



Arbitration CAS 2015/A/4289 Kuwait Shooting Federation (KSF), Saud Abdulrahman Ahmad Habeeb, Pourya Mohammadreza Norouziyan & Elham Hossein Harijani v. International Olympic Committee (IOC) & International Shooting Sport Federation (ISSF), award of 23 December 2016 (operative part of 27 July 2016)

Panel: Prof. Martin Schimke (Germany), President; Mr Boris Vittoz (Switzerland); Mr Hans Nater (Switzerland)

Shooting

Revocation of the Olympic qualification status of a continental event

Standing to appeal in general

Standing to appeal of the national federation organising the event

Standing to appeal of the athletes who have earned quota positions

- 1. In order to have standing to sue, the appellant must have an interest worthy of protection or a legitimate interest. This is found to exist if (i) the appellant is sufficiently affected by the appealed decision, and if (ii) a tangible interest of a financial or sporting nature is at stake. Only an aggrieved party who has something at stake and thus a concrete interest in challenging a decision adopted by a sports body may appeal against that decision to CAS. A purely theoretical/indirect interest is not sufficient. The decision being challenged must affect the appellant directly, concretely, and with more intensity than others. The interest must exist not only at the time the appeal is filed but also at the time when the decision is issued.**
- 2. One can have/affirm a protected financial interest but still fail to prove that loss or damage occurred. The latter need not necessarily result in a lack of standing but may instead concern the substantive legal basis for compensation. However, in case the appellant is not a direct or indirect member of the IOC which decided to revoke the Olympic qualification status to an event but the national federation organising such event, standing to appeal may be granted only if there is a concrete and direct financial and/or legal interest. Therefore, the national federation appealing the decision of revocation is required to at least establish some circumstances (albeit not all) that may lead to an assumption that damage or loss was in fact suffered or to at least allow or facilitate some kind of estimation of the damage suffered, failing which it lacks standing to appeal.**
- 3. Quota places for the Olympic Games are not allocated to specific athletes, but to the National Olympic Committees of such athletes. Therefore, the athlete having won a quota place during an event whose Olympic qualifying status is revoked lacks sufficient legal interest to appeal the decision revoking such status as the allocation of the quota place falls under the sole discretion of the National Olympic Committee, who in any**

event is not prevented from allocating the quota place to another of its affiliated athletes. Such an indirect interest in a decision being set aside is not sufficient to establish standing.

I. PARTIES

1. The Kuwait Shooting Federation (hereinafter: the “First Appellant” or the “KSF”) is the national governing body of shooting sport in Kuwait, with its registered office in Dasma, Kuwait. The KSF is affiliated to the Asian Shooting Confederation and the International Shooting Sport Federation.
2. Mr Saud Abdulrahman Ahmed Habeeb (hereinafter: the “Second Appellant” and together with the Third and Fourth Appellant as the “Athletes”) practices the shooting sport and is of Kuwaiti descent.
3. Mr Pourya Mohammadreza Norouziyan (hereinafter: the “Third Appellant” and together with the Second and Fourth Appellant as the “Athletes”) practices the shooting sport and is of Iranian descent.
4. Ms Elham Hossein Harijani (hereinafter: the “Fourth Appellant” and together with the Second and Third Appellant as the “Athletes”) practices the shooting sport and is of Iranian descent.
5. The International Olympic Committee (hereinafter: the “First Respondent” or the “IOC” and together with the ISSF as the “Respondents”) is the supreme authority of the Olympic movement, acting as a catalyst for collaboration between all parties of the Olympic family, notably the National Olympic Committees, the International Sport Federations and the athletes. The IOC has its registered office in Lausanne, Switzerland.
6. The International Shooting Sport Federation (hereinafter: the “Second Respondent” or the “ISSF” and together with the IOC as the “Respondents”) is formally recognised by the International Olympic Committee as the sole controlling body of international amateur shooting sport at international and worldwide level. The ISSF has its registered office in Munich, Germany.

II. FACTUAL BACKGROUND

7. Below is a summary of the main relevant facts, as established on the basis of the parties’ written and oral submissions and the evidence examined in the course of the present appeal arbitration proceedings and at the hearing. This background is presented for the sole purpose

of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.

8. On 20 October 2011, during a General Meeting of the Asian Shooting Confederation (hereinafter: the “ASC”), the governing body of shooting sport in Asia, it was decided that the KSF was in charge of organising the 13th Asian Championship (hereinafter: the “Asian Shooting Championship”), which was set to take place from 1 November until 12 November 2015 in Kuwait City, Kuwait. The Asian Shooting Championship is the only international championship in Asia where quota places are allocated by the ISSF for participation in the Olympic Games.
9. On 3 December 2014, Sheik Salman Al-Sabah stood as a candidate proposed by the KSF for the election of President of the ISSF against the sitting President, Mr Vasquez Raña. It was for the first time in more than 15 years that Mr Vasquez Raña had competition in the elections for ISSF President. The outcome of the elections in favour of Mr Vasquez Raña was challenged by Sheik Salman Al-Sabah and the KSF, which challenge was finally dismissed by an arbitral award rendered by the Court of Arbitration for Sport (hereinafter: the “CAS”) with the reference *CAS 2014/A/3867 Sheikh Salman Al-Sabah & KSF v. ISSF* on 16 November 2015.
10. On 17 August 2015, the ASC sent a jury list to the KSF and the ISSF in view of designating the technical delegates and jury members who were to serve during the Asian Shooting Championship (hereinafter: the “Jury List”). Mr Kim Il Hwan and Mr Bhattakarka Bunnag were proposed as Technical Delegates on the Jury List for Pistol/Rifle and Shotgun respectively.
11. On 12 September 2015, the President and Secretary General of the ISSF addressed a letter to all continental confederations, including the ASC, to “clarify the procedures for designating Technical Delegates and Jury members for the shooting events in the Continental Games and Continental Championships” and that Mr Yair Davidovich, an Israeli citizen, was appointed as Technical Delegate for rifle and pistol for the Asian Shooting Championship. Besides referring to the relevant rules and regulations in force already, the ISSF informed the ASC *inter alia* as follows:

“The ISSF will continue to rely on the Continental Confederations to prepare and submit proposals for the Technical Delegates and Jury members who will serve during Continental Games and Championships. Continental Confederations are asked to submit their proposals for Technical Delegates and Jury members well in advance of the respective competitions. The ISSF will check to make sure the nominees have the necessary qualifications:

[...]

In addition, there will be one new requirement that was approved by the Executive Committee. To ensure consistent rule enforcement and coordination with the ISSF Section Committees, who are responsible for interpreting ISSF rules and recommending any changes, each Continental Games or Championship Jury

should have at least one member who is a member of the Council or an ISSF Committee. This new requirement also supports recent ISSF efforts to upgrade the performances of Technical Delegates and Juries in all Championships. The ISSF will work with all Confederations to find solutions to ensure that ISSF supervision responsibilities are fulfilled and that these requirements do not become an unreasonable financial burden.

[...]

Four Continents still have Olympic qualifying competitions between now and March 2016 so we look forward to receiving their Technical Delegate and Jury member proposals as soon as possible and, of course, to working with all Continental Confederations as they conduct their ISSF Championships.

Asia:

For your Continent we kindly ask you to inform us immediately about your proposals for Technical Delegates and Juries for the coming Championships while keeping the above mentioned rules in mind. In regard to the coming Asian Championship in Kuwait in November, the ISSF Executive Committee discussed your proposal for Technical Delegates and decided to approve Mr. Bunnag as the Shotgun TD, but due to the fact that Dr. Kim is not a member of any ISSF Committee, the Executive Committee decided to designate Mr. Yair Davidovich as the TD for Rifle/Pistol. Concerning the juries we kindly ask you to send us an updated list after considering the above mentioned options”.

12. On 23 September 2015, the Secretary General of the ASC informed the Secretary General of the ISSF, *inter alia*, as follows:

“We would like to bring to your kind attention, that Mr. Kim Il Hwan was appointed to officiate as Technical Delegate Rifle/Pistol for the 13th Asian Shooting Championship – Kuwait on the 16th of August 2014 [rec. 2015]. At that time, he was a member of the ISSF Technical Committee.¹ The letter of appointment is attached herewith for your reference. It is also worth mentioning that the range of inspections have [sic] been carried out by the Technical Delegate.

We do respect your comments and vision implemented to ensure consistent rule enforcement for the benefit of our beloved shooting sport, however in view of development of shooting in Asia and increasing the level and experience of Technical Delegates and Juries in the Asian region, we would like to propose Ms. Yu Haijuan (CHN) – ISSF License A4239, Member of ISSF Judges Committee to officiate as Technical Delegate Rifle/Pistol for the 13th Asian Shooting Championship. Ms. Yu Haijuan is also attending the ASC General Assembly, scheduled to be held on the sidelines of the 13th Asian Shooting Championship as part of the delegation from Chinese Shooting Association. Therefore her visa has been already arranged, thus making the process easier, avoiding any disruption to the preparation process of this important Championship”.

¹ This allegation is disputed by the ISSF.

13. On 1 October 2015, the Secretary General of the ISSF informed the Secretary General of the ASC as follows:

“Concerning the nomination of Mrs. Yu Haijuan we fully understand the reasons but wanted to point out that the ISSF Executive Committee unanimously decided to nominate Mr. Yair Davidovich as Technical Delegate for rifle and pistol. We hope that it is still possible and enough time for the visa preparations. In case there are further problems, please let us know immediately.

Unfortunately we have not received any information concerning the juries and we look forward to receive further details having in mind our letter dated September 12, 2015”.

14. On 3 October 2015, the ASC informed the Secretary General of the ISSF as follows:

“Thank you for your letter in regard to the subject mentioned above, we do respect the unanimous decision of the ISSF Executive Committee to appoint Mr. Yair Davidovich as Technical Delegate for rifle and pistol.

It will be highly appreciated if you could forward to us at the earliest all the details of Mr. Yair Davidovich including passport copy so we forward them to the Organizing Committee of the 13th Asian Shooting Championships for processing and start of necessary arrangements”.

15. On 7 October 2015, the ISSF provided the ASC with Mr Davidovich’s passport by email, which document was subsequently forwarded by the ASC to the KSF on 8 October 2015.

16. On 13 October 2015, the Secretary General of the KSF informed the Director General of the ASC as follows:

“We applied for the visa for Mr. Yair Davidovich Technical Delegate for Rifle & Pistol but the Immigration Department did not approve the visa”.

17. On 19 October 2015, the Secretary General of the ISSF informed the ASC as follows:

“We thank you for your email and we are very surprised to hear that the Visa for the Technical Delegate Mr. Yair Davidovich was denied. As you know the Asian Championships are under the supervision of ISSF and Mr. Yair Davidovich has been designated as Technical Delegate. Therefore he has to be able to participate just as all other participating athletes and officials from other countries. The Asian Shooting Confederation previously accepted the designation of Mr. Davidovich as Technical Delegate and therefore we see no reason that a Visa is not issued by the authorities of Kuwait. We kindly ask you to speak with the Immigration Department and explain the situation that Mr. Davidovich is a participant of the Asian Championships and he must receive the Visa as he is the designated Technical Delegate”.

