



Arbitration CAS 2014/A/3863 Bulgarian Sport Shooting Federation (BSSF) v. International Sport Shooting Federation (ISSF) & Bulgarian Shooting Union (BSU), award of 25 August 2015

Panel: Mr Hans Nater (Switzerland), President; Mr Ivaylo Dermendjiev (Bulgaria); Prof. Walter Seitz (Germany)

Shooting

Expulsion of a national federation from the International Federation's membership

Interpretation of the rule of the ISSF's constitution regarding expulsion

Validity of the expulsion from membership

Influence of a pending verdict from a national State Court on the CAS proceedings

1. Following a systematic approach in constructing and interpreting the relevant articles of the ISSF Constitution on membership and on the purpose of the ISSF, the recognition of a national shooting and rifle organization by and its affiliation to its National Olympic Committee (NOC) and to the Olympic Movement is a *sine qua non*-condition for membership with the ISSF. Clearly, a national shooting and rifle organization which does not meet the requirement of membership pursuant to the ISSF Constitution anymore does not automatically lose its membership status with the ISSF. However, the loss of membership status with a NOC, may be a valid reason for expulsion. Thus, according to the ISSF Constitution and to the national law applicable subsidiarily, a national organization which has lost its recognition by and its affiliation with its NOC may be expelled for valid reasons, provided that the proceedings leading to the expulsion meet the requirements of due process.
2. Even if it is somewhat disturbing that more than half a year after an International Federation (IF) General Assembly no minutes are available yet, a decision of expulsion of a member from the IF after said member had lost its membership with its NOC is valid and legal if the right to be heard of the member expelled has not been violated and if no objection was raised by the expelled member in connection with the fact that the vast majority of the delegates had voted "yes" regarding the approval of the decision.
3. A CAS panel must decide a dispute based on the facts established at the time when it renders the award. In this respect, should a national State Court uphold a pending appeal against the expulsion of an expelled member from its NOC, such verdict has no influence on the CAS proceedings. However, in case the decision of the NOC to expel its member were lifted, nothing would prevent that member from filing a request with the IF for re-admittance as a member, subject to the regulations of that IF.

I. PARTIES AND APPEALED DECISIONS

1. The Bulgarian Sport Shooting Federation (the “Appellant” or BSSF) is a not-for-profit organisation subject to Bulgarian law, with its seat in Sofia, Bulgaria.
2. The International Sport Shooting Federation (the “First Respondent” or ISSF) is the governing body of international sport shooting, with its seat in Munich, Germany.
3. The Bulgarian Shooting Union (the “Second Respondent” or BSU) is a not-for-profit organisation subject to Bulgarian law, with its seat in Sofia, Bulgaria.
4. BSSF brings an appeal against the decision dated 25 November 2013 of the ISSF Administrative Council and the decision of the General Assembly of the ISSF dated 2 December 2014 to expel the Appellant as a member of the ISSF and to grant membership to the Bulgarian Shooting Union (BSU) as the sole controlling body for rifle and pistol shooting sports in Bulgaria.

II. BACKGROUND FACTS

5. Below is a summary of the main relevant facts, as submitted by the Parties in their written pleadings. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.
6. By letter dated 3 April 2012, the Ministry of Physical Education and Sports of the Republic of Bulgaria informed the chairperson of the Bulgarian Olympic Committee that, as a result of an inspection of the BSSF, the Ministry of Physical Education and Sports suspended its financial support for BSSF.
7. By e-mail dated 5 June 2012, the Bulgarian Olympic Committee informed the First Respondent of an investigation of the Appellant by the Bulgarian Ministry of Physical Education and Sports on alleged illegal spending of financial means.
8. By e-mail dated 26 February 2013, the Bulgarian Ministry of Physical Education and Sports informed the First Respondent that it had withdrawn the Appellant’s sports licence for the following reasons:
“Following the investigation of the Inspectorate Department at the Ministry of Physical Education and Sports (MPES) in relation to the expedient and legal spending of funds granted by MPES under contracts for the period 2009-2011, illegal spending of funds was found”.
9. On 20 March 2013, the General Assembly of the Bulgarian Olympic Committee decided to expel the Appellant from membership with the Bulgarian Olympic Committee and to accept the BSU as its new member.

