

THE RISE AND RUN OF COURT OF ARBITRATION FOR SPORT [CAS]: A SNAPSHOT

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COURT OF ARBITRATION FOR SPORT [CAS]



Location
Lausanne,
Switzerland



Came into
force on
30 June 1984



Decentralised Offices
Sydney & New York
(earlier, Denver)



Ratification of CAS statutes by
International Olympic Committee
(IOC) in its 86th Session
New Delhi, March 1983



Authorised by
The IOC and
the Olympic Charter

AD HOC DIVISIONS

- Each edition of the Olympic Summer & Winter Games (since 1996, Atlanta Games)
- Commonwealth Games (since 1998)
- UEFA Championship (since 2000)
- FIFA World Cup (since 2006)
- European Football Championships (2000, 2004 and 2008)

CONCEIVED BY

H. E. Juan Antonio Samaranch (IOC President)
H. E. Judge Kéba Mbaye (IOC Member & Judge, International Court of Justice at The Hague)



1st President
H. E. Judge Kéba Mbaye

1st Secretary General
Mr Gilbert Schwaar

FUNCTION

The Tribunal Arbitral Du Sport or the Court of Arbitration for Sport resolves legal disputes in the field of sport. This is done through the processes of arbitration and mediation.

WHO CAN APPROACH CAS

Athletes
Clubs
Sports Federations
Sports Organisers
Sponsors
Television Companies

COMMERCIAL

Execution of Contracts
Civil Liability Issues
(for eg: accidents occurring during a sports competition)

NATURE OF CASES

DISCIPLINARY

Doping
On field violence

Disclaimer: The content displayed on the poster is merely for educational and informational purposes. It is not intended as a substitute for professional advice. Should you decide to act upon any information in this poster, you do so at your own risk. All the information has been taken from the official website of the Court of Arbitration for Sport (<https://www.tas-cas.org/>).

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THE ORGANISATIONAL SETUP OF THE COURT OF ARBITRATION FOR SPORT [CAS] UNTIL 1994

ROLE OF THE INTERNATIONAL OLYMPIC COMMITTEE (IOC)



MEMBERSHIP

The IOC, the International Federations (IF), the National Olympic Committee (NOC) and the IOC President used to appoint 15 members each, i.e., a total of 60 members.



AMENDMENT POWERS

The IOC Executive Board had to make a proposal to modify the CAS Statute only after which the IOC Session* could exercise its power to modify it.



COST

All operating costs of the CAS were borne by the IOC.

*The IOC Session is the general meeting of the members of IOC. It is the supreme organ of the IOC and its decisions are final.

THE STAGES OF PROCEEDINGS UNDER THE CAS STATUTE AND REGULATIONS

1

A party had to put forward their request to resolve a dispute, accompanied by the arbitration agreement

2

The CAS "Requests Panel" would examine the matter and decide on whether the request for arbitration was admissible

3

The panel of arbitrators would hear and rule on the dispute (if necessary) and would arrive at a final decision on the admissibility of the matter

4

An attempt at conciliation was made, either: (A) on the proposal of the party; or (B) if the CAS President was of the opinion that the matter qualifies for conciliation

5

If the conciliation failed, then arbitration proceedings were initiated automatically

In 1991, CAS introduced the appeals procedure. This was done by having a sports club or federation include an 'appeal to CAS' clause in their statute or regulation. This opened up a floodgate of cases.

OTHER SIGNIFICANT PROCEDURES

Under the advisory procedure, any sports organization or individual could ask for a legal opinion on any activity related to sports. This procedure is still prevalent but not easily accessible.

COURT OF ARBITRATION FOR SPORT [CAS] RECONSTRUCTED: THE 1994 REFORMS

THE RUN-UP TO THE REFORMS



Elmar Gundel, a German equestrian competitor (horse rider), was disqualified by the Fédération Équestre Internationale (FEI) for a horse doping case. He was fined and banned for 3 months.



In 1992, Gundel challenged the decision of the FEI and filed an appeal with CAS. The award was, partly, in favour of Gundel — CAS reduced the fine and his ban from 3 months to 1 month.*



He challenged the CAS award at the Swiss Federal Tribunal (FT) citing CAS' lack of impartiality and independence, due to their close links to the International Olympic Committee (IOC).



FT held that the CAS is a true court of arbitration. But it also questioned the independence of CAS due to IOC's intervention in its operations and finances.

*CAS 92/63 G. v/ FEI

THE REFORMS

Post the Gundel case, the CAS' governing laws were changed to make it independent of the IOC.

This was done by creating:

The International Council of Arbitration for Sport (ICAS) (for its administration)

The Ordinary Arbitration Division (for cases of sole instance, as per Swiss law)

Appeals Arbitration Division (for appeals arising from the decision of sports bodies)

THE ROLE OF ICAS

Safeguards the independence of CAS and the rights of the parties.

Comprises of 20 members who are reputed jurists, well-versed with arbitration and sports law.