18. On 21 October 2015, the Secretary General of the KSF informed the Director General of the ASC as follows:

“We have forwarded the visa application once again to the immigration office for visa processing.

Please be aware that the Immigration Authority in Kuwait is an autonomous body which works independently with their own procedures and it can't be influenced.

However we will follow-up even though time is very short”.

19. On 28 October 2015, the Secretary General of the KSF informed the Director General of the ASC as follows:

“We have written to immigration department requesting them to process visa for Mr. Yair Davidovich, Technical Delegate Rifle/Pistol, before the start of 13th Asian Shooting Championship along with his passport copy.

We received answer from them informing us that the process and approval of his visa is impossible within this short time to be available in Kuwait to officiate the championship”.

20. On 28 October 2015, the ASC informed the ISSF of the situation.

21. On 29 October 2015, the Secretary General of the ISSF informed the President of the IOC, the IOC Sports Director and the IOC Director NOC Relation as follows:

“On 1 November 2015 the Asian Shooting Championship is supposed to start in Kuwait. According to the ISSF Regulations on the Participation in the Shooting Sport Events of the Olympic Games in Rio de Janeiro 2016 a total of 35 Quota Places are supposed to be distributed in this Championship for the 2016 Olympic Games. According to Article 3.4.3 of the ISSF General Regulations Continental Championships are supervised by the ISSF through Technical Delegates appointed by the ISSF Executive Committee.

By decision dated 8 September 2015 the ISSF Executive Committee designated Mr. Yair Davidovich from Israel as ISSF Technical Delegate for the rifle and pistol disciplines for the Asian Shooting Championship. This decision was informed to the Asian Shooting Confederation (“ASC”) with letter dated 12 September 2015. By letter dated 23 September 2015 ASC asked ISSF to change the Technical Delegate because of problems to obtain a Visa for this Technical Delegate. On 1 October 2015 the ISSF informed ASC that Mr. Davidovich had been nominated by unanimous decision of the ISSF Executive Committee. By letter dated 3 October 2015 ASC agreed to the nomination of Mr. Davidovich as Technical Delegate and requested all relevant details to start the necessary arrangements for his entry into Kuwait. On 7 October 2015 ISSF sent a copy of the passport of Mr. Davidovich and further information to ASC. By letter dated 13 October 2015 ASC informed the ISSF that the Kuwait immigration department that the visa was denied by the Immigration Department. On 19 October ISSF requested ASC again to contact the Kuwait immigration department in order to obtain a visa for the Technical Delegate as official participant of the Asian Shooting Championship. Finally on 28 October 2015 ASC informed the ISSF that the visa for Mr. Davidovich will not be approved.

In view of the denied visa for one of the ISSF Technical Delegates as well as the IOC decision dated 27 October to suspend the Kuwait Olympic Committee the ISSF kindly asks the IOC to reconsider the

qualification status of this championship. Especially having the last “Fourth Olympic Summit Communique” dated 17 October 2015 in mind where it is explicitly mentioned that all participants must have the chance to participate”.

22. On 29 October 2015, the IOC Sports Director informed the Secretary General of the ISSF of a decision rendered by the IOC Executive Board at an extraordinary meeting in Washington on the same day (hereinafter: the “First Decision”) as follows:

“Thank you very much for your letter of 29 October regarding the Asian Shooting Championship starting in Kuwait on 1 November 2015. In light of the issues noted in your letter and in particular the denial of a visa for the ISSF nominated Technical Delegate, the role of the championships as a qualification event for the Olympic Games Rio 2016 the IOC Executive Board held an extraordinary meeting to address this subject in Washington today.

The Olympic Charter clearly states the need to act against any form of discrimination affecting the Olympic Movement. The Qualification System Principles equally indicate that all qualification systems need to conform with the Olympic Charter. Noting the issue detailed in your letter and the supporting correspondence, the IOC Executive Board unanimously agreed to revoke the Olympic qualifying status of the Asian Shooting Championships.

It is of critical importance that we protect the integrity of the qualification process and the athletes. We would therefore request the ISSF to communicate the decision of the IOC Executive Board and confirm and propose to the IOC for approval the alternative event in which the Olympic Qualification quota places will be allocated for Asia”.

23. On 30 October 2015, the President and Secretary General of the ISSF informed the President of the ASC of the decision rendered by the IOC Executive Board (hereinafter: the “Second Decision”) as follows:

“We have just been informed by the International Olympic Committee that the IOC Executive Board decided to revoke the Olympic Qualifying Status of the Asian Championships to be held in Kuwait from 1 to 12 November 2015. Please find enclosed a copy of the letter which we received for your information and which is self-explanatory.

This decision means that during the Asian Championships to be held in Kuwait from 1 to 12 November 2015, there will be no distribution of quota places nor will there be any MQS results recognized and registered. However, you can still organize the Asian Shooting Championships under normal conditions but without Qualifying Status.

The ISSF is very concerned about this development and regrets it in particular regarding our Asian athletes. We will work under full speed to provide a location for another Qualifying Competition and try to find a good solution for the distribution of the 35 quota places assigned to our Asian athletes as soon as possible. The solution should also include some financial support to the participating athletes to cover part of the extra costs. We will keep you updated about any development in this matter”.

24. On 30 October 2015, the Director of the ASC informed the Secretary General of the ISSF as follows:

“We are anxiously disappointed in the steps taken by the ISSF with regards to the very important 13th Asian Championship with Quota distribution for the Rio Olympics 2016.

We have noticed that the ISSF referred this issue directly to the IOC Executive Board without notifying or coordinating with us or with the Organizing committee although we have been continuous correspondence in this subject since we first notified ISSF of the Jury List on August 17, 2015 in which we had forwarded the name of Mr. Kim Il Hwan as Technical Delegate. We were not made aware of any disqualifications or objections to the submitted list until we received a letter on 12th September 2015 telling us that the ISSF Executive Committee in their meeting have made a unanimous decision to approve Mr Yair Davidovich to replace Mr. Kim Il Hwan, and in the same letter it was pointed that “time was short”. We have been in compliance with the decisions of the ISSF and have been coordinating with the Organizing Committee to make the urgent changes and facilitate his appointment since then and we have been updating the ISSF on the status in a continuous manner.

It is further noticeable that the matter is referred to IOC less than one week prior to the commencement of the Championship while we could have reached a solution through normal and routine coordination between ISSF, our confederation, and the Organizing Committee as it is usually practiced and was in due process at the time.

The resultant consequences were due to a misinterpretation of the reason for having the VISA of the New Technical Delegate rejected.

In this regard, we think that misleading information may have reached ISSF and IOC. Until this date, we are still unaware of any discriminatory act or reason behind the visa rejection.

We can affirm that the rejection of a visa application is very common in the state of Kuwait, as it is in every other Country or State globally. Being an autonomous body, the Immigration Authority is not obligated to state any reason for their rejection – it is a subjective matter dealt, based on various factors which may be legal, personal or security based reasons for each individual case. From our point of view, deeming this inability to obtain an entry visa for a person that was mutually agreed upon to officiate the championship as an act of discrimination is highly inaccurate and inappropriate.

However we think that the ISSF could have solved this problem by explaining the above facts to the IOC and naming a new Technical Delegate from more than 30 countries who are exempted from the Visa to enter the state of Kuwait. This solution will save the Championship and avoid the huge damages that will befall the Asian athletes, the Asian Shooting Confederation and the Kuwait Shooting Federation. Any remaining doubts of the reasons of rejection of the Visa could have been made at a later without affecting the inspiring athletes.

Based on those facts, we respectfully require the ISSF to name a new Technical Delegate from the countries that are exempted from the Visa to enter the state of Kuwait within the coming 24 hours in order to avoid any legal action against the ASC or the ISSF”.

25. On 31 October 2015, the Secretary General of the ISSF informed the Director of the ASC as follows:

“The ISSF was also very disappointed that the entry visa for Mr. Yair Davidovich who was appointed by the ISSF Executive Committee to enter Kuwait was denied twice. You finally informed us about this issue on 28 October 2015 – only three days ago and only four days before the start of the competition for which this Technical Delegate has been designated.

When hosting an Olympic event the right of entry to the host country for all athletes and other participants must be guaranteed. To deny entry to any person is discriminatory and contrary to Fundamental Principle 6 of the Olympic Charter”.

26. From 1 until 12 November 2015, the Asian Shooting Championship took place in Kuwait. Mr Kim Il Hwan acted as Technical Delegate for Rifle/Pistol and Mr Abdullah Al-Hammadi for Shotgun. All three Athletes finished in a position that would normally have constituted a quota place for their respective National Olympic Committees, should the qualifying status not have been revoked. All three Athletes also complied with the minimum qualification score (hereinafter: “MQS”).

27. The system of quota places and MQS requirements is organised as follows according to the website of the ISSF, which remained undisputed by the Appellants:

“Since 1988, the Olympic Qualification System of the Shooting Sport is based on two fundamentals: the Olympic Quota Places, and the Minimum Qualification Scores (MQS). Each athlete, to be eligible to take part in the Olympic Games or in the Youth Olympic Games, needs an Olympic Quota Place, and must have obtained a Minimum Qualification Score at least once in the set timeframe.

Quota places:

Given the limited number of qualification slots available for shooting sport at Olympic Games and the Youth Olympic Games, the qualification system for our sport is based on Quota Places. A Quota Place is a qualification ticket to enter the Games, awarded by the ISSF to those athletes who reach the best results during the designated ISSF Olympic Qualification competitions such as ISSF World Championships, ISSF World Cups, Continental Championships or Continental Games.

Quota Places are country-related: the athlete wins a quota place, which is then owned by his/ her country. Each country is free to decide how to use the Quota Places won by its athletes. Therefore, the athlete who secures a Quota Place is not automatically qualified for the Games, as the final decision is to be taken by his/ her national team. As an example, the Quota Place won by Athlete X could be used by the country of appurtenance to enter Athlete Y in the Games.

Each Olympic cycle, the International Olympic Committee (IOC) assigns a certain number of Quota Places to the ISSF, which then distributes them to nations through designated qualification competitions.

MQS:

The MQS (Minimum Qualification Score) is a minimum score that an athlete must have recorded at least once in the set timeframe, in order to become eligible to take part in the Olympic Games or in the Youth Olympic Games. The Minimum Qualification Scores for each shooting event are designated by the ISSF. The personal MQS (the Individual Qualification Score IQS) of each athlete are recorded through ISSF supervised shooting events, and each athlete willing to participate in the Olympic Games or in the Youth Olympic Games must record it before heading to the Games”.

28. On 6 November 2015, Sheik Salman Al Sabah decided to step down as President of the ASC at the ASC General Assembly.

29. On 18 November 2015, the ASC issued a press release determining *inter alia* the following:

“The General Assembly believes that the discrimination allegations are not made on solid and legal basis and didn’t notice any discriminatory act in the letters and actions undertaken in the course of the 13th Asian Shooting Championships 2015. It has been further noticed that the Organizing Committee has not been granted the right to provide its opinion nor to be heard prior to filing any complaint to IOC or deciding about an act of discrimination, although the Organizing Committee undertook huge efforts and incurred substantial costs to organize this Championship. The ASC General Assembly unanimously authorized ASC Executive Committee to take suitable action to defend the Athletes rights in winning the Olympic Quotas based on the 13th Asian Shooting Championships”.