10. On 22 April 2013, BSSF submitted a Claim Petition to the Sofia City Court with a request to revoke the decisions taken by the General Assembly of the Bulgarian Olympic Committee to expel the Appellant and replace it by the BSU.
11. By letter of 7 June 2013, the President of the Bulgarian Olympic Committee advised the Secretary General of the ISSF that, pursuant to article 1.3.1 of the Constitution of the ISSF, BSSF cannot be anymore a member of the ISSF, as BSSF is not anymore a member of the Bulgarian Olympic Committee.
12. By e-mail dated 9 September 2013, the BSU submitted an application for membership to the ISSF.
13. On 25 November 2013, the Administrative Council of the ISSF took the following two decisions:
 - First, the Administrative Council decided with 30 votes in favor, no vote against and no abstentions to expel the BSSF as a member of the ISSF with immediate effect.
 - Second, the Administrative Council decided with 30 votes in favor, no vote against and no abstentions to accept the BSU as a new member of ISSF with immediate effect.
14. On 21 December 2013, the Appellant filed an appeal with the CAS against the decisions dated 25 November 2013 of the Administrative Council of the ISSF to expel the BSSF and admit the BSU as a new member.
15. By letters of 17 January 2014 and 21 January 2014 respectively, the Parties agreed to bifurcate the proceedings at CAS and that a preliminary award on CAS Jurisdiction regarding the Appeal against the Administrative Council's decisions of 25 November 2013 be rendered.
16. On 25 August 2014 the CAS issued a Preliminary Award declining jurisdiction to deal with the Appeal by BSSF against ISSF and the BSU with respect to the decisions of the Administrative Council of the ISSF dated 25 November 2013 on the grounds that the Appellant had not exhausted the legal remedies available according to the ISSF Constitution.
17. On 7 October 2014, the Appellant brought an appeal against the decisions of the Administrative Council of the ISSF dated 25 November 2013 to the General Assembly of the ISSF *"requesting the General Assembly of the ISSF to issue a final decision to the effect that revokes the appealed decision of 25 November 2013 of ISSF Administrative Council to expel the Appellant and the consecutive decision for approval of the Bulgarian Shooting Union as member of the ISSF"*.
18. At its General Assembly held on 2 December 2014, the ISSF dismissed the appeal lodged against the decisions of the Administrative Council of 25 November 2013.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

19. On 19 December 2014, the Appellant filed a Statement of Appeal with CAS, pursuant to the Code of Sports-related Arbitration (hereinafter referred to as the “Code”), to challenge the decisions of the Administrative Council of the ISSF of 25 November 2013 and the General Assembly of the ISSF of 2 December 2014.
20. In its Statement of Appeal, the Appellant appointed Mr Ivaylo Dermendjiev as Arbitrator and submitted that its Statement of Appeal “*is only a preliminary statement as to the filed Appeal and does not represent exhaustively and in full all factual and legal grounds of its contentions*” and reserved its right “*to present an appeal brief*”.
21. Notwithstanding the above, on 5 January 2015, the Appellant informed the CAS Court Office that its Statement of Appeal shall serve as its Appeal Brief.
22. On 26 January 2015, the First Respondent submitted its Answer to the Statement of Appeal and nominated Prof. Dr. Walter Seitz as Arbitrator.
23. On 2 February 2015, the Second Respondent submitted its Answer and also nominated Prof. Dr. Walter Seitz as Arbitrator.
24. By letter of 3 February 2015, CAS Secretariat invited the Parties to state whether they prefer a hearing to be held or for the Panel to issue an award based solely on the Parties’ written submissions.
25. By letter of 6 February 2015, the Appellant advised that it is not insisting on a hearing and requested to be granted the possibility to comment on Respondents’ submissions.
26. By letter of 10 February 2015, the First Respondent agreed that the Panel shall decide the case on the basis of the written submissions of the Parties without holding a hearing and rejected the Appellants’ request for a second round of submissions.
27. By letter of 16 February 2015, the Appellant reiterated its request “*to be granted the possibility to comment on Respondents’ submissions and evidence*”.
28. By letter of 16 February 2015, CAS reminded the Appellant that it will be for the Panel, once constituted, to decide whether there will be an additional round of submissions.
29. On 2 March 2015, the Parties were advised that the Panel appointed to hear this Appeal was constituted as follows: Mr. Nater (President); Mr. Dermendjiev and Mr. Prof. Seitz (Arbitrators). No party raised any objection as to the constitution of the Panel.
30. By letter of 18 March 2015, the Parties were informed that the Panel had decided to (i) order the First Respondent to submit, within 20 days, the draft Minutes of the General Assembly of the ISSF of 2 December 2014, (ii) invite the Appellant to submit its comments, if any, on the

Respondents' submissions and evidence, within 20 days from receipt of the draft minutes of the General Assembly of the ISSF of 2 December 2014, and (iii) grant a time limit of 20 days to the Respondents to file their comments on the Appellant's amended Statement of Appeal.

31. On 2 April 2015, the First Respondent filed a copy of the draft Minutes of the General Assembly of the ISSF of 2 December 2014.
32. On 27 April 2015, the Appellant submitted its amended Statement of Appeal.
33. On 25 May 2015, the Second Respondent submitted its comments to the Appellant's amended Statement of Appeal dated 27 April 2015.
34. On 26 May 2015, the First Respondent submitted its comments to the Appellant's amended Statement of Appeal dated 27 April 2015.
35. On 4 June 2015, the CAS advised the Parties that the Panel deemed itself sufficiently well informed to render a decision based solely on the Parties' submissions without a need for a hearing in accordance with article R57 of the Code.

