

Bundesgericht

Tribunal fédéral

Tribunale federale

Tribunal federal



CH-1000 Lausanne 14
File number. 211.1/06_2022

Lausanne, 4 March 2022

Press Release of the Swiss Federal Supreme Court

Judgment of 14 February 2022 ([4A 406/2021](#))

Appeal by Chinese swimmer Sun Yang dismissed

The Swiss Federal Supreme Court dismisses the appeal filed by Chinese swimmer Sun Yang against the decision of the Court of Arbitration for Sport in Lausanne. The contested decision, which imposed a ban of four years and three months on Sun Yang from February 2020, does not violate fundamental principles of public order; nor was Sun Yang's right to be heard infringed. The Federal Supreme Court did not enter into the merits of the athlete's further objections.

In its decision of 28 February 2020, the Court of Arbitration for Sport ("Tribunal Arbitral du Sport", CAS) had imposed an eight-year ban on the Chinese swimmer Sun Yang for violating the doping rules of the International Swimming Federation ("FINA Doping Control Rules", 2017 edition). In December 2020, the Federal Supreme Court upheld Sun Yang's appeal and annulled the CAS decision on the grounds of bias on the part of one of the CAS arbitrators ([Federal Supreme Court press release of 15 January 2021](#)). On 22 June 2021, the CAS ruled again on the case in a new composition of the arbitration panel and imposed a ban of four years and three months from 28 February 2020 on Sun Yang.

The Federal Supreme Court dismissed Sun Yang's appeal against this decision insofar as it was admissible. Decisions of the CAS cannot be reviewed freely by the Federal Supreme Court. The Court's review of the merits is limited by law to the question of whether the contested CAS decision violates fundamental and widely recognised

principles of public order ("ordre public"). The contested decision does not violate public policy. The Federal Supreme Court also rejected Sun Yang's claims that the CAS had violated his right to be heard. The Federal Supreme Court did not consider Sun Yang's objections regarding the timeliness of the appeal filed by the World Anti-Doping Agency (WADA) with the CAS in 2019. However, the athlete's objections in this regard would be unfounded in any case. Furthermore, the Federal Supreme Court did not consider the complaint that the Court's limited power of review in appeals against CAS decisions violated the right to an effective remedy within the meaning of Article 13 of the European Convention on Human Rights.

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NB: The press release is intended as an information to the public and the media. The terminology used may differ from the wording of the judgment. For legal purposes, only the wording used in the written decision is binding.

The decision will be available on 4 March 2022 at 13:00 on www.bger.ch : *Rechtsprechung > Rechtsprechung (gratis) / Weitere Urteile ab 2000 > entering 4A_406/2021.*