LATEST ISSUES IN ANTI-DOPING

Prof. Denis Oswald, CIES Director,
Chairman IOC Disciplinary Commission and CAS Arbitrator

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INTRODUCTION

PRESENTATION OUTLINE:

a) Retests of samples from 2008 Beijing and 2012 London Olympic Games
b) IC & IP (« McLaren ») Reports; IAAF, IOC & IPC decisions; Case study: IPC/CAS decisions
c) McLaren Report – Sochi laboratory findings
d) Anti-Doping and disciplinary activities during the 2016 Rio Olympic Games
e) Other CAS activities in Rio
a) Retests of samples – Beijing & London OG

• Introduction
• Legal basis for retests
• Selection of athletes
• Process
• Challenges
• Results
b) IC & IP Reports

- Content & Consequences for 2016 Rio Olympic Games
- Legal approaches IAAF, IOC & IPC
  - IF decisions
  - CAS decisions
- Case Study: CAS Award – RPC vs. IPC
c) McLaren Report – Sochi laboratory

Sample swapping methodology during 2014 Sochi Winter Olympic Games
d) Anti-Doping & disciplinary activities – Rio 2016

• Results Management during Rio 2016 – CAS Anti-Doping Division (ADD)
  • 8 cases
• IOC disciplinary activities
  • 9 cases
e) Other CAS activities in Rio

- CAS ad hoc Division
  - 28 cases in total
  - 16 related to status/eligibility of Russian athletes
CASE STUDY: IPC – CAS Award

(CAS 2016/A/4745 RPC v. IPC)

I. FACTS

• McLaren Report: State-run doping programme by Russian Government

• IPC decision to suspend RPC

• Consequences: No Russian athletes at Rio Paralympic Games

• CAS Appeal
CASE STUDY: IPC – CAS Award cont...

II. LEGAL FRAMEWORK

Member’s obligations under IPC Constitution:

• “comply with the World Anti-Doping Code“ (Art. 2.1.1)

• “...the spirit of fair play prevails, ...and fundamental ethical principles are upheld;“ (Art. 2.2.6)

• “contribute to the creation of a drug-free sport environment....“ (Art. 2.2.7)
CASE STUDY: IPC – CAS Award cont...

III. THE ISSUES

A. Did RPC fail to comply with its membership obligations?

B. Did IPC apply correct procedure in suspending the RPC?

C. Was the decision to suspend RPC proportionate?
A. RPC - membership obligations?

1. Findings of IP Report

(i) Challenge made

• Moscow Laboratory: Disappearing Positive Methodology
• Sochi Laboratory: Sample Swapping Methodology
• Ministry of Sport directions

2. Consequences of IP Report

(i) No proof of complicity or involvement

(ii) Responsibility for non-compliance
B. IPC – procedures for suspension?

1. Challenge made
   - Due warning under IPC „Suspension Policy“?
   - Inadequate time to remedy matter (6 days)

2. Consideration by Panel
   - IPC Letter - Notice of membership suspension proceedings
   - deadline to „correct the deficiency“ identified
   - CAS – *de novo* hearing
C. Proportionality?

1. Challenge made: Decision & Consequences „unwarranted and disproportionate“

2. Consideration by Panel
   (i) Interests of Athletes not to be retained
   (ii) The magnitude of the failure
   (iii) The functioning of organised sport
   (iv) The legal basis
   (v) The damage caused
   (vi) No obvious alternatives
   (vii) No breach of statutory provision
   (viii) Conclusion
D. Recent actions by RPC

1. Submission by Parties
   • RPC remedial steps

2. Consideration by Panel
   • No appropriate steps have yet occurred
1. Appeal dismissed.

2. IPC Decision confirmed.