IV. THE POSITION OF THE PARTIES

36. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every contention pulled forward by the Parties. The Panel has carefully considered all the submissions made by the Parties, even if there is no specific reference to those submissions in the following summary.

A. *The position of the Appellant*

37. By its Statement of Appeal and its amended Statement of Appeal, the Appellant sought the following award:
 - "CAS has jurisdiction;
 - the Appeal [...] is upheld and the appealed decision of 25 November 2013 of ISSF Administrative Council to expel the Appellant as member of ISSF and the consecutive decision to approve Bulgarian Shooting Union as member of the ISSF, and the decision made by the General Assembly of the ISSF on 2 December 2014 to confirm the same Decision of the ISSF Administrative Council are revoked and declared invalid for all purposes;
 - the appealed decision of the ISSF Administrative Council of 25 November 2013 to expel the Appellant and the consecutive decision to approve Bulgarian Shooting Union as member of the ISSF, which decision was appealed by the General Assembly of the ISSF on 2 December 2014 are set aside;
 - the Respondent be ordered to pay all the costs of the arbitration, including without limitation the fees and expenses of the Panel and Appellant's legal fees and expenses".

38. The Appellant, at the outset, submitted that the ISSF Administrative Council took its decision to expel the Appellant on the wrong assumption that it *“does not fulfil anymore the requirements for ISSF membership according to art. 1.3.1 of the ISSF Constitution, as it has lost its membership in and recognition by the Bulgarian Olympic Committee”*. That was the reason for the Appellant to institute a court dispute *“to annul the resolution taken by the General Assembly of the BOC on 20 March 2013”* (which court dispute is still pending).
39. The decisions of the ISSF Administrative Council and the General Assembly were invalid as the Appellant was not provided with a copy of any of the decisions and, therefore, was hindered to exercise its membership rights.
40. Referring to the state court proceedings between the Appellant and the Bulgarian state authorities regarding the spending of budget funds, the Appellant submitted that those proceedings had been closed *“with complete success for the Appellant”*.
41. In support of its appeal, the Appellant contended that, based on the ISSF Constitution, it is within the authority of the ISSF to designate the sole controlling body of Shooting Sports in Bulgaria and *“not related neither to the local government authorities nor to the National Olympic committees”*.
42. The Appellant expressed its *“firm opinion”*, based on the ISSF Constitution, that its expulsion as a member of the ISSF *“is absolutely illegal and invalid”*.
43. Regarding the proceedings before the General Assembly on 2 December 2014 in Munich, the Appellant submitted that the question to vote on *“was deliberately distorted and twisted”*. There was a *“mismanagement of the Appeal procedure”* and the right to be heard was violated. The reason for the expulsion of the Appellant indicated by the ISSF, i.e. the loss of the Appellant’s membership with the Bulgarian Olympic Committee, is *“absurd”*.

B. *The position of the First Respondent*

44. The First Respondent sought the following award:
 - *“To dismiss Appellant’s Appeal dated 19 December 2014;*
 - *to order the Appellant to pay the costs of the present arbitration;*
 - *to order the Appellant to pay the legal fees and expenses of the Respondent”*.
45. The First Respondent underlined that all member federations had been provided with the Appellant’s appeal to the General Assembly dated 7 October 2014. It submitted that the General Assembly was conducted in a fair and correct way: under item 7 of the Agenda, the General Secretary introduced the Appellant’s case relying on a summary handed out to the delegates before the General Assembly. Then, the Appellant and the Second Respondent were offered ten minutes each to present the case. The President and legal Counsel of the Appellant took the floor for approximately 7.30 minutes, without objecting to the “format” in which the appeal was heard by the delegates.

46. At the General Assembly of the ISSF held on 2 December 2014, the following question put to the delegates was approved by a vast majority of 150 to 200 against 10 votes saying no:

“Does the General Assembly approve the Administrative Council’s decision to expel the Bulgarian Shooting Sport Federation and accept the Bulgarian Shooting Union as an ISSF member federation in accordance with the ISSF constitution (1.3.1) and the Bulgarian Olympic Committee Decision to recognise the Bulgarian Shooting Union as its sole governing body for rifle and pistol shooting?”

47. On the merits, the first Respondent submitted that the Appellant was validly expelled in accordance with the ISSF Constitution. According to the ISSF Constitution, the federation must be recognised by the National Olympic Committee, which was not the case after the Appellant was expelled from membership of the Bulgarian Olympic Committee. The second reason for the Appellant’s expulsion was the revocation of the Appellant’s sports licence by the Ministry of Sport in Bulgaria.
48. The First Respondent submitted that, as the Appellant had validly been expelled from membership, there was no longer a national federation representing pistol and rifle shooting in Bulgaria. Therefore, the ISSF was allowed to admit the Second Respondent as a new member.

