



**Arbitration CAS ad hoc Division (OG Beijing) 22/002 Andrei Makhnev & Artem Shuldiakov & Russian Olympic Committee (ROC) v. International Ski Federation (FIS), award of 1 February 2022 (operative part of 28 January 2022)**

Panel: Mr Jeffrey Benz (USA), President; Mr Alain Zahlan de Cayetti (France); Mr Lars Hilliger (Denmark)

*Skiing (freestyle)*

*Reallocation of quota positions*

*Jurisdiction ratione temporis of the CAS ad hoc Division*

The CAS ad hoc Division is a tribunal of limited jurisdiction. By its own terms, Article 1 of the CAS Ad Hoc Rules requires that certain conditions be met for the CAS Ad Hoc Rules to confer jurisdiction on an applicant. The dispute must be: (a) covered by Rule 61 of the Olympic Charter; and (b) either arise (i) during the Olympic Games or (ii) during a period of ten days preceding the Opening Ceremony of the Olympic Games. The plain English definition of the word “arise” means “*to come into existence or begin to be noticed; happen*”. Of note, is that under this definition, the use of the word “arise” in the CAS Ad Hoc Rules indicates that it refers to the start of a dispute, not its conclusion or end.

## **1 PARTIES**

- 1.1 The First Applicant is Mr Andrei Makhnev, who is a moguls skier of Russian nationality. The First Applicant is currently among the four best Russian moguls skiers.
- 1.2 The Second Applicant is Mr Artem Shuldiakov, who is also a moguls skier of Russian nationality and also currently among the four best Russian moguls skiers. He ranked 25th at the 2021 World Ski Championships.
- 1.3 The Third Applicant is the ROC which is the National Olympic Committee for the Russian Federation, recognised as such by the IOC (collectively, the First, Second, and Third Applicants shall be referred to as “Applicants”).
- 1.4 The Respondent is the FIS which is the international federation governing the sports of skiing, recognised as such by the IOC and is the organiser of the Olympic competitions for moguls.
- 1.5 The Interested Party is the IOC, which is the organisation responsible for the Olympic movement, having its headquarters in Lausanne, Switzerland. One of the primary responsibilities of the IOC is to organise, plan, oversee and sanction the summer and winter Olympic Games, fulfilling the mission, role and responsibilities assigned to it.

## 2 FACTS

- 2.1 The elements set out below are a summary of the main relevant facts as established by the Panel by way of a chronology based on the submissions of the First, Second and Third Applicants and the Respondent (the “Parties”), and on the *amicus* brief submitted by the IOC. Additional facts may be set out, where relevant, in the legal considerations of the present award.
- 2.2 On 23 May 2021, in accordance with the Qualification System Principles – XXIV Olympic Winter Games, Beijing 2022, updated as of 27 November 2018 (the “Qualification Principles”), the FIS published a Qualification System for the XXIV Olympic Winter Games, Beijing 2022 – Freestyle Skiing” (the “Qualification System”).
- 2.3 Pursuant to the Qualification System 30 quotas are available for moguls competitions and the quotas are attributed based on each athlete’s World Cup results from 1 July 2020 to 16 January 2022 in addition to the athlete’s ranking point obtained at the FIS Freestyle Ski World Championships 2021.
- 2.4 As a result of the COVID-19 pandemic, several World Cup events were cancelled and eventually the numbers of qualifying World Cup events amounted to 10 events taking place in the period from 4 December 2020 until 14 January 2022, in addition to the FIS Freestyle Ski World Championships 2021.
- 2.5 According to the information obtained during the hearing, the First and Second Applicants, in addition to the World Championships 2021, participated in the first six World Cup events, of which one was held in the USA in February 2021. However, they did not participate in the last four events, which took place in Canada on 7 and 8 January 2022 and in the USA between 12 and 14 January 2022.
- 2.6 Both the First and the Second Applicants were administered the Russian Sputnik V COVID-19 vaccine before the start of the 2022 season, which was the vaccine authorised for use in Russia, where the Applicants are domiciled.
- 2.7 In August and September 2021, the First and the Second Applicants received invitations from the US Ski & Snowboard Federation and from Freestyle Canada, respectively (both FIS members), to attend the World Cup events coming up in January 2022, in which they were both registered.
- 2.8 On 5 October 2021, the US Olympic and Paralympic Committee (the “USOPC”), the IOC-recognised National Olympic Committee for the USA, informed the First and the Second Applicants that they had been granted an “*athlete waiver status*” allowing them to travel to the USA to take part in the moguls competition in January 2022, and on 27 October 2021, they were both granted a visa by the US government allowing them to travel to the USA for the same purpose.