30. On 19 November 2015, the ISSF Executive Committee members unanimously decided by email (hereinafter: the “Third Decision”) that:

(i) *“the 13th Asian Shooting Championship could not be qualified as ISSF supervised Championship in accordance with Article 3.4.3 of the ISSF General Regulations and Section D. of the ISSF Special Regulations for the Participation in the Shooting Sport Events of the Olympic Games in Rio de Janeiro 2016’ because the appointed ISSF Technical Delegate was not granted a visa to enter Kuwait to supervise the 13th Asian Shooting Championships; and*

(ii) *to recommend to the IOC that the ‘Asia Qualifying Competition for Shooting’ for the Olympic Games 2016 should be conducted in India as an alternative competition in early 2016. The IOC approved this recommendation by letter dated 20 November 2015”.*

31. Also on 19 November 2015, the ISSF informed the IOC, *inter alia*, as follows:

“We are pleased to report that the ISSF Executive Committee has now voted unanimously to recommend to the IOC that the Olympic qualifying competition for Asia be conducted in New Delhi, India from 27 January to 4 February 2016.

[...]

We therefore kindly ask the IOC to approve the Asia Quota Competition as the Olympic Qualifying Competition for Shooting [...]”.

32. On 20 November 2015, the IOC informed the Secretary General of the ISSF as follows (hereinafter: the “Fourth Decision”):

“As per the Qualification System Principles, the IOC follows the International Federation’s recommendation on the event format and location and we therefore do not have any objection for the event to be staged in New Delhi, India from 27 January to 4 February 2016”.

33. On 24 November 2015, the President and Secretary General of the ISSF informed all ISSF member federations in Asia (the ASC was not an addressee and was not copied) as follows:

“We are pleased to inform you that the International Olympic Committee (IOC) has approved the ISSF recommendation to organize the ‘Asia Olympic Qualifying Competition for Shooting’ in New Delhi, India from 25 January (arrival) until 3 February 2016 (departure)”.

34. On 25 November 2015, the Secretary General of the ASC informed the Secretary General of the ISSF as follows:

“Being the Secretary General of the Asian Shooting Confederation, I would like to know why the Asian Shooting Confederation was not involved in the process of deciding on the host country of the competition where Asian Quota places will be distributed.

It will be appreciated if you could also provide details on the procedure of how was the decision reached to award this important Competition to the National Rifle Association of India”.

35. On 26 November 2015, the President and Secretary General of the ISSF informed the President and Secretary General of the ASC of the content of the Third Decision taken by the ISSF Executive Committee and, in addition, informed it as follows:

“Following the IOC’s decision to revoke the Olympic qualifying status of the 13th Asian Shooting Championships and the IOC request to propose an alternative event in which the Olympic Qualification quota places will be allocated for Asia, the ISSF requested by letter dated 6 November 2015 all its Asian Member Federations to submit their interest in organizing such event. Five members announced their interest in doing so. However, only India submitted an application to organize all events”.

36. From 25 January until 3 February 2016, the Asian Olympic Qualifying Competition for Shooting was held in New Delhi, India. The Second and Third Appellant won quota places for their respective National Olympic Committees in the exact same competition as they would have obtained in the Asian Shooting Championship if the qualifying status had not been revoked. The Fourth Appellant did not win a quota place; however, a quota place was

won by another Iranian athlete. This specific quota place was therefore nevertheless awarded to the same National Olympic Committee.

III. PROCEEDING BEFORE THE COURT OF ARBITRATION FOR SPORT²

37. On 19 November 2015, the KSF and the Athletes filed a joint Statement of Appeal with CAS in accordance with Article R48 of the CAS Code of Sports-related Arbitration (edition 2013) (hereinafter: the “CAS Code”), challenging the First and Second Decision (CAS 2015/A/4289) and requesting for a stay of the decisions appealed against.
38. On 2 December 2015, the IOC and the ISSF jointly nominated Mr Hans Nater, Attorney-at-Law in Zurich, Switzerland, as arbitrator.
39. On 2 and 4 December 2015 respectively, the IOC and the ISSF filed their comments to the Appellants’ application for a stay, requesting that it be rejected.
40. On 15 December 2015, the President of the CAS Appeals Arbitration Division rendered an Order on Request for Stay, dismissing the application for a stay filed by the KSF and the Athletes.
41. Also on 15 December 2015, the KSF filed a Statement of Appeal with CAS in accordance with Article R48 of the CAS Code, challenging the Third and Fourth Decision (CAS 2015/A/4336). In its Statement of Appeal, the KSF applied for a stay of the appealed decisions and to join the proceedings in CAS 2015/A/4336 with the proceedings in CAS 2015/A/4289.
42. Also on 15 December 2015, the ASC filed a Statement of Appeal with CAS in accordance with Article R48 of the CAS Code, challenging the Third and Fourth Decision (CAS 2015/A/4339). In its Statement of Appeal, the ASC applied for a stay of the appealed decisions.
43. On 16 December 2015, the KSF and the Athletes jointly nominated Mr Boris Vittoz, Attorney-at-Law in Lausanne, Switzerland, as arbitrator.
44. On 20 December 2015, the KSF and the Athletes filed their Appeal Brief in CAS 2015/A/4289 in accordance with Article R51 of the CAS Code. This Appeal Brief contained a renewed application for a stay of the decisions appealed against as they considered the Third and Fourth Decision to be new factual elements, justifying the filing of a renewed application

² Since the proceedings in CAS 2015/A/4289 is closely intertwined with the proceedings in CAS 2015/A/4336 and CAS 2015/A/4339, the Panel deems it appropriate to set out the entire procedural background without distinguishing between the two. It must however be clarified that in the present matter only the First and Second Decision are challenged and that the KSF and the Athletes are the sole appellants (*i.e.* the ASC is not a party in the present dispute).

for stay. The Appeal Brief contained a statement of the facts and legal arguments and included the following requests for relief:

1. *“declare the Decisions null and void and in any event to set aside the Decisions.*
 2. *confirm the Olympic qualifying status of the 13th Asian Shooting Championship which took place in Kuwait from 1 to 12 November 2015, as well as that the 35 quota places and MQS results related to such status and allocated by the ISSF to the 13th Asian Shooting Championships;*
 3. *as a consequence of the requests for relief nr 2, order that the ISSF and IOC shall draw all the sporting consequences of the CAS award and ensure that all national federations and Athletes concerned, according to the official classification of the 13th Asian Shooting Championships, be awarded the corresponding 35 quota places and MQS results.*
 4. *should the request for relief nr 2 be granted and in the unlikely event that CAS should consider that a sanction must be pronounced against the Appellant KSF, fix such sanction which should be a reasonable fine as a maximum;*
 5. *should the request for relief nr 2 not be granted, decide that the International Olympic Committee and the ISSF are debtors, jointly and severally, of and must immediately pay to the Appellant Kuwait Shooting Federation an amount of up to Euro 1,347,000.-, with 5% yearly interest as of 1st November 2015;*
 6. *rule that the ISSF and the IOC shall jointly bear all the arbitration costs, if any, and shall be ordered to reimburse the Appellant Kuwait Shooting Federation the minimum CAS court office fee of CHF 1'000.- as well as any other amounts of advances of costs paid to CAS;*
 7. *rule that the ISSF and the IOC shall be ordered to pay the Appellant Kuwait Shooting Federation a contribution towards the legal and other costs incurred by the latter in the framework of these proceedings”.*
45. On 29 December 2015, the KSF filed its Appeal Brief in CAS 2015/A/4336 in accordance with Article R51 of the CAS Code. In the Appeal Brief, the KSF complemented its request for stay of the Third and Fourth Decision. The Appeal Brief contained a statement of the facts and legal arguments and included the following requests for relief:
1. *“declare the ISSF Decision and the IOC ‘Approval’ null and void and in any event to set them aside;*
 2. *confirm the Olympic qualifying status of the 13th Asian Shooting Championships which took place in Kuwait from 1 to 12 November 2015, as well as the 35 quota places and MQS results related to such status and allocated by the ISSF to the 13th Asian Shooting Championships;*
 3. *as a consequence of the request for relief nr 2, order that the ISSF and IOC shall draw all the sporting consequences of the CAS award and ensure that all national federations and Athletes concerned,*

according to the official classification of the 13th Asian Shooting Championships, be awarded the corresponding 35 quota places and MQS results.

4. *should the request for relief nr 2 be granted and in the unlikely event that CAS should consider that a sanction must be pronounced against the Appellant KSF, fix such sanction which should be a reasonable fine as a maximum;*
 5. *should the request for relief nr 2 not be granted, decide that the International Olympic Committee and the ISSF are debtors, jointly and severally, of and must immediately pay to the Appellant Kuwait Shooting Federation an amount of up to Euro 1,347,000.-, with 5% yearly interest as of 1st November 2015;*
 6. *rule that the ISSF and the IOC shall jointly bear all the arbitration costs, if any, and shall be ordered to reimburse the Appellant Kuwait Shooting Federation the minimum CAS court office fee of CHF 1'000.- as well as any other amounts of advances of costs paid to CAS;*
 7. *rule that the ISSF and the IOC shall be ordered to pay the Appellant Kuwait Shooting Federation a contribution towards the legal and other costs incurred by the latter in the framework of these proceedings”.*
46. Also on 29 December 2015, the ASC filed its Appeal Brief in CAS 2015/A/4339 in accordance with Article R51 of the CAS Code. In the Appeal Brief, the ASC complemented its request for stay of the Third and Fourth Decision. The Appeal Brief contained a statement of the facts and legal arguments and included the following requests for relief:
1. *“declare the ISSF Decision and the IOC ‘Approval’ null and void and in any event to set them aside;*
 2. *confirm the Olympic qualifying status of the 13th Asian Shooting Championships which took place in Kuwait from 1 to 12 November 2015, as well as the 35 quota places and MQS results related to such status and allocated by the ISSF to the 13th Asian Shooting Championships;*
 3. *as a consequence of the request for relief nr 2, order that the ISSF and IOC shall draw all the sporting consequences of the CAS award and ensure that all national federations and Athletes concerned, according to the official classification of the 13th Asian Shooting Championships, be awarded the corresponding 35 quota places and MQS results;*
 4. *as a consequence of the request for relief nr 2 and in the unlikely event that CAS should consider that a sanction must be pronounced, fix such sanction which should be a reasonable fine as a maximum and order the ISSF to apply such sanction against the responsible entity designated by CAS;*
 5. *should the request for relief nr 2 not be granted, confirm that the Asian Shooting Confederation is the only competent international sporting organization to designate the Asian Member Shooting Federation to organize the so called ‘Asian Qualifying Competition for Shooting’;*

