

PRESS RELEASE

OLYMPIC GAMES 2004 - GYMNASTICS

THE APPEAL FILED BY YANG TAE YOUNG DISMISSED BY THE COURT OF ARBITRATION FOR SPORT (CAS)

THE RANKINGS IN THE MEN'S ALL-AROUND INDIVIDUAL EVENT CONFIRMED

Lausanne, 21 October 2004 – The Court of Arbitration for Sport (CAS) has rendered its decision in the case Yang Tae Young v/ International Gymnastics Federation (FIG). The dispute involved other parties, such as the US gymnast Paul Hamm, and was related to a marking error made on 18 August 2004 in respect to the parallel bars in the context of the men's individual gymnastics artistic all-around event final. The start value for Yang at that apparatus was given as 9.9 instead of 10. It was asserted by Yang and originally accepted by FIG that but for the error, Yang would have received the gold medal and not the bronze, and the recipient of the gold medal, Paul Hamm, the silver medal.

Yang Tae Young, supported by his National Olympic Committee, filed an appeal with CAS on 28 August 2004. This appeal was submitted to a Panel composed of three CAS arbitrators : Mr Michael J. Beloff, Q.C. from United Kingdom (President), Mr Dirk-Reiner Martens from Germany and Mr Sharad Rao from Kenya (arbitrators). A hearing took place in Lausanne on 27 September 2004 in the presence of the parties, their representatives and their witnesses.

The CAS Panel has decided to dismiss the appeal filed by Yang Tae Young, which means that the ranking of the men's individual gymnastics all-around event remains unchanged and that the medals already allocated to Paul Hamm (gold), Kim Dae-Eun (silver) and Yang Tae Young (bronze) remain in possession of their owners.

The Panel had to resolve the two following main issues :

- 1) Whether a protest concerning the controversial start value had been duly made by the Korean delegation before the end of the competition;
- 2) Whether the Judges' error, publicly recognised by FIG, can justify a re-evaluation of the scores after the end of the competition.

The CAS arbitrators considered that any protest concerning the start value should be made before the end of the competition in order to be effective, in accordance with the FIG rules. However, in the present case, the arbitrators found that the protest occurred after the end of the competition and was therefore submitted out of time.

Furthermore, the arbitrators noted that they were not asked to second guess an official but rather to consider the consequences of an admitted error by an official. Although this case was slightly different from previous CAS cases concerning "field-of-play" decisions, the arbitrators considered that they should nonetheless abstain from correcting the results by reliance of an admitted error.

In the award, the arbitrators have stated : "An error identified with the benefit of hindsight, whether admitted or not, cannot be a ground for reversing a result of a competition. (...) However, quite apart from the consideration that no one can be certain how the competition in question would have turned out had the official's decision been different, for a Court to change the result would on this basis still involve interfering with a field of play decision. Each sport may have within it a mechanism for utilising modern technology to ensure a correct decision is made in the first place (e.g. cricket with run-outs) or for immediately subjecting a controversial decision to a process of review (e.g. gymnastics;) but the solution for error, either way, lies within the framework of the sport's own rules; it does not licence judicial or arbitral interference thereafter. If this represents an extension of the field of play doctrine, we tolerate it with equanimity."

The CAS Panel has also praised the attitude of both athletes Yang and Hamm who have comported themselves with dignity, despite the controversy. They were the victims of this unusual case because a shadow of doubts has been cast over Hamm's achievement in winning the sport's most prestigious prize and because Yang may have been deprived of an opportunity of winning it.

The full text of the award is published on the CAS website (www.tas-cas.org, section "case law").

For further information related to the CAS activity and procedures in general, please contact Mr. Matthieu Reeb, Secretary General, 28, av. de l'Elysée, 1006 Lausanne, Switzerland, Tel. : (41 21) 613 50 00; fax : (41 21) 613 50 01 or consult the CAS website : www.tas-cas.org.