- 2.9 In November 2021, the entry requirements to the USA and Canada were changed by their respective governments, as, *inter alia*, entry to these countries was limited to persons who had been administered a COVID-19 vaccine recognised in the USA and Canada. It is not disputed that the Russian Sputnik V vaccine was not among those vaccines.
- 2.10 The ROC and the Russian Freestyle Federation, in cooperation with the USOPC, undertook several measures to obtain in favour of, among others, the First and the Second Applicant, a decision allowing them to enter the said countries to participate in the upcoming events. The ROC actually did manage to obtain an exemption allowing Russian speedskaters to travel to the USA and Canada, however, such exemptions were not granted to the First and to the Second Applicants. There is no explanation why these two groups of athletes were treated differently in respect of their visa applications.
- 2.11 Finally, by e-mail of 4 December 2021, which was the day before the planned departure, the US SKI & Snowboard Federation informed the ROC, the USOPC, the FIS and the IOC that despite all their effort, no exceptions were granted by the US government to allow Russian freestyle skiers to travel to the USA.
- 2.12 As such, the First and Second Applicants did not participate in the four World Cup events in Tremblant, Canada and Deer Valley, USA.
- 2.13 On 31 December 2021, the ROC President wrote to the IOC and to the FIS to complain about the decision by the US and Canadian government authorities to refuse to grant a travel authorization in favour of Russian athletes. Regarding the moguls skiers, the letter stated, *inter alia*, as follows:  
*“Request: to keep valid quotas (3 for men and 2 for women), as well as to get additional quotas for men (the third and the fourth quotas) and for women (the fourth quota) as the athletes are unable to participate in the four World Cup stages where the stated quotas could have OBJECTIVELY been won”* (emphasis in original).
- 2.14 By letter of 8 January 2022, the President and the Secretary General of the FIS replied to the ROC President, stating, *inter alia*, as follows:  
*“... Moguls/ Aerials These events are currently ongoing and depending on the result it might not impact the current quota. We will follow up on these disciplines once we have more clarity and should additional quota place be required this request must be addressed to the IOC EB. In our sport we are facing cancellations and injuries every year and they impact on the qualification and results; this is no different in this season and we can't therefore make any assumptions on potential results. We have great sympathy with the situation you are facing. We will do our outmost to ensure that your athletes will have a fair chance to qualify for the upcoming Olympic Winter Games in Beijing 2022 without eliminating already qualified athletes from other nations, and in a manner which is fair to all other impacted athletes and National Olympic Committees ...”*.
- 2.15 By letter of 9 January 2022 to the FIS, the IOC and the USOPC, the ROC once again expressed its concern about the fact that the Russian National Freestyle team *“was in fact deprived the opportunity to take part”* in the World Cup events in the USA and urged the FIS *“to take a decision that the FIS World Cup, USA, Cooper Mountain is stripped of its status as qualifying event for the 2022*

*Beijing Winter Olympic Games and inform us on your further decision with regard to the upcoming qualification events in the USA”.*

