recognises and appreciates the regrettable circumstances that the Athlete faced and the impact on him being deprived of the opportunity to qualify for the Paris Olympic Games. Unfortunately, this does not enable the Sole Arbitrator to assume jurisdiction where it does not exist under the CAS Ad Hoc Rules.

VI. COSTS

38. According to Article 22 par. 1 of the CAS Ad Hoc Rules, the services of the CAS Ad Hoc Division “are free of charge”.
39. According to Article 22 par. 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*”.
40. None of the Parties seek costs. Accordingly, there is no order as to costs.

VII. CONCLUSION

41. In view of the above considerations, the CAS Ad Hoc Division has no jurisdiction to hear the Applicant’s application filed on 22 July 2024.

DECISION

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

The CAS Ad Hoc Division does not have jurisdiction to hear the application filed by Mahmoud Al Hamid on 22 July 2024

Operative part: Paris, 23 July 2024

Award with grounds: Paris, 27 July 2024

THE AD HOC DIVISION OF THE COURT OF ARBITRATION FOR SPORT

Lars Hilliger

Sole Arbitrator