C. The position of the Second Respondent

49. The second Respondent sought the following award:

- “1. To reject entirely the Appeal of the Appellant dated 19 December 2014 as well as his claims and motions stated in his Statement of Claim / Appeal Brief.*
- 2. To order the Appellant to bear all the costs incurred with the present procedure.*
- 3. To order the Appellant to cover all legal and other expenses of the second Respondent related to the present procedure”.*

50. The Second Respondent rejected the Appellant’s submission that there were no reasons for the Bulgarian Olympic Committee to expel the First Respondent as its member.
51. The Second Respondent submitted that the revocation of the Appellant’s Sports licence by the Bulgarian Ministry of Sport had not been appealed. Pursuant to article 99, sec. s 2 of the Administrative Procedure Code, the withdrawal of the Appellant’s sports licence could have been cancelled or amended if new facts or new written evidence of significant importance and unknown before could have been found.
52. The Second Respondent submitted that the definite withdrawal of the Appellant’s Sports licence is the result of the Appellant’s own failures and omissions. Without a valid sports licence from the Ministry of Sports, the Appellant was not anymore eligible as member of the Bulgarian Olympic Committee.

53. Conversely, the Second Respondent submitted that it met all necessary conditions as a member of the Bulgarian Olympic Committee.
54. The Second Respondent concluded that, as the Appellant lost its status as the governing body for rifle and pistol shooting in Bulgaria as well as its recognition and affiliation with the Bulgarian Olympic Committee, it no longer met the criteria for a membership pursuant to article 1.3.1 of the ISSF Constitution.

V. JURISDICTION

55. Article R47 of the Code reads as follows:
“An appeal against the decision of a Federation Association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the appellant has exhausted the legal remedies available to him prior to the Appeal, in accordance with the statutes or regulations of that body”.
56. The jurisdiction of CAS derives from article 1.3.16.1 of the ISSF Constitution which reads as follows:
“Any dispute arising from the present statutes and regulations of the ISSF which cannot be settled amicably, must be settled finally by a tribunal composed in accordance with the statute and regulation of the Court of Arbitration for Sports to the exclusion of any recourse to ordinary courts. The parties undertake to comply with the Statute and Regulations and to accept in good faith the award rendered and in no way hinder its execution”.
57. The decisions pursuant to article R47 of the Code in the case at hand are the ones taken by the General Assembly of the ISSF on 2 December 2014 to expel the BSSF as its member and to admit the BSU as its new member. As the CAS concluded in its Preliminary Award, the decisions on the subject rendered by the Administrative Council of the ISSF as first instance did not constitute final decisions because they could have been appealed to the General Assembly of the ISSF (see CAS 2013/A/3440).
58. The Panel has noticed that the Appellant appealed against its expulsion from the Bulgarian Olympic Committee before a state court in Bulgaria. Those pending court proceedings have no effect on the jurisdiction of the CAS as the latter is authorised to decide on its own jurisdiction concerning the dispute at stake between the Parties (art. 186(1) of the Swiss Private International Law Statute). The Bulgarian Olympic Committee is not a Party to the case at hand.
59. It follows that the CAS has jurisdiction to decide on the present Appeal against the decisions of the General Assembly of the ISSF dated 2 December 2014 (hereinafter the “appealed decisions”).

VI. ADMISSIBILITY

60. The Statement of Appeal was filed on 19 December 2014, i.e. within 21 days from the notification of the decisions of the General Assembly of the ISSF held on 2 December 2014 pursuant to article R49 of the Code. The Appellant submitted that he had attended the General Assembly of the ISSF on 2 December 2014, but never received the decision taken regarding its expulsion.
61. No further recourse against the appealed decisions taken by the General Assembly of the ISSF on 2 December 2014 are possible within the structure of the ISSF.
62. The present appeal is therefore admissible.

VII. APPLICABLE LAW

63. Article R58 of the Code provides the following:
“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.
64. Consequently, the Panel shall decide the present dispute according to the rules and regulations of the ISSF, and, subsidiarily pursuant to the laws of Germany.
65. The Appellant submits that *“with respect of the Appellant’s legal status and effect to it by the decision of the BOC and with respect of the legality of BOC’s decision and consequences thereof Bulgarian substantive and procedural law is applicable”*. The Panel shall deal with this issue in the context of the discussion on the merits.

VIII. MERITS

A. The main issues

66. The main issues to be resolved by the Panel are:
 - a) Construction and interpretation of the ISSF Constitution relating to admission and expulsion.
 - b) Has the right to be heard been violated at the level of the Federation?
 - c) Has the Appellant validly been expelled from membership with the ISSF?
 - d) Has the Second Respondent become a member of the ISSF?

a) Construction and interpretation of the ISSF Constitution relating to admission and expulsion

aa) The Rules

67. The relevant provisions of the ISSF Constitution read as follows:

“1 PURPOSE

1.1 Promotes and guides the development of the shooting sports, without discrimination on political, racial or religious grounds and strengthens bonds of friendship between shooting associations of all nations.