- 2.16 On 14 January 2022, the FIS answered, inter alia, as follows: “... Rest assured that we are doing everything in our powers to find solutions. For the avoidance of doubt, all matters affecting quotas are decided by the IOC ...”.
- 2.17 On 17 January 2022, and based on the Qualification System, the FIS published its Freestyle Quotas List for Olympic Winter Games 2022 (the “Allocation List”) of athletes allowing everyone to determine the quota allocation per NOC and per athlete, bearing in mind that a NOC cannot get more than four quotas per event and that the maximum numbers of quotas for freestyle skiing are between 30 and 32.
- 2.18 Clause D.1. of the Qualification System states, *inter alia*, as follows:  
*“... The allocation will be made by assigning one (1) quota per athlete, including the host country quota, from the top of the Olympic Quota Allocation List downwards until the maximum quotas per event in Aerials, Ski Cross, Moguls Freeski Halfpipe, Freeski Slopestyle/Freeski Big Air per gender is reached ...”.*
- 2.19 Moreover, Clause F – Reallocation of IF Quota Places states as follows:  
*“If an allocated quota place is not confirmed by the NOC by 18 January 2020, or is declined by the NOC, the quota place will be reallocated to the next eligible NOC according to the system described in D.1”.*
- 2.20 The First Applicant ranked 39 on the Allocation List, while the Second Applicant ranked 43, which rankings places them 3rd and 7th respectively on the so-called list of “next best ranked athletes” missing the Olympic Games.
- 2.21 By letter of 25 January 2022, the Applicants wrote to the FIS, with the IOC in copy, and requested the confirmation that two additional quotas are granted to the ROC in the moguls male competition in favour of the First and the Second Applicants. It was also mentioned that since two ROC athletes already qualified in freestyle were not able to travel to the Olympic Games, these quotas should be allocated to the First and Second Applicants to allow their participation.
- 2.22 Moreover, this letter stated as follows: *“Please note that an absence of answer within this deadline will be considered as a decision refusing to grant the additional two quotas sought by the ROC and the concerned athletes which could be subject to an appeal before the CAS in accordance with Rule 61 of the Olympic Charter”.*
- 2.23 Finally, on 26 January 2022, the FIS replied as follows: *“The increase of quota places requested is not a FIS decision and we therefore kindly invite you to address this topic with the IOC directly”.*

### **3 THE CAS PROCEEDINGS**

- 3.1 On 27 January 2022 at 08h30 (time of Beijing), the Applicant filed an Application with the CAS Ad Hoc Division against the Respondent identifying the IOC as an Interested Party, with

respect to the decision mentioned in the letter of 17 January 2022 and reiterated on 26 January 2022 (the ‘Decision’).

3.2 On 27 January 2022 at 10h26 (time of Beijing), the CAS Ad Hoc Division notified the Application to the Respondent and Interested Party.

3.3 On 27 January 2022, the CAS Ad Hoc Division notified the Parties of the composition of the Arbitral Tribunal (the “Panel”) as follows:

Jeffrey G. Benz, United States of America, President

Alain Zahlan de Cayetti, France; and

Lars Hilliger, Denmark.

3.4 In accordance with the Procedural Orders and Summons to appear issued the Panel on 27 January 2022, the Respondent and the Interested Party were invited to file their Reply and Amicus Curiae Brief respectively by 28 January 2022 at 13h00 (time of Beijing). Furthermore, the CAS Ad Hoc Division notified the parties that a hearing would be conducted at the CAS Ad Hoc Division offices at the Beijing Continental Grand Hotel in Chaoyang District, Beijing, with remote access permitted, commencing on 28 January 2022 at 16h00 (time of Beijing).

3.5 The Respondent and the IOC filed respectively the Reply and the Amicus Curiae Brief within the given time limit ordered by the Panel.

3.6 On 28 January 2022, at 16h00 (time of Beijing), the Panel convened the hearing, virtually, on the application, which hearing finished by 19h35 (time of Beijing). The Parties and Interested Parties had a full and fair opportunity to present their case. At the end of the hearing, they confirmed that their right to be heard had been respected.

3.7 The following individuals attended the hearing:

For the Applicants: Andrei Makhnev, Artem Shuldiakov (Applicants themselves), Claude Ramoni (Counsel) and Victor Berezov (representative)

Witnesses called by the Applicants: Alexey Kurashov and Ekaterina Dmitrieva

For the Respondent: Stephan Netzle (Counsel) and Philippe Gueisbühler

For the Interested Party: Antonio Rigozzi (Counsel)

#### **4 THE PARTIES’ SUBMISSIONS AND REQUESTS FOR RELIEF**

4.1 The Parties’ submissions and arguments shall only be referred to in the sections below when necessary, even though all such submissions and arguments have been considered.

**A. The Applicant**

**a. Applicant's Submissions**

4.2 The Applicant's submissions may be summarised, in essence, as follows:

4.3 Jurisdiction arises here because a dispute does not arise until there has been a decision to appeal. Previous discussions or exchanges between the parties shall not qualify as appealable decisions. As long as the parties are in discussion there is no "dispute" in the meaning of the CAS Ad Hoc Rules. Here, the 10-day period preceding the Olympic Winter Games Opening Ceremony commenced on 25 January 2022. A first request for additional quotas was made by the ROC on 31 December 2021 and the FIS did not reject such request stating that the request was premature, and that any allocation or reallocation of quotas could only be made at the end of the qualification period. The publication of the FIS quota list on 17 January 2022 cannot be qualified as a decision affecting the Applicants as they never dispute their ranking or the fact that they were not ranked among the 30 athletes being granted quota places. The FIS never issued a formal decision on quota reallocation or on granting additional quotas allowing the First and Second Applicants to compete and when asked to do so, the FIS merely asked the Applicants to refer the matter to the IOC. Nevertheless, the dispute is not resolved as of the time of filing of the Application.

