



MEDIA RELEASE

TOKYO 2020 OLYMPIC GAMES (2)

The Court of Arbitration for Sport (CAS) Ad Hoc Division dismisses the application filed by Jennifer Harding-Marlin (St Kitts and Nevis)

Tokyo, 19 July 2021 – The Ad Hoc Division of the Court of Arbitration for Sport (CAS) has issued its decision in the matter OG 20/03 Jennifer Harding-Marlin v. St Kitts & Nevis Olympic Committee (SKNOC) & International Swimming Federation (FINA). The International Olympic Committee (IOC) and the St. Kitts & Nevis Swimming Federation (SKSF) were involved in the procedure as interested parties.

The CAS Panel has dismissed Jennifer Harding-Marlin’s application requesting that the St. Kitts and Nevis Olympic Committee be directed to nominate her for the Women's 100 meters backstroke at the Tokyo 2020 Olympic Games under the “Universality System”.

Jennifer Harding-Marlin, a swimmer holding dual citizenship in Canada and St. Kitts & Nevis, who participates in international swimming competitions representing St. Kitts & Nevis, filed an application with the CAS Ad hoc Division on 18 July 2021. The Panel of arbitrators appointed to decide dispute, composed of Mr Manfred Nan, President, (Netherlands), Prof Song Lu (China) and Prof. Luigi Fumagalli (Italy), held a hearing in the morning of 19 July 2021, with some participants present and some heard by video-conference. At the conclusion of the hearing, the Panel deliberated and prepared its Arbitral Award which was notified to the parties in the evening of 19 July 2021.

The CAS Panel found that, contrary to the Athlete’s allegations, there was no convincing evidence on file to consider that the SKNOC had discriminated against her in violation of Rule 44.4 of the Olympic Charter; more specifically that the Athlete had been denied entry on the basis of her race, economic conditions and/or social connections or sporting activity.

However, the Panel found that the SKNOC could have been more forthcoming with the Athlete and more cooperative in its relations with the SKSF, which is not affiliated to the SKNOC, by directing them to become one of its members and starting an admission procedure. The Panel finds that such approach would be more in line with the Olympic spirit that a national Olympic committee has to promote in its country in accordance with Rule 27 of the Olympic Charter. Such failure, however, does not make the Appealed Decision discriminatory, arbitrary, unfair and/or unreasonable. In other words, the Appealed Decision might be inappropriate, but it does not constitute an abuse of discretion by the SKNOC.