



Communication of *Semenya v. Switzerland*

The European Court of Human Rights has communicated¹ to the Government of Switzerland the application **Semenya v. Switzerland** (application no. 10934/21) and requested that they submit observations after the non-contentious phase.

The application was lodged on 18 February 2021 by Mokgadi Caster Semenya, an international athlete specialising in middle-distance races (800 to 3,000 metres), who complains about regulations issued by the International Association of Athletics Federations (IAAF), requiring her to lower her natural testosterone levels through hormone treatment in order to be eligible to compete as a woman in international sporting events.

Principal facts

The applicant, Mokgadi Caster Semenya, is a South African national. She is an international athlete, specialising in middle-distance races (800 to 3,000 metres). Among other achievements, she won the women's gold medal for the 800m events at the London (2012) and Rio (2016) Olympic Games. She is also a three-time World Champion in this event (Berlin 2009, Daegu 2011, London 2017).

Having carried out a sex verification test after Ms Semenya's victory in the women's 800m race at the 2009 World Championships in Berlin, the IAAF informed her that she was henceforth required to reduce her testosterone levels below a certain threshold if she wished to continue competing in her preferred events at international athletics competitions.

Following an interim ruling issued in the *Dutee Chand* case on 24 July 2015, in which the Court of Arbitration for Sport (the "CAS") temporarily suspended the IAAF regulation then in force and held that the IAAF had not shown that athletes with hyperandrogenism enjoyed a significant advantage in terms of performance compared to other female athletes, Ms Semenya stopped taking hormonal treatment.

In April 2018 the IAAF issued new regulations entitled "Eligibility Regulations for the Female Classifications (Athletes with differences of sex development)" (DSD Regulations).

Ms Semenya refused to accept these regulations; in her view, they required her to submit to hormone treatment, with poorly understood side-effects, in order to lower her natural testosterone levels as a precondition for being allowed to take part in women's international competitions.

She contested the validity of the regulations before the CAS, which rejected her challenge in a ruling of 30 April 2019. She then submitted a civil-law appeal to the Swiss Federal Supreme Court, alleging, in particular, discrimination on the grounds of sex (and of sex characteristics against female athletes with DSD compared to female and male athletes who do not have DSD), and also violations of her human dignity and her personality rights. This appeal was dismissed on 25 August 2020.

Complaints

Ms Semenya complains that there has been a violation of her rights under Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private life), taken alone and in conjunction with Article 14 (prohibition of discrimination), and also a breach of Articles 6 (right to a fair hearing) and 13 (right to an effective remedy) of the European Convention of Human Rights.

¹ Under Rule 54 § 2 (b) of the Rules of Court: "the Chamber or the President of the Section may decide to give notice of the application or part of the application to the respondent Contracting Party and invite that Party to submit written observations thereon and, upon receipt thereof, invite the applicant to submit observations in reply."

Procedure

The application was lodged with the European Court of Human Rights on 18 February 2021.

On 17 March 2021, the Court decided to grant the case priority under Rule 41 of the Rules of Court^[2].

On 3 May 2021 the President of the Section to which the case had been allocated decided to give notice of the application to the Swiss Government (Rule 54 § 2 (b) of the [Rules of Court](#)).

On 25 May 2021 a statement of the facts, with questions to the parties, will be published in French on the Court's Hudoc site.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.