

TAS

Tribunal Arbitral du Sport
Chambre ad hoc - Sochi 2014



CAS

Court of Arbitration for Sport
Ad hoc Division - Sochi 2014

MEDIA RELEASE (4)

ALPINE SKIING – ARGENTINA

APPLICATION FILED BY MARIA BELEN SIMARI BIRKNER TO PARTICIPATE IN THE OLYMPIC WINTER GAMES: NO JURISDICTION FOR THE CAS *AD HOC* DIVISION

Sochi, 13 February 2014 – The third case registered by the *ad hoc* Division of the Court of Arbitration for Sport in Sochi was decided yesterday. Maria Belen Simari Birkner, an Argentinean skier, filed an application in the afternoon of 11 February 2014 against the Argentinean ski federation (FASA) and the Argentinean NOC (COA). Maria Belen Simari Birkner requested the CAS to order the Argentinean NOC to enter her in the XXII Olympic Winter Games to compete in the Alpine Skiing events of Slalom, Super G and Giant Slalom. This case was heard between 10am and 3pm on 12 February 2014 at the CAS premises in Sochi and the decision was issued on the same day, less than 24 hours after the filing of the application. The CAS *ad hoc* Division found that it did not have jurisdiction to entertain the application.

The athlete was represented at the hearing by two lawyers acting “pro bono”, based in Sochi, and she participated by telephone. She mainly alleged that she has been discriminated against by the COA, on the basis of her family affiliation, a form of discrimination prohibited by and incompatible with the Olympic Charter and Fundamental Principles of Olympism. COA and FASA were represented at the hearing and both Respondents objected to the jurisdiction of the CAS *ad hoc* Division.

The CAS Panel in charge of this matter, composed of Justice Annabelle Bennett (Australia), President, Prof. Brigitte Stern (France) and Mr David Wei Wu (China), delivered its decision, without reasons in writing, yesterday afternoon, due to the urgency of the case; the full award with reasons was delivered today at 1pm. The arbitrators considered that the CAS *ad hoc* Division had no jurisdiction to entertain the case, given that the athlete was notified of her non-selection on 20 January 2014 – with which she was in total disagreement – and therefore that the date when the dispute arose was well before 28 January 2014, i.e. 10 days before the Opening Ceremony of the Games, which is the date when the jurisdiction of the CAS *ad hoc* Division started to be effective.

Despite the absence of jurisdiction, the Panel decided to consider the merits of the case. The conclusion was that, even if the *ad hoc* Division had jurisdiction, the athlete’s claims on the merits would have failed as she had not established that the COA decision was discriminatory.

Like in the Bauer award, rendered by another CAS Panel a few days earlier, the Panel also recommended that FASA establishes and publishes selection criteria to enable athletes to determine in a timely manner the Olympic Games qualification standards they are required to meet.

At the moment, no other procedure is pending before the CAS *ad hoc* Division.

For further information related to the CAS activity and procedures in general, please contact Mr. Matthieu Reeb, CAS Secretary General, Ayvazovsky Hotel, 1 Morskoy Boulevard, Imeretinskaya Lowland, Adler District, Russia, 354340. Tel: (7 862) 44 71 650; fax: (7 862) 44 71 656, or consult the CAS website: www.tas-cas.org