

“Never leave an athlete knocking at the gate of the Olympic Village”: the CAS ad hoc Division at the Rio Olympics*

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While many advocates of arbitration champion the potential for relatively fast and efficient dispute resolution, speed was, perhaps fittingly, of particular importance when it fell to the Court of Arbitration for Sport's ad hoc Division (“AHD”) to resolve disputes at the Rio Olympics in August 2016.

While most will remember the Rio Olympics for Usain Bolt's history-making ‘triple triple’, the AHD set a record of its own, receiving the largest number of registered applications at any Olympic Games to date, 28 in total. Of those 28 applications, it should be noted that 16 related to the eligibility and/or status of Russian athletes following the decision of the International Olympic Committee Executive Board's decision concerning the participation of Russian athletes at the Rio Games.¹

Established in 1996, the AHD exists to resolve by arbitration any disputes under Rule 61 of the Olympic Charter arising “*during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games*”, serving the interests of athletes and of sport.² The Olympic Games operate in accordance with the Olympic Charter and Athletes participating in the Olympic Games are required to sign an Entry/Eligibility Conditions Form granting the CAS authority to determine disputes connected with the Olympic Games. The AHD's jurisdiction is accordingly well recognised by Olympic participants.

In order to meet the demands of the Rio Olympic Games the AHD delegation was led by ICAS Members Michael Lenard and Minister Ellen Gracie Northfleet, as President and Co-President respectively. Support was provided by the CAS Secretary General, a team of CAS Counsel, three CAS secretaries and a team of twelve arbitrators. In addition, the CAS established an ad hoc Doping Division (“AHDD”) supported by a further delegation, including six arbitrators with specific expertise in doping. Decisions of the AHDD could be appealed to the AHD during its period of operation or the CAS.

Applications to the AHD are subject to the Arbitration Rules for the Olympic Games, which reflect the importance of efficient, fair and urgent determination of the disputes falling within the jurisdiction of the AHD. In particular, Article 18 provides that, save in exceptional cases, the appointed Panel must give a decision within 24 hours of an application being lodged. Decisions are immediately enforceable and in cases of extreme urgency, the arbitral Panel (or the President, if a panel has not yet been formed) may rule on an application for preliminary relief or a stay of a decision, if challenged, without first hearing from the Respondent.³

Arbitral panels consist of three arbitrators, unless the President determines that a sole arbitrator is appropriate. In order to protect the interests of athletes and smaller National Olympic

¹ http://www.tas-cas.org/fileadmin/user_upload/Media_Release__English__Salimi_final.pdf

² Article 1, Arbitration Rules applicable to the CAS ad hoc division for the Olympic Games

³ Articles 14, 20 and 21

Committees, who are unlikely to travel with a team of lawyers in tow, CAS promotes and facilitates the provision of pro bono legal services at the Olympic Games, recognising that the arbitral process established by the Rules operates most efficiently when parties are represented and properly advised.

The importance of the AHD's dispute resolution role at the Rio Olympic Games cannot be underestimated. Long may it continue to live up to its hallmark: "*never leave an athlete knocking at the gate of the Olympic Village*".⁴

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⁴ Michael Lenard, The Future of Sports Dispute Resolution, Pepperdine Dispute Resolution Law Journal Vol. 10: 1, 2009.