



Arbitration CAS 95/143 S. and L. / Fédération Internationale de Ski (FIS), order of 30 October 1995

Arbitration agreement

Whereas on 9th August 1995, S. and L. (“the appellants”) lodged a document termed “complaint” with the Court of Arbitration for Sport,

Whereas an arbitration agreement entitled “Athletes declaration for an international (FIS) licence” was attached to this complaint,

Whereas this arbitration agreement refers exclusively to the disputes related to the athletes' personal liability on the occasion of a training session or competition placed under the direction of the FIS,

Whereas the appellants criticize in their complaint six decisions adopted by the Council of the FIS after the conclusion of the FIS Congresses,

Whereas these decisions affected some conditions of participation and some financial obligations of the competitors in alpine ski events (alterations of quotas),

Whereas the appellants did not appeal the decisions to another body of the FIS,

Whereas it is consequently for the President of the Appeals Arbitration Division to decide whether the arbitration shall be set in motion in the present case (art. S20 of the Code, a. o.);

LAW

Whereas, in accordance with art. R47 of the Code, a party may appeal the decision of a disciplinary tribunal or similar body of a federation, association or sports body, insofar as the statutes or regulations of the said body so provide or the parties have concluded a specific arbitration agreement, and insofar as the appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports body,

Whereas the appellants implicitly challenge in their complaint the validity of some decisions adopted by the Council of the FIS, supreme authority of the FIS between the Congresses (art. 26.1 FIS Statutes),

Whereas such a complaint must be considered as an appeal, although the challenged decisions have been taken by a legislative/executive body of a federation and not by a disciplinary tribunal or similar body (see case CAS 95/139),

Whereas, in accordance with art. R48 of the Code, the appeal must be accompanied by a copy of the provisions of the statutes or regulations or the specific agreement providing for appeal to the CAS,

Whereas the arbitration agreement attached to the complaint is an agreement limited to disputes related to the athletes' personal liability during a training session or a competition,

Whereas the present dispute concerns a question which is not covered by the arbitration agreement,

Whereas, furthermore, the appellants have not exhausted the legal remedies provided by art. 31.1 of the Statutes of the FIS: *"appeals against decisions of the Council have to be submitted to the Congress"*,

Whereas, as a general rule, arbitration is based on the consent of the parties, which is not established in this particular case,

Whereas the appeal arbitration proceedings cannot consequently be set in motion, given that there is no valid arbitration agreement,

The President of the Appeals Arbitration Division of the CAS:

1. Notes that there is no valid arbitration agreement between the appellants and the FIS.
2. Declares that the CAS does not have the jurisdiction to settle the present dispute.