



## MEDIA RELEASE

### CAS AD HOC DIVISION OLYMPIC GAMES RIO 2016

#### ROWING : THE APPEAL OF ANASTASIA KARABELSHIKOVA AND IVAN PODSHIVALOV IS PARTIALLY UPHELD BY CAS

#### POINT 3 OF THE IOC EXECUTIVE BOARD'S DECISION DATED 24 JULY 2016 IS UNENFORCEABLE

*Rio de Janeiro, 4 August 2016* – The ad hoc Division of the Court of Arbitration for Sport (CAS) at the Olympic Games Rio 2016 has rendered its decision in the case Anastasia Karabelshikova & Ivan Podshivalov v/ International Rowing Federation (FISA).

In 2008, both athletes received a sanction of 2 years ineligibility from FISA's Doping Hearing Panel as a result of an anti-doping rule violation (an "ADRV") under Article 2.2 of FISA's Anti-Doping Rules.

On 24 July 2016, the IOC Executive Board issued a decision (the IOC Decision) setting forth criteria for the participation of Russian athletes which read as follows (points 2 and 3 only):

*"2. Entry will be accepted by the IOC only if an athlete is able to provide evidence to the full satisfaction of his or her International Federation (IF) in relation to the following criteria:*

- The IFs\*, when establishing their pool of eligible Russian athletes, to apply the World Anti-Doping Code and other principles agreed by the Olympic Summit (21 June 2016).*
- The absence of a positive national anti-doping test cannot be considered sufficient by the IFs.*
- The IFs should carry out an individual analysis of each athlete's anti-doping record, taking into account only reliable adequate international tests, and the specificities of the athlete's sport and its rules, in order to ensure a level playing field.*



• *The IFs to examine the information contained in the IP Report, and for such purpose seek from WADA the names of athletes and National Federations (NFs) implicated. Nobody implicated, be it an athlete, an official, or an NF, may be accepted for entry or accreditation for the Olympic Games.*

• *The IFs will also have to apply their respective rules in relation to the sanctioning of entire NFs.*

*3. The ROC is not allowed to enter any athlete for the Olympic Games Rio 2016 who has ever been sanctioned for doping, even if he or she has served the sanction.”*

The issues before the CAS Panel focused primarily upon the legality of paragraph 3 of the IOC Decision.

The IOC Decision deprives the Russian athletes of the presumption of innocence and rather establishes a presumption of guilt, but one that is rebuttable by the athletes on an individual basis. The CAS noted the clear and correct references to the rules of natural justice. These rules act to limit the autonomy of the IOC, but such limitation was voluntarily adopted by the IOC itself. Paragraph 2 of the Decision follows the introductory wording in the IOC Decision and establishes 5 bullet points of conditions that must be fulfilled, which, in the opinion of the Panel, further recognise the right of the individual athletes to natural justice.

Paragraph 3, on the other hand, contains a simple, unqualified and absolute criterion. Any athlete who has been convicted of a prior ADRV is not allowed by the Russian Olympic Committee (ROC) to be entered for the Rio Games. It is therefore difficult to reconcile this paragraph with the stated aim to provide the athletes with an opportunity to rebut the presumption of guilt and to recognise the right to natural justice.

As a consequence, the CAS Panel found that paragraph 3 of the IOC Decision is unenforceable as it does not respect the athletes' right of natural justice.

The appeal has been partially upheld on that limited ground but all other prayers for relief have been rejected, including the request to oblige FISA to allow the Applicants to participate at the Rio 2016 Olympic regatta and the request to oblige the IOC to accept entry of the athletes in the 2016 Rio Olympic Games.

The CAS Panel supported the approach taken by the IOC at paragraph 2. As paragraph 3 is unenforceable, the two athletes should be considered by FISA, pursuant to paragraph 2 of the IOC Decision, to determine their eligibility or not, without delay.

The full award with the grounds is published on the CAS website.

For further information related to the CAS activity and procedures in general, please contact either Matthieu Reeb, CAS Secretary General, or Katy Hogg, Communications Officer, Windsor Oceanico Hotel, Rue Martinho de Mesquita 129, Rio de Janeiro, RJ 22620-220, Brazil, [media@tas-cas.org](mailto:media@tas-cas.org); Tel: +55 21 2118 4405, or consult the CAS website: [www.tas-cas.org](http://www.tas-cas.org)