[...]

1.1.3.3 Co-operates with the organizing committee of the Olympic Games in carrying out the organization of the shooting events and, as delegated by the IOC, supervises and controls all technical arrangements.

1.1.3.4 Organizes World Championships.

1.3 MEMBERSHIP

1.3.1 The Federation must be composed of those National Shooting Organizations, which are duly recognized by the Federation as the sole controlling body of shooting sports, and further recognized by and affiliated with their National Olympic Committee.

1.3.2 The National Olympic Committee of the country must be a full member of the International Olympic Committee.

1.3.3 Membership is open to one (1) Federation from each country. Countries with two (2) member federations recognised prior to 1989 may retain dual membership, but no new applications for membership may be accepted from more than one (1) federation per country.

[...]

1.3.5 Membership is decided by majority vote of the Administrative Council and new members are reported to the General Assembly.

[...]

1.3.15 Suspension and Expulsion

1.3.15.1 A member may be suspended if, in the opinion of the Administrative Council, the ISSF is better able to achieve any of its purposes by the suspension of a member;

1.3.15.2 A member may be expelled from the Federation for an action contrary to the Constitution or the General Regulations.

[...]

1.6 THE GENERAL ASSEMBLY

[...]

1.6.7 Functions of the General Assembly:

[...]

1.6.7.5 *Decisions on appeals regarding membership status*

[...].

68. The Appellant submitted that article 1.3.1 of the ISSF Constitution “*refers to the preconditions for admitting a member*”, but cannot be the basis to expel a member. The sole basis to expel a member is provided for in article 1.3.15.2 and requires that “*an action contrary to the Constitution or General Regulations*” has been committed.
69. The First Respondent submitted that the Appellant had been expelled pursuant to articles 1.3.1 and 1.3.15.2 of the ISSF Constitution, because the Appellant had lost its sports licence and its affiliation with the Bulgarian National Olympic Committee. Contrary to the view taken by the Appellant there is no “*action*” necessary to expel a member.
70. The Second Respondent submitted that the ISSF had the full right to exclude the Appellant “*because the latter does not longer meet the criterion set in article 1.3.1 of the ISSF Constitution, namely it is not the National Shooting Organization, recognized by and affiliated with the National Olympic Committee and further it is not the sole controlling body of Shooting Sports in Bulgaria*”.

ab) Expulsion Clause (Art. 1.3.15.2 of the ISSF Constitution) is not applicable

71. In view of the issue concerning the interpretation of article 1.3.15.2 of the ISSF Constitution, the Panel needs to refer to German law and to the CAS jurisprudence.
72. According to German law, the wording should primarily govern the construction of statutes (Munic Commentary to the BGB, 6th ed. 2012, at para 25 N 23), not the rules of the (German) *Bürgerliches Gesetzbuch* regarding contracts. According to CAS jurisprudence, “*the interpretation of the statutes and rules of a sport association has to be rather objective and always to start with the wording of the rule, which falls to be interpreted. The adjudicating body — in this instance the Panel — will have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association which drafted the rule, and such body may also take account of any relevant historical background which illuminates its derivation, as well as the entirely regulatory context in which the particular rule is located*” (CAS 2010/A/2071 at para 20).
73. Article 1.3.15.2 of the ISSF Constitution provides for the expulsion of a member “*for an action contrary to the Constitution or the General Regulations*”. Clearly, this wording of the expulsion clause does not cover the withdrawal of the sports licence by the Bulgarian authorities nor its loss of membership with the Bulgarian Olympic Committee. The Appellant is right in submitting that the absence of the conditions for membership according to article 1.3.1 of the ISSF Constitution cannot be considered “*an action contrary to the Constitution or the Regulations*”. Therefore, the Panel takes the view that the wording of article 1.3.15.2 of the ISSF Constitution did not allow the General Assembly of the ISSF to expel the Appellant on the grounds that it had lost its membership with the Bulgarian Olympic Committee.

