



MEDIA RELEASE

CAS PUBLIC HEARING – WADA v. SUN YANG & FINA

BACKGROUND INFORMATION

What is the case about?

Following a conflictual anti-doping test, initiated on 4 September 2018 at the residence of Mr Sun Yang, resulting in the testing not being completed, the matter was referred to the International Swimming Federation (FINA) Doping Panel (FINA DP). The FINA DP determined that the International Standard for Testing and Investigations (ISTI), the protocol adopted by the World Anti-Doping Agency (WADA) for the conduct of doping controls, had not been properly followed in the circumstances and that accordingly, the sample collection was invalid. As a consequence, the FINA DP ruled that the athlete had not committed any anti-doping rule violation.

WADA filed an appeal at CAS against that decision, considering that Sun Yang voluntarily refused to submit to sample collection and requesting that a period of ineligibility of minimum 2 years and maximum 8 years be imposed on him.

The parties have exchanged written submissions to present all their arguments and requests. They are now called to appear at a hearing in the presence of the Panel of arbitrators. The hearing will give the opportunity to the CAS Panel to hear the parties, their witnesses and experts and to ask them questions.

Who will decide the case?

The Panel of arbitrators constituted to decide the matter is composed as follows:

- Judge Franco Frattini, from Rome, Italy, Panel President
- Mr Romano F. Subiotto QC, Solicitor-Advocate in Brussels, Belgium and London, UK (appointed by WADA)
- Prof. Philippe Sands QC, Professor of Law and Barrister in London, UK (appointed by Sun Yang with the approval of FINA)

Mr Matthieu Reeb, CAS Secretary General, will supervise the organization and smooth running of the hearing. The Panel will be assisted by Mr Brent J. Nowicki, CAS Managing Counsel, and by an ad hoc clerk, Mr Dennis Koolaard.



Who is representing the parties?

WADA will be represented by the firm Bryan Cave Leighton Paisner LLP, Colorado Springs, USA.

Sun Yang will be represented by:

Bonnard Lawson Law Firm, Geneva, Switzerland

XXIV Old Buildings, London, UK

Beijing Lanpeng Law Firm, Beijing, P.R. China

FINA will be represented by CPV Partners, Lausanne, Switzerland

Why is this hearing being held in public?

It has always been possible for CAS hearings to be held in public so long as all parties to the procedure agreed to the proceedings being conducted in public. The first public hearing, which took place in 1999, was in the matter Michelle Smith De Bruin v. FINA. At the beginning of 2019, following a decision taken by the European Court of Human Rights (ECHR) in the cases Pechstein & Mutu v. Switzerland, the CAS updated its procedural rules to widen the scope for hearings to be held in public, which can be held at the sole request of the athlete when the dispute is of a disciplinary nature.

This public hearing was requested by Sun Yang. Neither WADA, nor FINA raised any objection to such request and the CAS Panel confirmed that a public hearing should be organised.

Logistics

The hearing will be held at the Fairmont Le Montreux Palace in Montreux, Switzerland, commencing at 9.00am and concluding at approximately 8.30pm.

A public viewing area will be available for written media and members of the public to observe the proceedings. Access to the public viewing area will be strictly controlled and advance registration is required. Observers seated in the public viewing area must in no way interfere with the orderly conduct of meetings and must follow the instructions issued by the CAS and by the security staff at all times.

From the moment the hearing starts, all or parts of the hearing will be available by livestream via the CAS website www.tas-cas.org. The proceedings will be conducted in English.

Photographers and video media will be allowed in the hearing room briefly at around 8:30am, when the Panel and the parties enter the hearing room, and will be required to leave before the hearing starts. During the hearing, in order for the proceedings to be conducted in an orderly manner, cameras will not be allowed in the hearing room. A media work room will be available nearby.



Persons wishing to register for access to the public viewing area must send the following information by email exclusively to publichearing@tas-cas.org **before 17:00 (GMT+1) on 14 November 2019:**

- Applicant's full name (include all individual names for groups or broadcast/media teams (including technicians))
- Title/position (for each person registering); media: specify if written media (full access) or photo/video media (no access to the hearing room after the hearing has started)
- Name of the organisation being represented
- Email address (for each person registering)
- Mobile telephone number (for each person registering)

Access to the public viewing area will be issued on a first-come-first-serve basis, with priority to media representatives. Successful applicants will receive a confirmation message setting out the process for retrieving their access passes.

Timetable

After some opening remarks, the President of the Panel will give the floor to the athlete first. Witnesses and experts will then be called by the parties to be examined. Finally, parties' counsels will make closing statements and the athlete will have the opportunity to make any final remarks before the hearing concludes.

The detailed timetable below may be adjusted during the hearing:

8.00am	Welcome Desk opens for the retrieval of access bracelets
8.00am	Media work room opens
8.00am	Public viewing area opens
8.30 – 8.45am	Opportunity for photo and video media to capture images in the hearing room
9.05am	President of the Panel opens the hearing
9.15am	Witness - Mr Sun Yang
Approx. 10.30am	BREAK (TRANSMISSION INTERRUPTED)
10.45am	Testimony from Appellant's witnesses
Approx. 12.45pm	LUNCH BREAK (TRANSMISSION INTERRUPTED)
1.45pm	Testimony from WADA's witnesses
Approx. 5.00pm	BREAK (TRANSMISSION INTERRUPTED)
5.35pm	Parties' closing statements and rebuttal
8.00pm	Mr Sun Yang's final remarks



8.10pm	Panel's closing remarks
8.30pm	END OF THE HEARING AND TRANSMISSION

Communications:

The only person speaking on behalf of the CAS is Mr Matthieu Reeb, CAS Secretary General, who will be present and will be available, around the requirements of the hearing, for brief statements. The Secretary General is unable to express opinions on the case at hand but can respond to general questions about the CAS and its operations. The arbitrators will not speak to the media.

The parties may speak to the media present if they wish to do so during the breaks or after the conclusion of the hearing. A press conference is not planned. Mr. Yang intends to issue a brief statement to the media at the conclusion of the hearing.

When is a decision likely to be issued?

After the hearing has concluded, the Panel will deliberate and prepare an Arbitral Award setting out its decision and the grounds for it. Accordingly, the decision will come at a later date and it is not possible to give a precise indication of the date of notification at this time.

Will the CAS decision be final?

Arbitral Awards issued by the CAS can be challenged before the Swiss Federal Tribunal on very limited grounds. The time limit for appeal is 30 days.

About the Court of Arbitration for Sport

Created in 1984, the Court of Arbitration for Sport, commonly referred to by its acronym "CAS", is an independent tribunal headquartered in Lausanne, Switzerland that resolves sports-related legal disputes through arbitration or mediation. Its activity has a global reach and its jurisdiction is recognized by all Olympic sports federations and many other international, continental and national federations.

CAS registers around 600 cases per year and appoints panels of arbitrators with specialist experience in sports law to conduct its procedures in accordance with the rules set out in the Code of Sports-related Arbitrationⁱ. These cases concern disciplinary matters, anti-doping issues, contractual disputes, governance issues and many other different types of cases. Often described as the "Supreme Court for sport", the CAS is the last instance tribunal in many cases involving international-level athletes.

ⁱ <https://www.tas-cas.org/en/arbitration/code-procedural-rules.html>