

**UNITED STATES OLYMPIC COMMITTEE**

**AMERICAN YOUTH SOCCER ORGANIZATION,**

**Complainant,**

**v.**

**U. S. SOCCER FEDERATION,**

**Respondent.**

**DECISION**

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**October 7, 1996**

**I.**

**BACKGROUND**

The National Governing Body ("NGB") for the Sport of Soccer in the United States is the United States Soccer Federation ("USSF"). The USSF was recognized by the United States Olympic Committee ("USOC") as the NGB for the Sport of Soccer pursuant to the Amateur Sports Act of 1978 (36 USC 371 *et seq*), ("ASA").

The ASA and the USOC Constitution & Bylaws provide for several processes by which an organization or individual may register a complaint against an NGB with respect to compliance with the USOC Constitution and Bylaws as well as the ASA, challenge their status to be the NGB, or ask for mediation of such complaints. Included in these processes is the ultimate right to seek arbitration before the American Arbitration Association ("AAA"). These rights are outlined in Article VIII and Chapters VI and VIII of the USOC Constitution and Bylaws, and Section 205, (36 USC 395) of the Amateur Sports Act. These processes require that certain conditions, also outlined in these documents, be met. Article VIII, Chapters VI and VIII, and Section 205 are attached to this Decision.

The COMPLAINANT in this matter has filed various documents requiring the review of the USOC. They are:

1. COMPLAINT AND GRIEVANCE.
2. MEMORANDUM OF POINTS AND AUTHORITIES OF AYSO IN OPPOSITION TO USSF'S MOTION TO DISMISS and
3. SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTION TO DISMISS

**The RESPONDENT in this matter has filed various documents requiring the review of the USOC. They are:**

1. MOTION TO DISMISS and
2. RESPONSE TO BRIEF IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS.

**In accordance with the USOC Bylaws (Chapters VI & VIII), the USOC President, Dr. LeRoy Walker, appointed a Panel of five voting members of the USOC Board of Directors for the purpose of deciding the procedural and jurisdictional issues raised in this matter as well as any matters which the Panel determines to be related. The Panel members are:**

**Charles U. Foster, Chair and USOC Secretary,**  
**Tim Richardson, Boys & Girls Clubs of America,**  
**Terrence McCann, USA Wrestling,**  
**Thomas Satrom, USA Curling,**  
**Perry Toles, AAC.**

**Following substantial efforts to establish a hearing date, a hearing was held in Chicago, Illinois on September 7, 1996, at the O'Hare Hilton Hotel. The Panel was present and chaired by Charles Foster. USOC General Counsel, Ronald T. Rowan, advised the Panel. The USSF was present with its General Counsel, Melissa Apcel; outside Counsel, Peter Alkalay; Larry Monaco, Executive Vice President and Robert Contiguglia, Past Chairman of the Youth Division. The AYSO was represented by its Counsel, Fred Gregory and Don West, Past President.**

**The Parties or their representatives were given the opportunity to provide oral argument for one hour each. The Hearing was open to the public and was stenographically recorded.**

**The burden of proof was on the USSF to sustain its Motion to Dismiss. The USSF was allowed to proceed first, the AYSO responded. The USSF was allowed a rebuttal. In addition, the Panel asked questions of the Parties. The Hearing began at 11:00 o'clock in the morning of September 17, 1996 and completed at 3:00 o'clock in the afternoon. The Chair of the Panel advised the Parties that the Panel would take the matter under consideration and both Parties agreed that the Panel would have 20 days to provide its written decision.**

## II.

### ISSUES

- A. **Failure to State a Cause of Action.** The USSF claims that the Complaint states no cause of action by relating how the USSF delegates its authority and the AYSO has not been harmed if there is such a delegation of authority.
- B. **Ripeness.** The USSF argues that, since the AYSO has previously accepted a specific vote representation on its Board of Directors pursuant to an agreement with the USSF, it is precluded from making claims that violations of the ASA have occurred regarding reasonable direct representation until new members are admitted.
- C. **Jurisdiction.** The USSF has argued that the USOC has no jurisdiction over the USSF Foundation, Inc., and that the Executive Committee and National Council of the USSF are not Governing Boards within the meaning of the ASA and, therefore, elements of the Complaint relating to them may not be considered.
- D. **Failure to Exhaust Remedies.** The USSF argues that AYSO has not exhausted the remedies available to it since AYSO may seek to change the USSF Constitution or Rules by legislative action and that it has recently approved a process for resolution of disputes between member

organizations. It also argues, apparently, inherent authority in its Rules to conduct grievance procedures.

### **III.**

#### **DECISION**

The Panel, at the outset, is intrigued, concerned and specifically notes the need of both Parties to argue facts which are not a part of this record in order to make their arguments on the technical issues.

The Panel, after having considered all of the written documents submitted by the Parties, which are incorporated herein by reference, as well as the oral arguments presented at the Hearing, and answers to questions proposed to the Parties by the Panel, unanimously concurs in the following decision:

- A. Failure to State a Claim.** The Complaint sufficiently describes a claim relating to the issue of delegation of NGB governance, duties and control described in Section 201 (B)(4) of the ASA to warrant an evidentiary hearing on the facts relating to such a claim. The rules and implementation of the Rules of the USSF relative to such a claim must be examined in the evidentiary proceeding in order to determine if a violation of the ASA exists. It is not necessary for the AYSO to state or prove harm if the ASA is not met.
- B. Ripeness.** Section 201(B)(9) of the ASA provides that an NGB must

**provide reasonable direct representation on its board of directors or other such governing board. The AYSO alleges that it and other affiliate members do not receive such representation. What AYSO and others may have agreed to in the past versus what may be required under the ASA is a question of fact to be determined in an evidentiary proceeding and is not a basis for dismissal at the procedural level.**

**C. Jurisdiction. The USOC has the authority to review whether or not an NGB meets the requirements of the ASA. The AYSO has brought this action against the USSF, the NGB for the Sport of Soccer. Whether or not the actions of USSF are in compliance with those requirements may be examined in light of the claims made. In doing so, the USOC may examine the actions of the USSF relative to its Foundation, Executive Committee and National Council in an evidentiary proceeding.**

**D. Exhaustion of Remedies. The Panel is of the opinion that AYSO has exhausted all remedies reasonably available to it under the organic documents of the USSF. Rule 2101, recently passed in July of 1996 and effective in September of 1996, deals with disputes between or among organization Members. Even if available to the AYSO before the bringing of this Complaint, it does not provide a process to AYSO to complain that the NGB itself does not meet requirements of the ASA. The USSF has**

**argued that remedies are available to AYSO either through the legislative process of the organization or through, apparently, some inherent authority of the USSF identified in Rule 2061 relating to the National Board of Directors. No process for grievances is identified in the Rule or elsewhere relative to the claims raised by AYSO. The AYSO has identified the attempts it has made to exhaust its remedies within the USSF and the Panel does not believe that the USSF has satisfactorily identified any other remedies available to the AYSO.**

**For the above stated reasons, the USSF's Motion to Dismiss is denied. The USSF is directed to file an Answer in accordance with Section 4 of Chapter VIII of the USOC Bylaws in anticipation of a hearing on the merits of the Complaint. This Answer should be filed with the USOC Executive Director within 30 days following the date of this ruling.**

  
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**Charles U. Foster, Chair**

**Tim Richardson, Panel Member**  
**Terrence McCann, Panel Member**  
**Thomas Satrom, Panel Member**  
**Perry Toles, Panel Member**

**Dated this 7th day of October, 1996.**