74. In a next step, the Panel will examine whether the expulsion from membership could be based on other criteria explicitly or implicitly contained in the ISSF Constitution other than the wording of article 1.3.5.12 of the ISSF Constitution.

ac) Expulsion for valid reasons

75. There is no explicit provision in the ISSF Constitution providing for the expulsion of a member which has lost its recognition by and its affiliation with the National Olympic Committee. However, the Panel will examine whether, pursuant to article 1.3.1 of the ISSF Constitution and German law, the loss of membership with the National Olympic Committee may be considered a valid reason to expel a national shooting and rifle organization such as the Appellant from membership with the ISSF.
76. Like in every sports association, the core provision of the ISSF Statutes relates to the composition of members. Who can be a member? This question is answered by article 1.3.1 of the ISSF Constitution which opens membership to national shooting organizations recognized by the ISSF as the sole controlling body of shooting and further recognized by and affiliated with the National Olympic Committee.
77. It is very important to note that the rule governing the composition of membership pursuant to article 1.3.1 of the ISSF Constitution is in line with the rules and regulations of the Olympic Movement. Rule 25 of the Olympic Charter is headed “*recognition of international federations*” and provides the following:
- *“In order to develop and promote the Olympic Movement, the IOC may recognize as IFs international non-governmental organizations administering one or several sports at world level and encompassing organizations administering such sports at national level.*
 - *The statutes, practice and activities of the IFs within the Olympic Movement must be in conformity with the Olympic Charter, including the adoption and implementation of the World Anti-Doping Code. Subject to the foregoing each IF maintains its independence and autonomy in the administration of its sport”.*
78. In its preamble, the ISSF Constitution, in conformity with Rule 25 of the Olympic Charter, provides the following:
- “[...]*
The International Shooting Sport Federation is formally recognized by the International Olympic Committee as the sole controlling body of International Amateur Shooting Sports at international and worldwide levels of competition”.
79. As a matter of fact, the preamble of the ISSF Constitution follows the Olympic Charter by explicitly referring to the ISSF’s recognition by the International Olympic Committee as “*the sole controlling body at international and worldwide levels of competition*”.

80. It is fair to state that article 1.3.1 of the ISSF Constitution on the composition of membership is part of the system of worldwide sport in so far as the sport of shooting is governed by the Olympic Movement. The Panel takes the view that it is in the interest of the sport of shooting and the athletes practicing this sport that the national federations are “*recognized and affiliated with their National Olympic Committees*”, as article 1.3.1 of the ISSF Constitution explicitly states.
 81. Following a systematic approach in constructing and interpreting article 1.3.1 of the ISSF Constitution on membership and article 1 of the ISSF Constitution on the purpose of the ISSF, the Panel concludes that the recognition of the national shooting and rifle organization by and its affiliation to the National Olympic Committee and to the Olympic Movement is a *sine qua non*-condition for membership with the ISSF.
 82. Clearly, a national shooting and rifle organization which does not meet the requirement of membership pursuant to article 1.3.1 of the ISSF Constitution anymore does not automatically lose its membership status with the ISSF. However, it must be examined whether it may be expelled for valid reasons and, if so, whether the loss of membership status with a national Olympic committee, in the present case the Bulgarian Olympic Committee, may be a valid reason for expulsion. This analysis requires to rely on German law, which is applicable subsidiarily to the Rules and Regulations of the ISSF.
- ad) German law
83. Article 9(1) of the German Constitution (“Grundgesetz”) guarantees the freedom of association and reads as follows:
“All Germans have the right to form corporations and other associations”.
 84. Under German law, the meeting of the members is the highest organ of an association. (PALANDT/ELLENBERGER, BGB, 73th. ed. 2014, at para 32 N1).
 85. According to German law, a member of an association can be expelled for valid reasons, even if the statutes of the association do not provide so, subject to judicial review (BGH [Federal Supreme Court], Urteil vom 7-10-1991-II ZR 51/91; NJW-RR 1992 507). The reason for expulsion must be specified, and fault by the expelled member is not required. (PALANDT/ELLENBERGER, BGB, 73th. ed. 2014, at para 25 N28).
 86. A valid reason for expulsion must not be easily accepted and requires that the interest of the ISSF to strictly apply the core provision on membership outweighs the individual interest of a national shooting and rifle organisation to keep its membership with the ISSF. This is obviously the case where the national shooting and rifle organization does not meet the membership requirement of article 1.3.1 of the ISSF Constitution anymore. Under such circumstances, it would be unreasonable for the ISSF to maintain the status of membership of a national organization.