4.4 The 6th Fundamental Principle of Olympism provides:

*"The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status".*

4.5 This is a key principle specifically referenced in the IOC's Qualification System Principles. The First and Second Applicants were discriminated against when they were not permitted to enter the USA and Canada to participate in four qualifying events in moguls. None of the vaccines approved for use in the Russian Federation are accepted by US and Canadian authorities to permit travellers to enter such countries during the relevant time period. This immigration regulation is discriminatory. The First and Second Applicants were not granted waivers to compete in the USA and Canada for the four qualifying events (though other Russian athletes were so permitted in other sports). The immigration rules were changed after the First and Second Applicants had been granted visas at least to the USA.

4.6 This constitutes discrimination against the First and Second Applicants because they were prohibited from entering the USA and Canada simply because they had been administered a vaccine approved for use in Russia and not a vaccine recognised in the USA and Canada. This is a purely political decision contradicting the 6th Fundamental Principle of Olympism. These athletes were not granted the same opportunity to obtain the points which are required to qualify as the other athletes from other countries, as a result. They submitted that it is highly likely that they would have obtained the points needed if they had been allowed to participate.

4.7 The only way to rectify this situation is to grant the Applicants two “unused” quota positions to allow them to compete. This quota allocation does not require that more quotas be granted to the FIS or to the ROC. Since the ROC will not use all quotas earned by its athletes in freestyle, two of the quotas that are in any case allocated to the ROC by the FIS in freestyle, but for other disciplines, may be attributed to the ROC for moguls. With this reallocation/allocation of quotas, the number of ROC quotas for men’s moguls competition will be four, i.e., within the limits set in the Qualification System. In addition, the total number of quotas obtained by the ROC in freestyle skiing is far below the maximum permitted. Alternatively, the Applicants requested the attribution of two additional quotas.

**b. Applicant’s Requests for Relief**

4.8 The Applicant’s request for relief is as follows:

*“A finding of jurisdiction of this dispute;*

*Two unused Olympic quotas obtained by athletes affiliated to the Russian Olympic Committee in FIS freestyle disciplines are reallocated to moguls competitions in order to allow [the First and Second Applicants] to take part in the moguls competition at the [Olympic Winter Games in Beijing].*

*in the alternative*

*Two additional Olympic quotas are granted to the Russian Olympic Committee in order to allow [the First and Second Applicants] to take part in the moguls competitions at the [Olympic Winter Games in Beijing]”;*

*- “The First and Second Respondent are declared eligible and are qualified to take part in the moguls competitions at the Olympic Winter Games in Beijing”; and*

*- “The FIS shall be ordered to pay a fair contribution toward the Applicants’ legal costs in an amount to be fixed at the discretion of the Panel”.*

**B. The Respondent**

**a. Respondent’s Submissions, in Summary**

4.9 The publication of the FIS Freestyle Quotas List/Moguls on 17 January 2021 was eight days prior to the 10-day period preceding the Olympic Games Opening Ceremony, when the jurisdiction of the CAS Ad Hoc Division attached.

4.10 That any later correspondence between the Parties concerning the issues raised in the Application did not re-open that decision of the FIS, and this did not extend the jurisdictional time period to the 10-day period of jurisdiction for the CAS Ad Hoc Division.

4.11 The FIS cannot change the number of participants or quotas at an Olympic competition at its own discretion. Any allocation of quota places to the Applicants would require a withdrawal of

an already assigned quota place from an athlete who was qualified according to the qualification system.

- 4.12 Unused quota places for one event cannot be transferred to another event. They must be reallocated within the same event in accordance with the Qualification Pathway set out in Chapter D of the Qualification System for the Olympic Winter Games.
- 4.13 If there was a last-minute refusal of a quota place for the mogul event, the next two eligible quota places would be offered to the French NOC and the ROC would only benefit from a reallocation if there were three refusals in the case of the First Applicant and seven refusals in the case of the Second Applicant.
- 4.14 Since the FIS has correctly applied the Qualification System, which was approved by the IOC, it is not possible to grant additional quota places to the Applicants.
- 4.15 There can be no qualification based on purely hypothetical results as suggested by the Applicants.
- 4.16 There has been no discrimination by the Respondent.