6. *should the request for relief nr 2 not be granted and as a consequence of the request for relief nr 5, order the Asian Shooting Confederation to select one of its Member Federations to organize the 'Asian Qualifying Competition for Shooting' and order the ISSF to take all necessary measures to support the Asian Shooting Confederation in this respect;*
 7. *rule that the ISSF and the IOC shall jointly bear all the arbitration costs, if any, and shall be ordered to reimburse the Asian Shooting Confederation the minimum CAS court office fee of CHF 1'000.- as well as any other amounts of advances of costs paid to CAS;*
 7. [sic] *rule that the ISSF and the IOC shall be ordered to pay the Asian Shooting Confederation a contribution towards the legal and other costs incurred by the latter in the framework of these proceedings”.*
47. On 8 January 2016, the ASC objected to the consolidation of CAS 2015/A/4336 and CAS 2015/A/4339.
 48. Also on 8 January 2016, both the IOC and the ISSF filed their comments to the Appellants' (renewed) applications for stays in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339 respectively, requesting they be rejected.
 49. On 11 January 2016, the parties were informed that the President of the CAS Appeals Arbitration Division, in accordance with Article R52 of the CAS Code, had decided that the cases CAS 2015/A/4336 and CAS 2015/A/4339 were consolidated and that these proceedings would be submitted to the same Panel as the one in CAS 2015/A/4289.
 50. Also on 11 January 2016, the ASC filed an unsolicited reply to the comments of the IOC in respect of its application for stay in CAS 2015/A/4339, maintaining that new evidence was produced by the IOC in its submission dated 8 January 2016.
 51. On 14 January 2016, pursuant to Article R54 of the CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the parties that the arbitral tribunal appointed to decide the matter was constituted by:
 - Prof. Dr. Martin Schimke, Attorney-at-Law in Dusseldorf, Germany, as President;
 - Mr Boris Vittoz, Attorney-at-Law in Lausanne, Switzerland; and
 - Dr. Hans Nater, Attorney-at-Law in Zurich, Switzerland, as arbitrators.
 52. On 20 January 2016, the operative part of the Order on Requests for Stays was issued, dismissing the Appellants' applications in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339.
 53. On 21 January 2016, the Appellants provided the CAS Court Office with two emails (one from the National Rifle Association of Pakistan and one from the DPR Korea Shooting Association) from which it allegedly appeared that no visas were yet issued in order for their

team members to participate in the alternative Asian Qualifying Competition set to take place in India from 25 January until 3 February 2016. The Appellants requested that, should the Panel have already issued its Order, such Order be revised and that this new fact is taken into consideration.

54. Also on 21 January 2016, the CAS Court Office informed the parties that the Panel, notwithstanding the Appellants' submission of 21 January 2016, had decided to confirm its Order rendered on 20 January 2016 and that the motivation thereto would be included in the reasoned Order.
55. On 8 February 2016, the IOC filed its joint Answer in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339 in accordance with Article R55 of the CAS Code, requesting CAS to issue an award:
- I. *“Ruling that CAS dismisses the Appeals.*
 - II. *Ordering that the Appellants shall bear the entirety of the arbitration costs as well as the legal fees and expenses of the Respondents”.*
56. Also on 8 February 2016, the ISSF filed its joint Answer in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339 in accordance with Article R55 of the CAS Code, requesting that CAS:
- 1) *“dismisses all Appellants’ Appeals;*
 - 2) *orders the Appellants to pay the costs of the present arbitration;*
 - 3) *orders the Appellants to pay the legal fees and expenses of the Respondents, to be determined at a later stage of the proceedings”.*
57. On 15 and 16 February 2016 respectively, the ISSF, the IOC and the Appellants informed the CAS Court Office that they preferred a hearing to be held. The Appellants also requested the President of the Panel to order a second and last round of written submissions, in accordance with Article R56 of the CAS Code.
58. On 23 February 2016, the IOC informed the CAS Court Office that it left it to the discretion of the Panel whether or not to hold a second round of written submissions and the ISSF informed the CAS Court Office that it did not see any exceptional circumstances that would allow a second round of written submissions, but that, if the Panel deemed a second round of written submissions necessary, the submissions should be limited to these new facts and their consequences.
59. On 7 March 2016, the CAS Court Office informed the parties that the Appellants' request for a second round of written submissions was granted.

60. On 10 March 2016, the CAS Court Office provided the parties with the reasoned Order on Requests for Stays of 20 January 2016, in which the Appellants' submission of 21 January 2016 was also taken into account.
61. On 24 March 2016, the Appellants filed a joint Reply in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339, submitting the following joint requests for relief:

“As far as the Appellants ASC, KSF and Harijani are concerned:

1. *declare the ISSF Decisions dated 30 October 2015, respectively 26 November 2015 and the IOC Decisions dated 29 October 2015, respectively 26 November 2015 null and void and in any event to set them aside;*
2. *confirm the Olympic qualifying status of the 13th Asian Shooting Championship which took place in Kuwait from 1 to 12 November 2015, as well as that the 35 quota places and MQS results related to such status and allocated by the ISSF to the 13th Asian Shooting Championships;*
3. *as a consequence of the requests for relief nr 2, order that the ISSF and IOC shall draw all the sporting consequences of the CAS award and ensure that all national federations and Athletes concerned, according to the official classification of the 13th Asian Shooting Championships, be awarded the corresponding 35 quota places and MQS results.*
4. *as a consequence of the request for relief nr 2 and in the unlikely event that CAS should consider that a sanction must be pronounced, fix such sanction which should be a reasonable fine as a maximum and order the ISSF to apply such sanction against the responsible entity designated by CAS;*
5. *should the request for relief nr 2 not be granted, confirm that the Asian Shooting Confederation was the only competent international sporting organization to designate the Asian Member Shooting Federation to organize the so called ‘Asian Qualifying Competition for Shooting’;*
6. *should the request for relief nr 2 not be granted and as a consequence of the request for relief nr 5, order the Asian Shooting Confederation to select one of its Member Federations to organize the ‘Asian Qualifying Competition for Shooting’ and order the ISSF to take all necessary measures to support the Asian Shooting Confederation in this respect.*
7. *should the request for relief nr 2 not be granted, decide that the International Olympic Committee and the ISSF are debtors, jointly and severally, of and must immediately pay to the Appellant Kuwait Shooting Federation an amount of up to Euro 1,347,000.-, with 5% yearly interest as of 1st November 2015;*
8. *rule that the ISSF and the IOC shall jointly bear all the arbitration costs of these proceedings and shall be ordered to reimburse the Appellants ASC, KSF and Harijani the minimum CAS court office fees of CHF 1,000.- as well as any other amounts of advances of costs paid by the Appellants ASC, KSF and Harijani to CAS;*

9. *rule that the ISSF and the IOC shall be ordered to pay the Appellants ASC, KSF and Harijani a contribution towards their legal and other costs incurred by the latter in the context of these proceedings.*

As far as the Appellants Habeeb and Norouziyan are concerned:

1. *rule that the ISSF and the IOC shall jointly bear all the arbitration costs and shall be ordered to reimburse the Appellants Habeeb and Norouziyan the minimum CAS court office fee of CHF 1'000.- as well as any other amounts of advances of costs paid by the Appellants Habeeb and Norouziyan to CAS;*
 2. *rule that the ISSF and the IOC shall be ordered to pay the Appellants Habeeb and Norouziyan a contribution towards the legal and other costs incurred by the latter in the context of these proceedings”.*
62. On 18 April 2016, the ISSF filed its joint Rejoinder in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339, confirming the requests for relief as set out in its Answer filed on 8 February 2016.
 63. On 25 April 2016, the IOC filed its joint Rejoinder in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339, confirming the requests for relief as set out in its Answer filed on 8 February 2016.
 64. On 9 and 10 May 2016 respectively, the ISSF, the IOC and the Appellants returned duly signed copies of the Order of Procedure to the CAS Court Office.
 65. On 20 July 2016, a hearing was held in Lausanne, Switzerland. The hearing in CAS 2015/A/4289 was combined with the hearing in CAS 2015/A/4336 and CAS 2015/A/4339. At the outset of the hearing both parties confirmed that they had no objection to the constitution and composition of the Panel.
 66. In addition to the Panel and Mr William Sternheimer, Deputy Secretary General to the CAS, and Mr Dennis Koolgaard, *Ad hoc* Clerk, the following persons attended the hearing:
 - a) For the Appellants:
 - Mr Obaid Al Ossaimi, Secretary General of the KSF;
 - Dr. Salman Khan, Director General of the ASC, by telephone;
 - Ms Elham Harijani, Fourth Appellant, by telephone;
 - Mr Nicolas Cottier, Counsel
 - b) For the IOC:
 - Mr Howard Stupp, IOC;
 - Mr Viola Maerz, IOC Legal;
 - Dr. François Carrard, Counsel;

➤ Ms Sophie Roud, Counsel

c) For the ISSF:

- Mr Franz Schreiber, ISSF Secretary General;
- Mr Christian Keidel, Counsel

67. The Panel heard evidence from the following persons, in order of appearance:

- Mr Javaid Lodhi, Secretary General of the National Rifle Association of Pakistan and witness called by the Appellants, by telephone;
- Ms Elham Harijani, Fourth Appellant, by telephone;
- Dr. Salman Khan, Director General of the ASC, by telephone;
- Mr Franz Schreiber, ISSF Secretary General

68. All witnesses were invited by the President of the Panel to tell the truth subject to the sanctions of perjury under Swiss law. All parties and the Panel had the opportunity to examine and cross-examine the witnesses in person.

69. The parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel.

70. Before the hearing was concluded, all parties expressly stated that they did not raise any objection to the procedure adopted by the Panel and that their right to be heard had been respected.

71. The Panel confirms that it carefully heard and took into account in its discussions and subsequent deliberations all of the submissions, evidence, and arguments presented by the parties, even if they have not been specifically summarised or referred to in the present award.

72. On 27 July 2016, the CAS Court Office, on behalf of the Panel and in accordance with Article R59 of the CAS Code, communicated the operative part of the award to the parties by facsimile.

IV. SUBMISSIONS OF THE PARTIES

73. The Appeal Brief of the KSF and the Athletes in CAS 2015/A/4289 may, in essence, be summarised as follows:

- The KSF and the Athletes did not have access to the ISSF's letter to the IOC dated 29 October 2015, from the wording of the Second Decision of the IOC it appears, however, that the ISSF qualified the situation as a case of "discrimination". Assuming that there was a case of "discrimination", the KSF and the Athletes argue that the ISSF should have followed the procedure set out under the ISSF Code of Ethics and, based

on general principles of procedure, the Second Decision must be declared null and void as it was taken by the wrong internal ISSF body. The ISSF Executive Committee cannot bypass its Ethics Committee. This is a situation that cannot be repaired by the *de novo* power of review of CAS.