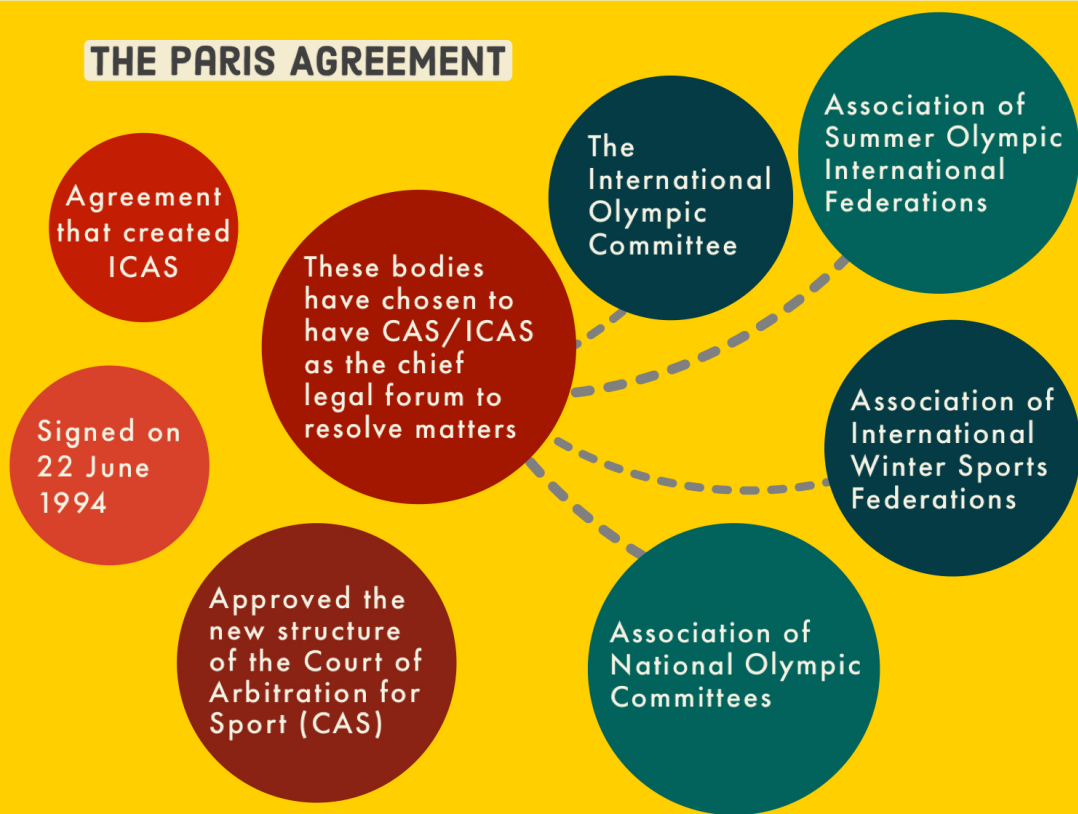
An ICAS member cannot appear before CAS as an arbitrator or as a counsel to a party.

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THE INTERNATIONAL COUNCIL OF ARBITRATION FOR SPORT (ICAS)

THE PARIS AGREEMENT



THE CODE OF SPORTS-RELATED ARBITRATION [CODE]

It came into existence in 1994

It sets out rules that:

govern ICAS and CAS (articles S1 to S26); and lay down arbitration procedures (articles R27 to R70).

FUNCTIONS OF ICAS [ARTICLE S6 OF THE CODE]

Has the power to implement and change the Code

Appoints arbitrators and mediators of CAS

Creates the legal aid fund to facilitate access to CAS

Responsible for financing and financial reporting of CAS

Appoints the CAS Membership Commission, Legal Aid Commission and Challenge Commission

Elects the President and two Vice-Presidents of ICAS; and the President and the deputies of Ordinary Arbitration Division, Anti-Doping Division, Appeals Arbitration Division of CAS

THE INTERNATIONAL COUNCIL OF ARBITRATION FOR SPORT (ICAS): EXERCISE OF FUNCTIONS

ICAS can delegate its functions to:

THE ICAS BOARD

The ICAS President &
its 2 Vice-Presidents

President of
the Ordinary Arbitration Division &
the Appeals Arbitration Division

THE PERMANENT COMMISSIONS

Court of Arbitration for Sport (CAS)
Membership Commission

Legal Aid Commission

Challenge Commission

THE PERMANENT COMMISSIONS

CAS MEMBERSHIP COMMISSION

- Includes 2 ICAS members (with one of them as chair)
- Proposes the nomination of CAS arbitrators and mediators
- May suggest the removal of arbitrators and mediators from CAS' lists

LEGAL AID COMMISSION

- Includes the ICAS President (as the chair) & 4 ICAS members
- Decides on requests for legal aid
- Functions according to the Guidelines on Legal Aid before the CAS

CHALLENGE COMMISSION

- In essence, includes 5 ICAS members (with one of them as chair)
- Determines the challenge against the independence or impartiality of the arbitrators

NON-DELEGABLE FUNCTIONS OF THE ICAS

- Adoption and amendment of Code of Sports-related Arbitration (Article S6(1))
- Election of its members and office bearers mentioned in Article S6(2)
- Approval of the ICAS budget (Article S6(6.2))
- Approval of ICAS' annual report & financial statements (Article S6(6.3))