**b. Respondent's Requests for Relief**

- 4.17 The Respondent's request for relief is as follows:

*"1. Not to accept the Application because of lack of jurisdiction;*  
*2. To dismiss the Application in its entirety to the extent that it is admissible;*  
*3. To order the Applicants to pay a fair contribution towards the Respondent's legal costs to be determined by the Panel".*

**C. The Interested Party**

**a. Interested Party's Submissions**

- 4.18 The 17 January 2022 publication of the FIS list was the latest date that the dispute arose, and this is outside the window of the CAS Ad Hoc Division's jurisdiction.
- 4.19 The travel ban was not discriminatory. It was the result of actions taken by the governments of the USA and Canada and there is no evidence it was directed to anyone of any particular nationality. The athletes here were not discriminated against.
- 4.20 The Applicants' rationale for requesting additional spots would create a dangerous precedent. There are many situations where circumstances arise that give rise to athletes being



disadvantaged for some reason, whether COVID-related or otherwise. This cannot be a basis, without more, for an athlete to be granted qualification retroactively.

- 4.21 “[T]o give the ROC the additional quotas that would allow the participation of the Athletes without giving them an undue advantage compared to the other “next best ranked athletes”, this would require the allocation of 7 additional quotas. That would result in an increase of 25 % of the quota for a single discipline!”
- 4.22 “Finally, the suggestion that the addition of two quotas for the ROC could be compensated by ROC’s unused quotas from another disciplines is at odds with the principle of reallocation as it would imply that two quotas in that other discipline would not be reallocated despite the clear rules set out in the [Qualifying System]”.

**b. Interested Party’s Requests for Relief**

- 4.23 That the Panel rejects the Applicants’ requests for relief, in particular, the request that “*Andrei Makhnev and Artem Shuldiakov are declared eligible and are qualified to take part in the moguls competitions at the Winter Olympic Games Beijing 2022*”.

**5 JURISDICTION AND ADMISSIBILITY**

- 5.1 Rule 61.2 of the Olympic Charter provides as follows:

*“61 Dispute Resolution*

...

*2. 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 (CAS), in accordance with the Code of Sports-Related Arbitration”.*

- 5.2 Article 1 of the CAS Arbitration Rules for the Olympic Games, adopted 14 October 2003 and amended 8 July 2021 (the “CAS Ad Hoc Rules”) provides as follows:

*“Article 1. Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)*

*The purpose of the present Rules is to provide, in the interests of the athletes and of sport, for the resolution by arbitration of any disputes covered by Rule 61 of the Olympic Charter, insofar as they arise during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games.*

*In the case of a request for arbitration against a decision pronounced by the IOC, an NOC, an International Federation or an Organising Committee for the Olympic Games, the claimant must, before filing such request, have exhausted all the internal remedies available to him/her pursuant to the statutes or regulations of the sports body concerned, unless the time needed to exhaust the internal remedies would make the appeal to the CAS Ad Hoc Division ineffective” (emphasis added).*