- The fundamental right to be heard provides that any party affected by a decision to be rendered by any administrative or judicial body has the right to explain itself before a decision is taken. However, the Athletes and most notably the KSF have not been allowed to defend themselves before the First and Second Decision were issued. The ASC and the KSF were only (indirectly) informed of the proceedings before the IOC and the ISSF once the First and Second Decision had already been issued. On this basis, the KSF and the Athletes request the First and Second Decision to be declared null and void, or, alternatively, to be referred back to the ISSF Ethics Committee.
- With reference to the Olympic Charter, the KSF and the Athletes maintain that the “practice of sport” should be protected from discrimination. Therefore, the athletes and not the officials are at the heart of the protection against discrimination provided by the Olympic Charter.
- With reference to the “Qualification System Principles” issued by the IOC Executive Board, the KSF and the Athletes argue that the last minute changes made by the ISSF to the Technical Delegate and Jury selection procedure made it more complicated. This led to the constant refusal of the ISSF to accept an Asian Technical Delegate who had already a visa and provoked a decision leading to another one from the ISSF to organise an additional event, which is not a continental event but an additional event with the effect to extend the travel requirements and to generate additional expenses for the athletes.
- The KSF and the Athletes maintain that it is up to the Respondents to prove that Mr Davidovich was discriminated against and that one cannot be satisfied of this by the simple fact that no visa was granted within the few weeks that were available to obtain one. The ASC communicated the name of the suggested Technical Delegate to the ISSF and the KSF on 17 August 2015. After four weeks the ISSF issued new requirements and selected Mr Davidovich as Technical Delegate, thus leaving the KSF only a few weeks to apply for a visa for Mr Davidovich. With this concern in mind the KSF suggested another Technical Delegate in its letter dated 23 September 2015. This suggestion was refused by the ISSF one week later, one month before the start of the Asian Shooting Championship, and adding that *“we hope that it is still possible and enough time for the visa preparations. In case there are further problems, please let us know immediately”*. When the visa was denied in mid-October 2015, the ISSF did not reopen the possibility for Ms Haijuan to replace Mr Davidovich but asked the ASC *“to speak with the immigration department”*. The immigration department then confirmed that there was simply not enough time. The lack of time is therefore the clear explanation for the non-processing of the visa.

- Even if the Panel considered that the visa of Mr Davidovich could never have been obtained, even with more time available, the KSF and the Athletes claim that this would in any event not justify a sanction based on the ISSF Constitution and the Olympic Charter.
- The KSF and the Athletes maintain that, although the ISSF stated in its letter dated 12 September 2015 that it would “*continue to rely on the Continental Confederations to prepare and submit proposals for Technical Delegates [...] who will serve during Continental Games and Championships*”, the ISSF refused the proposal made by the ASC. The KSF and the Athletes argue that the attitude of the ISSF was so inflexible, the proceedings so unfair and the sanction so harsh that there must have been a specific motivation for the ISSF which goes beyond the issue of the visa application. In this respect, the KSF and the Athletes claim that the concomitance of this case with the proceedings in CAS 2014/A/3867 which opposed the ISSF to the, at the time of the relevant facts, President of the ASC, is a clear explanation of the motives and attitude of the ISSF.
- In any event, according to article 5 of the Fundamental Principles of Olympism, “*sport occurs within the framework of society*”, which imposes the obligation on the sports organisations to not take decisions as if the framework of society did not exist. The KSF and the Athletes therefore contend that if CAS considers that the issue of the visa is a case of discrimination, it must also admit that this act was not contrary to the laws of Kuwait and therefore occurred within the framework of society. The KSF and the Athletes argue that the First and Second Decision therefore must be set aside as this was not a discrimination case, but was related to the lack of time to apply for a visa.
- Furthermore, the KSF and the Athletes submit that, even if the Panel were to consider that there has been discrimination falling within the scope of the ISSF Constitution or the Olympic Charter, it should at the very least hold that such a purported (and denied) discrimination is not serious enough to justify the sanction provided in the First and Second Decision, particularly also because of the violation of the right to be heard. In addition, the purported failures can in any event not be attributed to the ASC, the KSF or the Athletes and in the absence of fault, no sanction can be imposed, or should at the very least be reduced.
- Finally, should the First and Second Decision be set aside, but should CAS find that the Quota Places and MQS cannot be reallocated to the Asian Shooting Championship, then the KSF claims for damages for the loss of interest and of sporting value of the event. The KSF submits that there is a link between the amount to be invested in the organisation of a sporting event and its international status. In shooting, like in other sports of similar importance, not only the costs of organisation but surely the impact of an Olympic Games qualification event is completely different from a standard event. Had the KSF known that the Asian Shooting Championship would not be an Olympic qualification event, it would definitely not have applied for

it and would have saved those costs. As a consequence, the KSF claims damages in an amount of up to EUR 1,347,000, which corresponds to the costs of the organisation of the event and as reflected in the financial documentation provided.

74. The IOC's joint Answer in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339, in essence, may be summarised as follows:

- It is a fundamental principle of the IOC that athletes, officials and staff members be able to enter the country in which the competition is organised. The hosts of the competition are aware of the importance of granting visas to athletes and officials participating in such competitions.
- The IOC has approved the ISSF proposal to use the Asian Shooting Championship to be held in Kuwait from 1 to 12 November 2015 as qualifying event of the 2016 Rio Olympic Games.
- According to the ISSF rules, such events are supervised by technical delegates and in accordance with Article 1.8.2.6 of the ISSF Statutes, the ISSF Executive Committee nominated Mr Yair Davidovich, an Israeli citizen, as technical delegate for rifle and pistol for the Asian Shooting Championship.
- The Kuwait Immigration Department refused twice to grant a visa to the appointed technical delegate.
- The IOC was contacted only 3 days before the event by the ISSF which explained the situation in detail and provided the documents of the case. Having considered the circumstances of the case, the IOC Executive Board held an exceptional meeting in order to decide on this urgent incident. The IOC noted that the conditions for the holding of an Olympic qualifying event were not met as the technical delegate for rifle and pistol nominated by the ISSF had not been awarded a visa and could therefore not supervise the event.
- Moreover, the IOC found that the denial of visa to Mr Davidovich was a violation of the non-discrimination principle, which is one of the IOC Fundamental Principles.
- Last, the IOC also took into account the principle which had been agreed upon at the Olympic Summit meeting held in Lausanne on 17 October 2015, reaffirming the IOC general principle according to which athletes and official and staff members be able to enter the country in which the competition is organised, specifying that this principle should be applied "*for all competitions taking place under the auspices of an IF or NOC or their continental or regional associations*". During the Olympic Summit, it had also been agreed that "*should this rule not be respected, the event in question cannot serve as qualification event for the Olympic Games or any other championship*".

- Eventually, the IOC Executive Board decided that the “Olympic qualifying status” of the event should be withdrawn and that a replacement qualification event would be organised.
 - The IOC had to draw the consequences of the violation of the non-discrimination principle and its decisions are no sanctions. The challenged decisions do not violate any applicable regulation or the Olympic Charter and are compliant in all aspects with applicable Swiss law. The challenged decisions are not null and void, they are proportionate and do not violate the Appellants’ right to be heard.
 - In assessing this case, and in particular, the validity and the merits of the decisions, the broad autonomy which is conferred to Swiss associations is to be taken into account.
75. The ISSF provided the following summary of its joint Answer in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339:
- The Asian Shooting Championship simply lacked an objective requirement – ISSF supervision – for being a quota place competition according to the ISSF OG Participation Regulations and cannot fulfil such requirement with retroactive effect.
 - The ISSF Executive Committee acted fully in line with the ISSF rules and regulations when it designated Mr Davidovich as the Technical Delegate.
 - The ISSF Executive Committee and the IOC did not violate any of the Appellants’ rights when they determined an alternative venue for the allocation of quota places among the Asian National Olympic Committees.
 - The decisions in question are not of disciplinary nature and, therefore, cannot be amended by CAS as requested by the Appellants.
 - Even if CAS found that the Asian Shooting Championship did fulfil the requirements for being an Olympic qualifying competition according to the ISSF OG Participation Regulations, the IOC validly withdrew its approval of the qualifying status from the Asian Shooting Championship.
 - Even in the unlikely event that the Panel was to hold that there were violations of the applicable rules (*quod non*), none of these violations could justify the legal remedies sought by the Appellants.
76. The Appellants provided the following summary in its joint Reply in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339:
- The Respondents confirmed that no disciplinary sanction can be imposed on the Appellants, notably the KSF;

- The Respondents are bound with the KSF and the ASC by an agreement on the organisation of the Asian Shooting Championship;
- The Respondents, the KSF and the ASC are bound with the Athletes by an agreement on their participation for the Asian Shooting Championship;
- Both agreements are governed by the Olympic Charter, the ISSF Statute and Regulations;
- In the application of the principle *pacta sunt servanda* those agreements cannot be unilaterally amended by the Respondents without clear legal grounds;
- The Respondents claim that the decisions are based on the alleged infringement by the immigration authorities of the State of Kuwait of the principle of non-discrimination; they also claim that the qualification process during the Asian Shooting Championship in Kuwait was not “fair and transparent”;
- The Respondents did not prove that this was indeed a case of discrimination and in any event that there was an infringement of the Olympic Charter;
- They do not prove that if such an infringement occurred, it would lead to the automatic withdrawal of the qualification status of the Asian Shooting Championship;
- Independently from the question of their legal validity, the decisions taken by the Olympic Summit in 2015 prove on the contrary that specific rules must be issued with respect to the qualification status of any event;
- Doping cases, as referred to by the IOC, show that automatic measures taken independently from the fault of the individuals or legal entities which are affected by those measures must be based on very clear legal rules;
- There was no breach from the Appellants and the situation was provoked by the attitude of the ISSF which could have chosen another Technical Delegate until the outset of the Asian Shooting Championship; the inflexibility of the ISSF is a clear inequality of treatment compared to the decisions it took with respect to the 2015 Oceanian Championships;
- The withdrawal of the qualification status of the Asian Shooting Championship had a totally different impact, notably on the organisers, on national federations and on the athletes than the prohibition to participate in the selection process for a future event. The decisions are thus clearly disproportionate and in contradiction with the interests of the athletes as protected under the Olympic Charter and the ISSF Statute and Regulations;

- Considering the particular status of the IOC and the ISSF and/or the relationships between the parties to the proceedings, the principle of autonomy of the association is limited notably by the principles *pacta sunt servanda*, of legality, of good faith and of proportionality;
 - The Asian Shooting Championship took place fairly and transparently. No claim was raised on the way it was conducted, in the presence of numerous juries and officials. The ASC members requested that the Asian Shooting Championship be recognised as an Olympic Games qualifying event.
 - The ASC constitution which was approved by the ISSF provides for a clear monopoly of the ASC on the organisation of a shooting event in Asia. The organisation of the event by the ISSF was therefore a breach of the ASC constitution and of the ISSF duties under its Statute and Regulations;
 - The CAS Panel is allowed to review the case *de novo* and to find that the Decisions are based on insufficient legal grounds or are disproportionate;
 - Based on all the above, the Appellants claim that the Decisions are ill-grounded.
77. The IOC's joint Rejoinder in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339, in essence, may be summarised as follows:
- The IOC maintains that the Appellants' joint Reply should have been limited to the new issues brought up by the Respondents in their Answers. However, the Appellants' Reply deals with numerous topics, some of which can hardly be characterized as new issues brought up by the Respondents.
 - The IOC disputes that the Fourth Decision is of a disciplinary nature. The Appellants' argument that they could only "*assume that this was a disciplinary procedure and that one could not infer from the Decisions that this case is not a disciplinary case*" is flawed for a number of reasons.
 - The IOC confirms that after the Olympic Qualifying Competition which took place in India, the Appellants have no interest to pursue the case at hand. The Appellants refer to some inappropriate notions of Swiss civil procedural law.
 - The KSF has no legal interest in the present proceedings because the only consequence of the Decisions was that the results obtained in the Asian Shooting Championships were not used to allocate quota places for the 2016 Olympic Games. Kuwaiti athletes obtained 4 quota places in India, which is one more than the hypothetical 3 quota places which might have been allocated in Kuwait after the Asian Shooting Championship. Thus, the KSF suffers no prejudice.

