Advisory opinion CAS 95/145 Federation Y., order on request for an advisory opinion of 10 November 1995

Admissibility of a request for an advisory opinion

1. According to art. R61 of the Code of Sports-related Arbitration, the President of the CAS shall review whether a request may be the subject of an opinion.

2. The Federation Y. lodged on 14th September 1995 a request for an advisory opinion asking the CAS to confirm that the Federation Y. was the relevant governing body of the sport X.

3. In conformity with article R60 of the Code, the aim of the consultative procedure is to enable the CAS to clarify a point of law to those persons and bodies authorized to request an opinion, and not to give the solution to a dispute. CAS practice is such that this consultative procedure must not be used to attempt to resolve a dispute, thereby taking the place of the arbitration procedure provided for by the aforesaid Code.

4. Simply to read the questions specified in the request by the Federation Y. shows that they are manifestly connected with a currently existing dispute and that, in addition, such dispute has been submitted to the Commission of the European Communities in application of articles 85 and 86 of the Treaty of Rome.

5. To agree to pronounce an advisory opinion on the questions submitted by the Federation Y. would be contrary to the intention of the legislator, the spirit of the Code and the practice of the CAS, and would go beyond the framework of an advisory opinion. It would have the effect of diverting the consultative procedure provided for by the Code from its real objective. Indeed, the goal and effect of the questions which the CAS is asked must in no case be to seek an advisory opinion in place of arbitration, another remedy at law which the Code offers to the parties.

The President of the Court of Arbitration for Sport rules:

1. The request lodged by the Federation Y. cannot be the subject of an advisory opinion.

2. (...)