- 5.3 Jurisdiction was asserted on the basis stated by the Applicants above.
- 5.4 Jurisdiction was disputed by the Respondent and the Interested Party as stated above.
- 5.5 The Panel is of the view that the Respondent and the Interested Party have the better of the arguments given the broad language of Article 1 of the CAS Ad Hoc Rules.
- 5.6 The CAS Ad Hoc Rules are not unbounded in their jurisdictional grant; the CAS Ad Hoc Division is a tribunal of limited jurisdiction. By its own terms, Article 1 of the CAS Ad Hoc Rules requires that certain conditions be met for the CAS Ad Hoc Rules to confer jurisdiction on an applicant. As emphasised in the quote above, given that there was no challenge to jurisdiction based on lack of exhaustion of internal remedies, the dispute must be:
- a. Covered by Rule 61 of the Olympic Charter; and
  - b. Either arise (i) during the Olympic Games or (ii) during a period of ten days preceding the Opening Ceremony of the Olympic Games.
- 5.7 For this Panel to find jurisdiction under the CAS Ad Hoc Rules, we must find both enumerated conditions to be present.
- 5.8 The Panel accepts that the dispute here satisfies the first condition, namely that it arise under Rule 61 of the Olympic Charter. Plainly, this dispute is one regarding qualifying spots and athletes for the 2022 Olympic Winter Games in freestyle skiing arising in connection with the Olympic Games. No party disputed this.
- 5.9 The problem for the Applicants is the second enumerated prong. The Panel must inquire whether the dispute arose during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games. As the Applicants do not contend that this dispute arose during the Olympic Games, the Panel focuses on the latter point.
- 5.10 For the Applicants to succeed on the latter point, the dispute must have arisen during the ten days preceding the Opening Ceremony for the 2022 Beijing Olympic Winter Games, currently scheduled for 4 February 2022. This means that the dispute must have arisen no sooner than 25 January 2022.
- 5.11 What does “arise” mean? The Panel is guided by a plain English definition: “*to come into existence or begin to be noticed; happen*” (<https://dictionary.cambridge.org/us/dictionary/english/arise>, accessed 28 January 2022). Of note, is that under this definition, the use of the word “arise” in the CAS Ad Hoc Rules indicates that it refers to the start of a dispute, not its conclusion or end.
- 5.12 When did the dispute come into existence or begin to be noticed? While there was evidence that the dispute may have arisen earlier in December, the Panel is comfortably of the view that the dispute arose at probably as early as 31 December 2021, when the ROC sent its letter to the FIS on the subject, and at least as late as 17 January 2022, when the FIS published its Allocation

List, which by itself reflected the fact that the FIS had not made the adjustments for the Applicants which were requested by the ROC. There were numerous communications between the FIS and the ROC between these dates, including a 9 January 2022 letter from the ROC requesting the FIS to take steps with respect to stripping the Copper Mountain USA event of its Olympic qualifying event status given the US government restrictions. There can be no doubt that this dispute was in full array by the time of the 17 January 2022 FIS Allocation List publication. There was nothing left to be determined by that date and there was nothing indeterminate about the FIS determination embodied in its published list.

- 5.13 It is plain to see from the record that the dispute “arose” long before 25 January 2022, the effective date of jurisdiction under the CAS Ad Hoc Rules given the timing of the Opening Ceremony for the 2022 Olympic Winter Games.
- 5.14 The Applicants argued that there was no dispute until well after the 17 January 2022 publication date of the FIS because the FIS Allocation List was not final and the Applicants had further communications with FIS concerning allocations and quotas through 26 January 2022 when the FIS wrote to the ROC to advise that these issues needed to be addressed by the IOC, on the basis that this was a final decision that triggered jurisdiction under the CAS Ad Hoc Rules. The Panel is unpersuaded by these arguments.
- 5.15 The CAS Ad Hoc Rules require that the dispute must arise within the requisite time period and that the internal legal remedies have been exhausted (it may happen that the last internal appeals body does not issue a formal decision within a reasonable time, which would constitute a denial of justice). In any event, a new request on the same matter does not trigger a new basis for jurisdiction, whether the analysis is under the “arising” language of the CAS Ad Hoc Rules or the CAS Code of Sports-related Arbitration. Here, the dispute clearly arose outside the relevant time period and the Panel finds it lacks jurisdiction.

## 6 CONCLUSION/COSTS

- 6.1 These are challenging and difficult times to be an elite athlete endeavouring to compete at a high level in the COVID era. Not only are sport qualification rules changing in response, but so too, and perhaps most significantly as shown this case, are changes to domestic legal rules as countries endeavour to protect their citizens from the pandemic. The Panel is mindful of the Athletes difficulties, but, in the present case, the Panel will not express its view as it did not find jurisdiction.
- 6.2 In view of the above considerations, the CAS Ad Hoc Division does not have jurisdiction to hear the Applicants’ application.
- 6.3 The Applicants sought a contribution toward their costs but none of the other parties sought costs. According to Article 22 para. 1 of the CAS Ad Hoc Rules, the services of the CAS ad hoc Division “*are free of charge*”. According to Article 22 para. 2 of the CAS Ad Hoc Rules, parties to

CAS ad hoc proceedings “*shall pay their own costs of legal representation, experts, witnesses and interpreters*”. Accordingly, each party shall bear its own costs.

## **DECISION**

**The Ad Hoc Division of the Court of Arbitration for Sport renders the following decision:**

1. The CAS Ad Hoc Division does not have jurisdiction to hear the Application filed by Andrei Makhnev, Artem Shuldiakov and the Russian Olympic Committee.
2. All parties shall bear their own costs.