THE COURT OF ARBITRATION FOR SPORT (CAS)

In the world of sports, conflicts are resolved before the Court of Arbitration for Sport (CAS), seated in Lausanne, Switzerland. And the rulebook everyone has to follow is its Code of Sports-related Arbitration.

The CAS was created in 1984, originally linked to the IOC (the International Olympic Committee), but its current structure dates back to 1994 and the creation of the ICAS (the International Council of Arbitration for Sport). The ICAS is an independent body that oversees the activities of the CAS, and it was set up to make sure that the CAS would not be linked to or influenced by the IOC, and that it could function as an independent, fair and impartial organization. The ICAS is composed of 20 members named by different sports federations and organizations, all with a sound legal background, and frequently former athletes.

The CAS is recognized worldwide as a specialized court of arbitration. The decisions of its arbitral tribunals are often scrutinized, and regularly enforced, by judicial courts around the world. The awards of its arbitral tribunals fall under the scope of the New York Convention of 1958 and are enforceable in all signatory countries (nowadays around 160 countries). Because the CAS is headquartered in Switzerland, Swiss courts are the ones most frequently seized when matters subject to the CAS end up before the Judiciary, and today there is a well-developed case-law about sports-related arbitration.

The CAS has a list of approximately 350 arbitrators, coming from more than 90 countries, and lately boasts a caseload of around 400 arbitrations per year. It works under a system of closed list, which means that only members of its list can act as arbitrators before the CAS. This restriction is explained by the highly specialized nature of this type of law and arbitration.

The CAS, through its arbitral tribunals, resolves conflicts that are (i) of a commercial nature, involving the execution of contracts dealing with sponsorship, television rights, players' transfers, etc., and (ii) conflicts of a disciplinary nature. Some cases are brought directly to the CAS, as a court of original jurisdiction. In other cases, the arbitral tribunals of the CAS function as an appellate body, with the power to review administrative decisions of federations or other sporting organizations.

CAS AD HOC DIVISIONS AND THE OLYMPIC GAMES

In 1996, in Atlanta, an Ad Hoc division was created by the CAS to deal expeditiously with issues related to the Olympic Games. The Ad Hoc division is competent to deal with all disputes covered by Rule 61 of the Olympic Charter, when such disputes arise within a period of ten days prior to the Opening Ceremony and until the end of the Games. Since then, the Ad Hoc division has become an instance of great importance to athletes and delegations, and its competence has been extended to doping cases.
Over the years, in addition to the Summer and Winter Olympics, the CAS regularly sets up similar *Ad Hoc* divisions for several high profile international sporting competitions, such as the FIFA Football World Cup and the Commonwealth Games, just to name a couple.

As far as the Summer Olympic Games are concerned, the *Ad Hoc* division of the CAS had 6 cases to decide in Atlanta 1996. Sidney 2000 saw a high of 15 cases. Athens 2004 had 10 cases, and Beijing 2008 and London 2012 had 11 cases each time around. The types of cases varied from different kinds of discussions about the eligibility of athletes to compete in certain events to disqualifications or even questions about decisions of referees on the field. As the Games take place over two weeks, and athletes compete every day, the proceedings have to be extremely fast, decisions must be taken in a matter of days, or even hours, otherwise it is too late and the cases become moot.

The Rio de Janeiro 2016 Games marked a turning point in the history of the CAS Olympic *Ad Hoc* divisions. For the first time the CAS set up 2 separate *Ad Hoc* divisions, one with general jurisdiction, as usual, and a new one, to deal specifically with issues of doping, known as the CAS Anti-doping Division.

The Rio 2016 CAS *Ad Hoc* Division was composed of 12 arbitrators coming from 12 different countries from all continents, 6 men and 6 women, all lawyers, judges or professors specialized in sports law and arbitration. It was an impressive group of professionals, isolated in a hotel in Rio de Janeiro during the Games, completely available and fully dedicated to the cases they had to handle. The CAS Anti-doping Division had 6 arbitrators, also with a diverse and competent background. Special arbitration rules regulating the expedited procedures of both divisions were applicable.

The Rio 2016 Olympic Games marked a record-breaking caseload of arbitrations before the CAS *Ad Hoc* Division (28 cases, in comparison to Sidney’s 15). In addition, the new Anti-doping Division handled 8 additional cases, bringing the total to 36. It is true that this impressive rise in numbers is explained almost in full by the notorious doping problem involving Russian athletes, which resulted in a wave of cases. Nevertheless, it is likely that future Games also experience a higher number of arbitrations, due to similar situations of tougher doping controls and other types of disputes. As more sports are introduced in the Olympic program, more athletes compete, new countries emerge, disputes will also tend to grow.

More information about the CAS, its history and its rules, including the full text of arbitral awards, can be found at the website (www.tas-cas.org), in English and French.

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