- The IOC takes note of the Appellants' confirmation that the Second and Third Appellant "*withdraw their request for relief*" (except for the costs of the arbitration).
 - The Appellants' contentions regarding the Fourth Appellant are pure speculations as the Iranian NOC obtained the exact same quota place in India as the one obtained in Kuwait.
 - The IOC argues that the ASC lacks standing as it is not competent to determine the venue of Olympic Qualifying Competitions, which is the responsibility of the ISSF.
 - The IOC submits that the qualifying status of the Asian Shooting Championship had to be withdrawn and that article 156 of the SCO is applied by the Appellants entirely out of its context and scope.
78. The ISSF's joint Rejoinder in CAS 2015/A/4289, CAS 2015/A/4336 and CAS 2015/A/4339, in essence, may be summarised as follows:
- The ISSF submits that CAS has no jurisdiction in respect of the appeal filed by the ASC as the ASC is not a member of the ISSF and there is no indication based on which article 1.13.6 of the ISSF Statutes should apply *mutadis mutandis* for disputes between the ISSF and its continental confederations.
 - The ISSF argues that the appeal must be dismissed as the Appellants failed to include third parties whose rights would be affected if the appeal was entertained. These are namely the National Olympic Committee's which won more quota places in the Olympic qualification competition held in India compared to the Asian Shooting Championship in Kuwait. The ISSF refers to CAS jurisprudence in this respect.
 - The ISSF also maintains that the Appealed Decisions do not meet the conditions in order to be considered an appealable decision in accordance with CAS jurisprudence. The ISSF's letter dated 30 October 2015 was issued with the sole purpose to inform the ASC and the ISSF member federations about the decision that had been taken by the IOC on the previous day.
 - The ISSF reiterates its argument that the Appealed Decisions cannot be qualified as disciplinary decisions. Neither the statement that the Asian Shooting Championship no longer fulfilled the requirements for serving as Olympic Qualifying Competition, nor the decision to choose the National Rifle Association of India as host for an Olympic qualification event contain any disciplinary character.
 - The KSF does not have standing as the withdrawal of the qualifying status had no impact on the event for the KSF, which contention is also in contradiction with its statements in the Appeal Brief. The KSF does not explain what impact this might have been. The KSF was not affected by the Appealed Decisions.

- The Appellants admit that the Second and Third Appellant do not have any legal interest to pursue the appeal.
- In respect of the Fourth Appellant, the ISSF submits that the Appellants fail to take into account that slots are allocated to NOCs and that the Iranian NOC did not lose any slot. The ISSF maintains that it is likely that the Iranian NOC will take into account the results of the Asian Shooting Championship in allocating these slots to its members.
- In respect of the ASC, the ISSF argues that it never challenged the ASC's competence to organise the Asian Shooting Championship. However, contrary to the Appellants' submissions and with reference to Section D of the ISSF RPOG 2016, the ASC is not competent to organise the Asian Qualifying Competitions for the Olympic Games.
- The Asian Shooting Championship simply did not fulfil the regulatory requirements for having Olympic qualifying status as the competition was not supervised by an ISSF Technical Delegate.
- The ISSF disputes that the requirement of ISSF supervision could be deemed fulfilled because the ISSF prevented such supervision, even less with bad faith.
- The ISSF maintains that the decision to recommend to the IOC the "*Asia Qualifying Competition for Shooting*" as Olympic Qualifying Competition was validly taken.
- Finally, the ISSF submits that the Appellants' failed to prove any damage caused by the loss of the Olympic qualifying status of the Asian Shooting Championship. There is no evidence that the KSF or the ASC would have had fewer costs for organising this event if they had known that it would not have qualification status.

V. JURISDICTION

79. The KSF and the Athletes maintain that the jurisdiction of CAS vis-à-vis the IOC derives from article 61(1) and (2) of the Olympic Charter (edition 2015) and from the IOC's explicit agreement to the competence of CAS.
80. In respect of the jurisdiction of CAS vis-à-vis the ISSF, the KSF and the Athletes argue that jurisdiction derives from article 1.3.16.1 and 1.3.16.2 of the ISSF Constitution (edition 2013) for the KSF and from a form called "ISSF Athlete Declaration" signed by the Athletes to take part in the Asian Shooting Championship and from the afore-mentioned provisions of the ISSF Constitution for the Athletes.
81. The Panel observes that the IOC, by letter dated 26 November 2015, indeed confirmed to the CAS Court Office to accept the jurisdiction of CAS.

82. The Panel observes that the ISSF did not submit a defence of lack of jurisdiction in respect of the KSF and the Athletes, which the Panel perceives as an implicit acceptance of CAS jurisdiction.

83. Article R47 of the CAS Code (2013 edition) determines 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”.

84. Article 61(1) and (2) of the Olympic Charter determine respectively as follows:

“The decisions of the IOC are final. Any dispute relating to their application or interpretation may be resolved solely by the IOC Executive Board and, in certain cases, by arbitration before the Court of Arbitration for Sport (CAS).

Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport, in accordance with the Code of Sports-Related Arbitration”.

85. Article 1.3.16.1 and 1.3.16.2 of the ISSF Constitution determine respectively 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 Regulations of the Court of Arbitration for Sport to the exclusion of any recourse to ordinary courts. The parties undertake to comply with the said Statute and Regulations, and to accept in good faith the award rendered and in no way hinder its execution.

Disputes between the ISSF and one (1) or several of its members which are not settled finally by a decision by a body of the ISSF, may be submitted for arbitration by one (1) or other of the parties to the Court of Arbitration for Sport (CAS) in Lausanne. Any decision taken by the said Court must be without appeal and binding on the parties concerned”.

86. On the basis of the above provisions, the Panel finds that CAS is competent to adjudicate and decide on the present dispute. The jurisdiction of CAS is further confirmed by the Orders of Procedure duly signed and returned by the parties.

87. It follows that CAS has jurisdiction to adjudicate and decide on the present dispute.

VI. ADMISSIBILITY

88. Article R49 of the CAS Code determines as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against”.

89. In the absence of any time limit set in the Statutes or regulations of the IOC and the ISSF, the Panel finds that the default time limit of 21 days as from the receipt of the decision appealed against is applicable.
90. The KSF and the Athletes maintain that both the IOC decision (*i.e.* the First Decision) and the ISSF decision (*i.e.* the Second Decision) were communicated to them at the earliest on 30 October 2015 and that the Statement of Appeal (filed on 19 November 2015) was therefore filed within the deadline of 21 days.
91. The Panel observes that the First Decision was rendered on 29 October 2015 and the Second Decision on 30 October 2015, but that both decisions were forwarded to the KSF on 30 October 2015. The Panel finds that it is to be assumed that the Athletes were in event informed of these decisions after the KSF was informed. The *dies a quo* of the time limit of 21 days is therefore 31 October 2015 at the earliest. Since the Statement of Appeal was filed on 19 November 2015, the appeal was filed within the deadline of 21 days set by Article R49 of the CAS Code. The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fees.
92. Also in view of the fact that no objections as to the admissibility of the appeal were raised by the IOC and the ISSF, it follows that the appeal is admissible.

VII. ARE THE FIRST AND SECOND DECISION APPEALABLE DECISIONS?

93. As set out above, in the present proceedings two decisions are challenged, *i.e.* the First Decision issued by the IOC on 29 October 2015 and the Second Decision issued by the ISSF on 30 October 2015.
94. The Appellants argue that the rejection of the qualification status of the Asian Shooting Championship is based on the Second Decision of the ISSF. The First Decision of the IOC is not directly applicable but it probably binds the ISSF towards the IOC and certainly has an indirect impact on these proceedings. The KSF and the Athletes further maintain that, should CAS find that the Second Decision had a direct impact on the Asian Shooting Championship and on the KSF and the Athletes without any need for the ISSF to issue a decision, there is a direct link between the IOC and the KSF and the Athletes in respect of the withdrawal of the Quota Places and the MQS. As a consequence, the KSF and the Athletes have standing to sue also in respect of the IOC.
95. The IOC and the ISSF do not make any specific submissions in this respect, but appear to presume that the IOC Executive Board rendered the actual decision to revoke the qualification

status of the Asian Shooting Championship and that the ISSF only communicated this decision to the ASC and its member federations.

96. Upon due consideration of the nature of both communications, the Panel finds that the Second Decision is not an appealable decision, but rather a communication of the ISSF to inform the ASC of the First Decision rendered by the IOC Executive Board. The clear wording already supports this view (“*We have just been informed by the International Olympic Committee that the IOC Executive Board decided [...] Please find enclosed a copy of the letter [...] This decision means [...]*”) It is obvious that the ISSF is merely communicating a decision that had already been reached by the IOC as the exclusive competent body for approving the qualification status in question. In fact, the First Decision of the IOC is self-executive and would be enforceable regardless of whether this decision would have been notified to the ASC and the ISSF’s member federations by means of the Second Decision of the ISSF.
97. The Panel observes that standard CAS jurisprudence determines the following in respect of whether a decision is in fact appealable:
- “In principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties. [...] The form of the communication has no relevance to determine whether there exists a decision or not”* (CAS 2005/A/899, §61).
98. A legal scholar concluded the following in this respect:
- “What is an appealable decision? We would answer by saying that an appealable decision of a sport association is normally a communication of the association directed to a party and based on an “animus decidendi”, i.e. an intention of a body of the association to decide on a matter, being also only the mere decision on its competence (or non-competence). A simple information, which does not contain any ‘ruling’, cannot be considered as a decision”* (BERNASCONI M., When is a “decision” an appealable decision?, in: RIGOZZI/BERNASCONI (eds.), The Proceedings before the Court of Arbitration for Sport, Colloquium CAS & FSA/SAV Conference Lausanne 2006, Berne 2007, p. 273).
99. Indeed, the Second Decision is not based on an *animus decidendi* but this communication rather informs the ASC of the First Decision rendered by the IOC Executive Board.
100. Although the Appellants argue that the relevant decision is in fact the Second Decision of the ISSF and not the First Decision of the IOC, the Panel finds that this not prevent it from adjudicating the matter as a whole, as the Appellants also specifically challenged the First Decision of the IOC, which is an appealable decision.
101. Consequently, the Panel finds that the Second Decision of the ISSF is not an appealable decision and will adjudicate the present case solely on the basis of the First Decision issued by the IOC.

VIII. APPLICABLE LAW

102. The KSF and the Athletes did not put forward any specific position on the law to be applied to the merits of the case. However, the Appellants frequently refer to the rules and regulations of the IOC and the ISSF.
103. The IOC submits that the Panel shall decide the present cases according to Swiss law and the applicable regulations of the IOC, more particularly the Olympic Charter and the Rio 2016 IOC Qualification System Principles.
104. The ISSF submits that the present case shall be decided according to the ISSF's rules and regulations and, subsidiarily, according to German law with regard to the ISSF and Swiss law with regard to the IOC.
105. Article R58 of the CAS 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 a 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”.

106. The Panel finds that the present dispute is primarily to be decided on the basis of the relevant rules and regulations of the ISSF and the IOC. The Panel is also satisfied to accept the subsidiary application of Swiss law, should the need arise to fill a possible gap in the various regulations of the IOC, and German law, should the need arise to fill a possible gap in the various regulations of the ISSF.