ae) Conclusion

87. The Panel reaches the conclusion that, according to the ISSF Constitution and German law, a national shooting and rifle organization which has lost its recognition by and its affiliation with the National Olympic Committee may be expelled for valid reasons, provided that the proceedings leading to the expulsion meet the requirements of due process.
- b) Has the right to be heard been violated by the ISSF?
88. The Appellant submitted that its right to be heard has been violated by the Administrative Council and the General Assembly of the ISSF. It monitored that the document submitted to the delegates of the General Assembly did not include *“the whole statement of Appeal before the ISSF General Assembly which included 15 exhibits attached”*. The summary presented to the delegates *“did not contain all legal and factual reasoning of the Appellant”*.
 89. The Appellant submitted that the voting at the General Assembly was politically manipulated. Instead of submitting the Appellant’s appeal to the General Assembly, as provided for in article 1.6.7.5 of the ISSF Constitution, the Administrative Council submitted its own version of the question to be decided on.
 90. The First Respondent submitted that there has been no violation of Appellant’s procedural rights, neither in the proceedings before the Administrative Council nor in the proceedings before the General Assembly. Should the Appellant’s procedural rights been violated by the ISSF Administrative Council, such defect would have been cured by the proceedings of the General Assembly. As Mr. Schreiber explained in his witness statement *“at least 150 to 200 delegates raised a green card [in favor of the expulsion of the Appellant and admitting the BSU as a new member] and “only ten delegates raised a red card [refusing the expulsion of the Appellant and admitting the BSU as a new member]”*.
 91. The competence of the General Assembly to rule as an appeals body on the expulsion of a member pursuant to article 1.3.15.2 of the ISSF Constitution is not disputed. However, the Parties are in dispute whether the process of expulsion was conducted in a fair way.
 92. Even if the Appellant’s rights had been violated by the General Assembly of the ISSF, the proceedings at the CAS would have a curing effect.
 93. According to article 57 of the Code, the Panel has full power to review the facts and the law. The Panel notes that neither party has raised any objection against how the arbitration proceedings have been conducted by the Panel. Particularly, it is to be noted that the Parties explicitly decided that no hearing was necessary and that the dispute should be decided on the basis of the written submissions only.
 94. The Appellant submitted that the ISSF *“should have awaited with the Court procedures [pending before Bulgarian state courts against the Appellant’s expulsion from the Bulgarian Olympic*

Committee] *are finalized*". However, there is no explicit language in the Rules and Regulations of the ISSF to this effect.

95. In its interpretation of the ISSF Constitution, the Panel reaches the conclusion that the affiliation of the National Shooting and Rifle Organization to the National Olympic Committee must be a condition *sine qua non* for membership to the ISSF. The Appellant lost its affiliation with the Bulgarian Olympic Committee and does, therefore, not qualify anymore as a member of the ISSF.
96. The First Respondent filed an "Anticipated Witness statement" on the discussions at the General Assembly of the ISSF of 2 December 2014, which is considered by the Panel a party's statement. According to this document, the events can be summarized as follows:
 - The Appeal against the decisions of the Administrative Council dated 25 November 2013 was dealt with under point 7 of the Agenda.
 - The Secretary General established the roll call of the General Assembly at 289 votes.
 - The Secretary General opened the discussion on the Appellant's case and explained the format in which the Appellant's appeal would be heard. At no time during the General Assembly, the Appellant, who was represented by Mr. Hristo Ivanov Gradinarski, objected against the format explained.
 - The representative of the Appellant took the floor for approximately 7.30 minutes.
 - Following the discussion including a presentation by Counsel for the ISSF the following question was submitted to the delegates to be answered with either "yes" or "no":
"Does the General Assembly approve the Administrative Council decision to expel the Bulgarian Shooting Sport Federation and accept the Bulgarian Shooting Union as an ISSF member federation in accordance with the ISSF Constitution (1.3.1) and the Bulgarian Olympic Committee decision to recognize the Bulgarian Shooting Union as its sole governing body for rifle and pistol shooting?"
97. Approximately 150 to 200 delegates raised a green card, indicating that they voted "yes", only 10 delegates raised a red card, indicating they voted "no". The exact number of "votes in favour" were not counted, as article 1.6.13.1 of the ISSF Constitution required only a simple majority.
98. The Appellant raised a series of objections against how the meeting at the General Assembly was conducted:
 - The Appellant's complete statement of appeal before the ISSF General Assembly and the attachments to it have not been submitted to the General Assembly delegates. Instead, the delegates received a summary prepared by Counsel for the First Respondent, which did not contain all legal and factual points raised by the Appellant.
 - The question put to the delegates for vote was worded by the Administrative Council of the ISSF and not by the Appellant, who sought the following relief:

“[...] ISSF to issue a final Decision to the effect that revokes the appealed Decision of 25 November 2013 of ISSF Administrative Council to expel the Appellant on the consecutive decision for approval of the Bulgarian Shooting Union as member of the ISSF [...]”.