IX. MERITS

i. Are the present proceedings of a disciplinary or ethical nature?

107. In their written submissions, the Appellants maintain that the present proceedings are the result of a disciplinary sanction being imposed on the KSF for discriminatory behaviour. If this were the case, the ISSF should have followed the rules of procedure set out in its Code of Ethics. More specifically, the decision to sanction the KSF could not have been taken by the ISSF Executive Committee, but should have been taken by the ISSF Ethics Committee. Since these rules were not complied with, the ISSF decision must be set aside.
108. However, during the hearing, the Appellants explicitly stated that they no longer submit that this is a disciplinary case. The Appellants however stated that the reference by the Respondents to the principle of non-discrimination is relevant.

109. In view of the Appellants' explicit acceptance, the Panel observes that it is no longer in dispute whether the present proceedings are of a disciplinary or ethical nature and that the ISSF was therefore not required to start proceedings against the KSF in accordance with the ISSF Code of Ethics.

ii. Do the Appellants have standing to appeal in respect of the First Decision?

110. The plea relating to the lack of standing to sue, is – according to settled jurisprudence of the CAS (cf. CAS 2009/A/1869; CAS 2015/A/3959; CAS 2015/A/4131) and the SFT (see SFT 128 II 50, 55) – a question related to the merits of the case.

111. The KSF submits that it was the event organiser of the Asian Shooting Championship, which was not only the continental championship supervised by the ASC, but also an Olympic Games qualification event supervised by the ISSF. Be it in its capacity as member federation of the ISSF or in its capacity as event organiser of an Olympic Games qualification event supervised by the ISSF, the KSF is directly affected by the First Decision and has a legal interest to lodge an appeal against it.

112. The Athletes submit that they prepared themselves mentally and physically for the Asian Shooting Championship in order to win the Quota Places and reach the MQS allocated by the ISSF. They registered for the event supervised by the ISSF based on a participation agreement to which the ISSF must be part, considering the Olympic qualifying status. Since all three Athletes reached the Quota Places and MQS, they are also affected by the First Decision.

113. The IOC submits that the Appellants are (1) neither direct nor indirect members of the IOC. The IOC is constituted of natural persons and there may therefore not be indirect members. None of the Appellants is a member of the IOC. The IOC recognises international federations and national Olympic committees; however, they are not members. Furthermore, the Appellants are not the addressees of the First Decision as it was addressed to the ISSF directly.

114. In respect of the KSF, the IOC submits that it has no legal interest as it has recognised that the Asian Shooting Championship took place in Kuwait and that the withdrawal of the Olympic qualifying status had no impact on it as the event took place as planned.

115. In respect of the Athletes, the IOC maintains that the ISSF qualification system provides for the award of quota places to National Olympic Committees, but not personal places to athletes. The Athletes also did not contest the Fourth Decision of the IOC, which has therefore become final and binding. Should the Athletes have had any legal interest, which is contested by the IOC, they would have lost it.

116. Also the ISSF maintains that the Appellants do not have standing to appeal because they were not directly affected by the appealed decisions. None of the decisions were addressed to any of the Appellants.

117. In respect of the KSF, the ISSF maintains that it was not directly affected by the appealed decisions as it had no impact on the course of the Asian Shooting Championship. Quota places are awarded to the respective National Olympic Committees and not to national shooting federations. Upholding the present appeal would have a direct negative impact on the Kuwait National Olympic Committee because, based on the results in the alternative qualification championship held in India in comparison with the results of the Asian Shooting Championship, it would lose one of its quota places. With reference to CAS jurisprudence, the ISSF argues that entertaining the present appeal would have a negative impact on the National Olympic Committees of Kuwait and Japan, as they would lose quota places but are not parties in the present proceedings. The request for compensation of alleged damages would have to be dealt with in an ordinary proceeding in front of CAS.
118. In respect of the Athletes, the ISSF maintains that they were not directly affected by the appealed decisions and reference is made to all the same arguments advanced by the ISSF in respect of the KSF. In addition, the ISSF submits that the slot allocations for participation in the Olympic Games are awarded to the National Olympic Committees. None of the Athletes provided any evidence that his/her National Olympic Committee would have chosen them as a candidate for their Olympic team. Furthermore, two of the Athletes obtained the exact same quota place in India as they did during the Asian Shooting Championship. The quota place of the Fourth Appellant was still awarded to the Iranian National Olympic Committee. Finally, the Athletes failed to appeal the Third Decision whereby the ISSF proposed to the IOC to allocate quota places to an alternate qualification event in India. Hence, this decision *inter partes* became final and binding between the ISSF and the Athletes.
119. The Panel first of all observes that the Second and Third Appellant formally withdrew their requests for relief in the Appellants' Joinder, except for their requests on the contribution towards the arbitration costs and their legal costs to be paid by the Respondents.
120. The Panel notes that the applicable rules and regulations of the IOC and the ISSF are silent on the issue of who has standing to sue (in contrast to, *e.g.*, article 62(2) of the UEFA Statutes). The issue of standing should therefore be guided by the applicable substantive law that applies subsidiarily if the legal question is not exhaustively dealt with by the federation's statutes, which in this case would be Swiss law because only the First Decision of the IOC is at stake.
121. According to Article 75 of the Swiss Civil Code (hereinafter: the "SCC"), "[a]ny member who has not consented to a resolution which infringes the law or the articles of association is entitled by law to challenge such resolution in court within one month of learning thereof". Article 75 SCC is therefore based on the concept of membership protection.
122. In light of the above considerations, the Panel must resolve the following issues:
- Are any of the Appellants direct members of the IOC?

- If the Appellants are not direct members of the IOC, are they entitled to challenge the First Decision?

(a) *Are any of the Appellants direct members of the IOC?*

123. The IOC is a not-for-profit association. This international non-governmental organisation has its seat in Lausanne, Switzerland. In an agreement entered into on 1 November 2000, the Swiss Federal Council formally recognized the legal capacity of the IOC and undertook to guarantee its independence and freedom of action (RS 0.192.122.415.1).
124. Pursuant to Article 1 of the Olympic Charter, under the supreme authority and leadership of the IOC, the Olympic Movement encompasses organisations, athletes, and other persons who agree to be guided by the Olympic Charter. The three main constituents of the Olympic Movement are the IOC, the International Sports Federations (hereinafter: “IFs”), and the National Olympic Committees (hereinafter: “NOCs”).
125. In addition to its three main constituents, the Olympic Movement also encompasses the Organising Committees for the Olympic Games (hereinafter: “OCOGs”), the national associations, clubs and persons belonging to the IFs and NOCs, particularly the athletes, whose interests constitute a fundamental element of the Olympic Movement’s action, as well as the judges, referees, coaches, and the other sports officials and technicians. It also includes other organisations and institutions as recognised by the IOC (Article 1(3) of the Olympic Charter).
126. Article 1(4) of the Olympic Charter states that “[a]ny person or organisation belonging in any capacity whatsoever to the Olympic Movement is bound by the provisions of the Olympic Charter and shall abide by the decisions of the IOC”.
127. In accordance with Article 16 of the Olympic Charter, the IOC members are natural persons and their total number may not exceed 115.
128. The mission and role of the IOC, of the IFs, and of the NOCs are detailed respectively under Articles 2, 26, and 27 of the Olympic Charter.
129. From the above it would appear that none of the Appellants are direct members of the IOC, a point that is not actually contested.

(b) *If the Appellants are not direct members of the IOC, are they entitled to challenge the Appealed Decision?*

130. In the Gundel case, the Swiss Federal Tribunal decided that, in certain circumstances, indirect members of an umbrella association had the right to appeal that is conferred by Article 75 SCC on the members of such an umbrella association (SFT 119 II 271, c. 3b; FOËX B., in PICHONNAZ/FOËX, Commentaire romand, Bâle, 2010, ad. art. 75, n 6, p. 536). The same right

is also conferred on third parties when they are sanctioned by an association whose regulations they had previously agreed to comply with (SFT 119 II 271, c. 3b).

131. The Appellants are not indirect members of the IOC (IOC members are natural persons, see Article 16.1.1 Olympic Charter) and they were not sanctioned by the IOC. Therefore the Appellants cannot rely on the Gundel jurisprudence.
132. Regarding CAS jurisprudence, in order to have standing to sue, the appellant must have an interest worthy of protection (CAS 2013/A/3140 para. 8.3) or a legitimate interest (CAS 2015/A/3880 para. 46 with further references). This is found to exist if (i) the appellant is sufficiently affected by the appealed decision, and if (ii) a tangible interest of a financial or sporting nature is at stake (CAS 2015/A/3880 para. 46 with further references; see also to that effect CAS 2013/A/3140 para. 8.3; CAS 2014/A/3665, 3666 & 3667 para. 47; CAS 2015/A/3959 par. 143 *et seqq.*). According to CAS 2009/A/1880 & 2009/A/1881 para. 29, only an aggrieved party who has something at stake and thus a concrete interest in challenging a decision adopted by a sports body may appeal against that decision to CAS. Finally, the panel in CAS 2008/A/1674 para. 11 of the abstract published on the CAS website, states that “[s]ufficient interest is a broad, flexible concept free from undesirable rigidity and includes whether the Appellant can demonstrate a sporting and financial interest”.
133. Even if the rules and jurisprudence in relation to the right of a party to appeal a decision that was rendered by a state authority do not directly apply to the right of a party to appeal the decision of an association, the Panel still finds it useful to take inspiration from such rules and jurisprudence in order to determine whether or not a third party may have an interest worthy of protection or a legitimate interest.
134. In this respect, the Panel notes that both academics and the jurisprudence hold that a non-addressee of a decision only has a right to appeal in very restricted cases (ATF 131 II 649 consid. 3.1 and references). As a general rule, the appellant’s interest must be concrete, legitimate, and personal (DONZALLAZ Y., *Loi sur le Tribunal Fédéral*, Berne 2008, p. 909, para. 2366 and 2369, and quoted cases). A purely theoretical/indirect interest is not sufficient (ATF 133 II 353). In addition, the decision being challenged must affect the appellant directly, concretely, and with more intensity than others (ATF 131 II 649; consid. 3.1; see also CAS 2009/A/1880, 1881 par. 29). Finally, the interest must exist not only at the time the appeal is filed but also at the time when the decision is issued (ATF 137 I 296 at 4.2 p. 299; 137 II 40 at 2.1 p. 41).
135. Hence, the Swiss Federal Tribunal held that appellants who wanted to buy a piece of land adjacent to their own property for personal convenience had no standing to appeal against the decision approving the sale of this land to a foreigner. In this case, the Swiss Federal Tribunal found that they had not demonstrated a sufficiently direct interest in having their appeal admitted. Along the same vein, the Swiss Federal Tribunal ruled that a shareholder who held nearly half of a company’s capital had no legitimate interest in appealing a decision denying authorization for the company to acquire a building because the shareholder was not affected

directly enough by the decision; it would likely not be otherwise for a sole shareholder (ATF 131 II 649, consid. 3.4).