- By putting another issue to the delegates, the Administrative Council of the ISSF *“had in bad faith mismanaged the process of appeal”*.
 - The decision of the General Assembly has not said anything on:
 - “a) The BSSF expelling from BOC is final; and*
 - b) the designation of BSU by BOC is legal; and*
 - c) does the ISSF Constitution allow such expelling [...];*
 - d) whether ISSF Administrative Council had the necessary factual legal grounds to take the decision, etc”.*
99. The Appellant submits that the General Assembly should have voted on the Appellant’s appeal and relief sought.
100. The Appellant argued that the proceedings at the level of the ISSF should have been conducted in the same way as court proceedings, the Administrative Council as the first instance and the General Assembly as the second instance. However, the Appellant did not substantiate its submission that the ISSF should have followed specific procedural rules supporting its argument.
101. Even if one would assume that procedural rules have been violated in rendering the appealed decisions, *quod non*, such defects could have been cured by the Panel pursuant to article R57 of the Code.
102. In line with German law, the Panel takes the view that it is within the discretion of the President of the General Assembly to phrase the question to be put to the delegates if the question is clear enough as to allow the addressees to understand it. In particular, the members of a general assembly may be asked whether they approve or deny the question submitted (see REICHERT, Vereins- und Verbandsrecht, 12th ed. 2010 at para 1772 at page 309).
103. In the case at hand, the question put to the delegates was understandable, and nobody including the representative of the Appellant raised any objection.
104. The Panel takes the view that the result of the vote was clear. According to German law, it is legal to count the votes pursuant to the so-called distraction method (“Subtraktionsmethode”) if this method allows to determine the result of the vote (BGH [Federal Supreme Court] in BGHZ 152, 63 = NJW 2002, 3629; PALANDT/ELLENBERGER, BGB, 73th. ed. 2014, at para 32 N1).
105. Notwithstanding the above, as the Appellant rightly pointed out, it is somewhat disturbing that more than half a year after the General Assembly there are no minutes available yet. However, for the purpose of deciding this Appeal, it is sufficient to know that the Appellant has not raised

any objection to the fact that the vast majority of the delegates had voted “yes” on the issue submitted by the Secretary General.

c) Has the Appellant validly been expelled from membership with the ISSF?

106. The Panel concludes that the decision of the General Assembly of the ISSF dated 2 December 2014 to expel the Appellant for valid reasons was legal.
107. The Panel notes the fact that, at the time when the General Assembly took the decision to expel the Appellant, i.e. on 2 December 2014, the Appellant had lost its membership with the Bulgarian Olympic Committee.
108. The underlying facts in the case at hand differ from the facts in CAS 2010/A/2275 referred to by the Appellant in so far as in the latter case the purported reason for expulsion, i.e. bankruptcy proceedings, was no longer accurate: the bankruptcy proceedings had been lifted at the time of the federations’ decision on the expulsion.
109. The Panel rejects the Appellant’s submission that the First Respondent should have awaited the outcome of the state court proceedings in Bulgaria on the appeal against the decision of the Bulgarian Olympic Committee to expel the Appellant from membership. The Panel notes that the Appellant has not filed a request to stay the present proceedings and confirms that the pending court proceedings in Bulgaria have no effect on the jurisdiction of the CAS to decide on the present dispute.
110. The Panel must decide the dispute based on the facts established at the time when this award is rendered. Should the Bulgarian State Court uphold the pending appeal against the expulsion of the Appellant from the Bulgarian Olympic Committee, such verdict has no influence on the proceedings and the dispute at hand. However, in case the decision of the Bulgarian Olympic Committee to expel the Appellant were lifted, nothing would prevent the Appellant from filing a request with the ISSF for re-admittance as a member, subject to the Regulations and the Rules of the ISSF.

d) Has the Second Respondent become a member of the ISSF?

111. The Appellant submitted that the Second Respondent could not have been elected “*as the [state] procedures for revoking of the BOC resolution to expel BSSF were pending*”. All procedures “*before the ISSF bodies and CAS*” should have been terminated before the Second Respondent was admitted.
112. The First Respondent submitted that the Second Respondent fulfilled all requirements to become a member of the ISSF, and its admittance by the Administrative Council and the General Assembly of the ISSF was valid.

113. The Second Respondent submitted that it met all requirements for membership with the ISSF, which admitted the Second Respondent following the expulsion of the Appellant.
114. The Panel takes the view that, at the time the Second Respondent was admitted as a member of the ISSF, the Appellant was not anymore a member of the ISSF.
115. The Panel refutes the Appellant's submission that the ISSF should have awaited the outcome of the state court proceedings regarding the BSSF's expulsion from the Bulgarian Olympic Committee and refers to its findings above.
116. The Panel concludes that the Second Respondent has been validly admitted as a member of the ISSF, and, consequently, the Appeal regarding the decision of the General Assembly of the ISSF dated 2 December 2014 to admit the Second Respondent as a new member of the ISSF is to be dismissed.

B. Conclusion

117. The Panel holds that the decisions of the General Assembly of the ISSF dated 2 December 2014 to expel the Bulgarian Sport Shooting Federation (BSSF) and to admit the Bulgarian Shooting Union (BSU) are valid and legal. The expulsion of the Appellant from membership by the Bulgarian Olympic Committee constitutes a valid reason pursuant to German law to expel the Appellant as a member of the ISSF pursuant to article 1.3.1 of the ISSF Constitution.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by Bulgarian Sport Shooting Federation on 19 December 2014 against the decisions of the General Assembly of the International Sport Shooting Federation of 2 December 2014 is dismissed.
2. The decisions of the General Assembly of the International Sport Shooting Federation of 2 December 2014 are confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.