136. The Appellants also request a declaration that the First Decision be declared null and void. Nevertheless, even in such a case, such an interest must be a qualified interest, namely a legitimate interest or an interest worthy of protection (FOËX B., in PICHONNAZ/FOËX, Commentaire romand, Bâle, 2010, ad. art. 75, n 37, together with footnote 106 and references, p. 543).

(c) Does the KSF have standing to appeal the First Decision?

137. The Panel finds that two potential legal interests can be distinguished from each other. On the one hand, the KSF and the Fourth Appellant may have a sporting interest in having the First Decision overturned. On the other hand, the KSF and the Fourth Appellant may have a financial interest in having the First Decision overturned.
138. Turning its attention first to the potential sporting interest of the KSF, the Panel notes that it is undisputed that the IOC decision did not prevent the Asian Shooting Championship from taking place. The efforts made by the KSF in organising the Asian Shooting Championship were therefore in any event not made in vain.
139. Moreover, the Panel finds that, from a purely sporting perspective, the KSF is better off with a confirmation of the IOC decision, as it would be if the IOC decision were set aside. This is true for the KSF athletes only won 3 hypothetical quota places in the Kuwait event to be allocated by the Kuwait National Olympic Committee, whereas they won 4 quota places in the India event.
140. In the absence of any other arguments being advanced by the KSF as to possible sporting prejudice sustained, the Panel is not convinced that the KSF has a legal interest to have the IOC decision overturned from a sportive point of view.
141. As to the potential financial interest of the KSF in having the IOC decision set aside, the Panel in principle adheres with the KSF that the withdrawal of the qualification status of the Asian Shooting Championship may decrease the value of the event as a whole. In this context, and as a subsidiary claim, the KSF requests the Panel to be awarded damages in an amount of up to EUR 1,347,000, which allegedly corresponds to the costs of the organisation of the Asian Shooting Championship.
142. The Panel observes that in order for the KSF to claim damages from the ISSF and/or the IOC, it would need to prove its damages.
143. The Panel finds that the amount claimed by the KSF cannot be awarded as damage because the Asian Shooting Championship took place as planned. The KSF failed to prove, or even

to substantiate, the allegation that it would not be interested in organising the Asian Shooting Championship if it was not an Olympic qualification event.

144. Rather, it would be for the KSF to establish the decrease in value of the Asian Shooting Championship as a whole, by comparing the value with Olympic qualifying status and the value of the event without such status. However, crucially, the KSF failed to establish any such decrease in value.
145. The Panel does not overlook the fact that the proof of possibly suffered damage is a question that needs to be distinguished from the question of a legal/financial interest in connection with “standing”. In other words, one can have/affirm a protected financial interest but still fail to prove that loss or damage occurred. The latter need not necessarily result in a lack of standing but may instead concern the substantive legal basis for compensation. However, bearing in mind that the KSF is no direct or indirect member of the IOC, and the fact that under such circumstances, as explained above, standing to appeal may be granted in a restrictive way only (*i.e.* if there is a concrete and direct financial and/or legal interest), the Panel finds that KSF is required to at least establish some circumstances (albeit not all) that may lead to an assumption that damage or loss was in fact suffered or to at least allow or facilitate some kind of estimation of the damage suffered.
146. Against the above legal framework, the Panel finds that it is not put in a position by the KSF to decide whether any damages were incurred by the KSF at all. The KSF did not prove that it is likely that it incurred any damages, nor established circumstances that could allow or facilitate the Panel in making an appraisal of the damages incurred. The Panel finds that if it really incurred damages, the KSF could, *e.g.*, have attempted to prove that less spectators attended the Asian Shooting Championship as planned, that sponsors withdrew after having learned that the Olympic qualifying status was revoked, that it acquired less revenue from broadcasting rights as anticipated or that it had used the qualification status in question for some kind of advertising activities or in some other kind of commercial way.
147. In view of the fact that the KSF did not even attempt to prove its damages, the Panel finds that the KSF failed to comply with its duty to substantiate the alleged damages.
148. By the same token, the Panel finds that the possibility cannot be excluded that the IOC decision caused damage to the reputation of the KSF; however, such damage remained equally unsubstantiated and is therefore also dismissed.
149. Contrary to its requests for relief, the KSF does not have a financial interest to have the First Decision annulled or set aside. At best, the KSF would have an interest to obtain a declaratory relief that the First Decision is flawed in order to be able to seek damages. However, be this as it may, the KSF failed to prove any damages and its financial claim must therefore in any event be dismissed.

150. In the light of the reasoning above, the Panel finds that the KSF did not establish a sufficient legal interest in challenging the First Decision of the IOC and therefore lacks standing to appeal.

(d) Do the Athletes have a sufficient interest in having the First Decision set aside?

151. Turning its attention to the interests of the Athletes, the Panel observes that the Fourth Appellant does not claim to have incurred any financial disadvantage because of the IOC decision, but only that she has a sporting interest in having the IOC decision overturned.

152. The Panel observes that the Fourth Appellant won a quota place in the Kuwait event, but not in the India event.

153. However, the Panel notes that quota places are not allocated to specific athletes, but, in accordance with the information provided on the website of the ISSF (as set out above), to the National Olympic Committee of such athlete:

“Quota Places are country-related: the athlete wins a quota place, which is then owned by his/ her country. Each country is free to decide how to use the Quota Places won by its athletes. Therefore, the athlete who secures a Quota Place is not automatically qualified for the Games, as the final decision is to be taken by his/ her national team. As an example, the Quota Place won by Athlete X could be used by the country of appurtenance to enter Athlete Y in the Games”.

154. As such, presuming that the Asian Shooting Championship had retained its qualification status, the Fourth Appellant would have won a quota place for the Iranian National Olympic Committee rather than for herself. The Panel further observes that the quota place won by the Fourth Appellant in the Kuwait event was won by another athlete from Iran in the India event. The result is therefore the same; the Iranian Olympic Committee obtained a quota place for the Olympic Games in Rio, which it was free to allocate to any of the Iranian athletes in such discipline, as long as this athlete had also obtained the relevant MQS score.

155. Although the Athlete was admittedly in a slightly less privileged position to be allocated the quota place by the Iranian National Olympic Committee after both the Kuwait and the India event, compared to a situation where the results of the India event would be non-existent, the Panel finds that this is not a sufficient legal interest in itself as the allocation of the quota place to a specific athlete falls under the sole discretion of the Iranian National Olympic Committee. The Iranian National Olympic Committee was in any event not prevented from considering the results of the Kuwait event in allocating the quota place to one of its affiliated athletes. As set out above, an indirect interest in a decision being set aside is not sufficient to establish standing.

156. The principle that only National Olympic Committees are entitled to send athletes to the Olympic Games is clearly set out by Rule 27(3) of the Olympic Charter:

“The NOCs have the exclusive authority for the representation of their respective countries at the Olympic Games and at the regional, continental or world multi-sports competitions patronised by the IOC. In addition, each NOC is obliged to participate in the Games of the Olympiad by sending athletes”.

157. The Panel is reinforced in the above conclusion because the Fourth Appellant did not request the Panel to be allocated a quota place herself, but rather requested the Panel to confirm the 35 quota places and MQS results related to the Olympic qualifying status of the Asian Shooting Championship and to draw all the sporting consequences of such decision and ensure that all national federations and athletes concerned be awarded the corresponding 35 quota places and MQS results according to the official classification of the Asian Shooting Championship.
158. The Panel observes that such decision would have major consequences for the Asian shooting sport community as a whole, as the results between the two events differed substantially. As an example, whereas the two available quota places for the discipline “25m Rapid Fire Pistol Men” were won by athletes from Singapore and Taiwan in the Kuwait event, in the India event the two available quota places for this discipline were won by two athletes from Japan. The preparations of several athletes for the Olympic Games in Rio 2016 would be seriously affected; several athletes preparing would learn that they are no longer allowed to participate in the Olympic Games, whereas several other athletes that are not preparing would suddenly have the possibility to participate in the Olympic Games.
159. It must also be taken into account that besides the KSF and the Athletes none of the other national federations, athletes or National Olympic Committees objected to the IOC decision and thus accepted the results of the India event.
160. A further element that is considered important by the Panel is the fact that the Olympic qualification status of the Asian Shooting Championship was withdrawn before the event took place and that this was known to the athletes set to participate. As such, at that moment in time, the athletes participating in the Kuwait event could no longer be of the legitimate understanding that quota places could be won. This is different for the India event, as all the participants in this event (except for the three Athletes) were of the understanding that quota places would be allocated in such event.
161. Although there were initially some doubts as to whether all athletes who wanted to participate in the India event could obtain visa, it was clarified by Mr Lodhi during the hearing that finally all athletes received visa, be it shortly before the start of the event.
162. The chaos that would be created by a retrospective revocation of the qualifying status of the India event in favour of the Kuwait event can be exemplified by the fact that the Japanese delegation, upon learning that the IOC had decided to withdraw the Olympic qualification status of the Asian Shooting Championship, decided not to participate in the Kuwait event, whereas it did participate in the India event. Upholding the Appellants’ primary request for relief as set out above would therefore imply that no quota places would be allocated at all to

the Japanese National Olympic Committee as no Japanese athletes participated in the Kuwait event, because they were of the understanding that no quota places could be won, whereas they did not have the opportunity to defend themselves against such decision.

163. The Panel finds that the Athlete's interest in having the First Decision set aside and to have the Olympic qualification status of the Asian Shooting Championship restored, is clearly overshadowed by the general interest of the Asian shooting sport community in having the First Decision confirmed.
164. Particularly, the Panel finds that the First Decision did not prejudice the interests of the Fourth Appellant with more intensity than others (which is a requirement for standing as set out above – ATF 131 II 649; consid. 3.1; see also CAS 2009/A/1880, 1881 par. 29), because at the time the decision was rendered all athletes planning to participate in the Asian Shooting Championship were prejudiced equally.
165. In the light of the findings above, the Panel finds that the Fourth Appellant did not establish a sufficient legal interest in having the IOC decision set aside and therefore lacks standing to appeal.

(e) Conclusion

166. Consequently, in the absence of a sufficient legal interest in challenging the First Decision being established by the Appellants, and whatever stern views it takes on the substance of the First Decision, the Panel finds that the Appellants lack standing to appeal the First Decision.
167. Since the Second Decision is not an appealable decision and because neither of the Appellants have standing to appeal the First Decision, the Panel is prevented from looking at the merits of the case.
168. Consequently, any other and further claims or requests for relief are dismissed. In particular, request for relief no. 2-4, as set out in the Appeal Brief, are dismissed because the KSF and the Fourth Appellant do not have any sporting interest in such decision and request for relief no. 5 is dismissed because the KSF failed to establish any damages.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The joint appeal filed on 19 November 2015 by the Kuwait Shooting Federation, Mr Saud Abdulrahman Ahmad Habeeb, Mr Pourya Mohammadreza Norouziyan and Ms Elham Hossein Harijani against the decisions issued on 29 October 2015 by the Executive Board of the International Olympic Committee and on 30 October 2015 by the Executive Committee of the International Shooting Sport Federation is dismissed.
2. The decision issued on 29 October 2015 by the Executive Board of the International Olympic Committee is confirmed.
3. The decision issued on 30 October 2015 by the Executive Committee of the International Shooting Sport Federation is confirmed.
4. (...).
5. (...).
6. All other and further motions or prayers for relief are dismissed.