

Foreword to The Code of the Court of Arbitration for Sport. Commentary, Cases and Materials.

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The importance of sports in modern society has long been established. Originally a simple leisure activity, it soon evolved into one of the most successful forms of entertainment, and became a lucrative business involving considerable financial interests. The “rules of the game” have progressively been complemented by a binding and more rigid legal framework. In these circumstances, an increase in the number of sport-related disputes seems inevitable.

There would be *prima facie* no reason that these disputes could not be resolved by State courts. However, it appeared that this setting was not ideal and that it might be preferable to establish a specific mechanism for the resolution of sport-related disputes. The International Olympic Committee (IOC) took such initiative in the 90s. This led to the constitution of the Court of Arbitration for Sport (CAS) and to the adoption of various sets of rules. The CAS was a tremendous success: every sport federation affiliated to the IOC and many other organisations consented to its jurisdiction. Further, special procedures were established for the Olympic Games and other important sports events.

The task of implementing this system was not an easy one because it aims at two different goals that are difficult to reconcile: to have disputes heard and resolved by individuals acquainted with the particularities of the sport industry, and at the same time to ensure that this dispute resolution mechanism complies with the requirements of an independent and impartial justice.

It was thus inevitable that the system showed certain weaknesses at its inception: those were mostly related to the independence of the CAS and its arbitrators towards the IOC and the various sports organisations; the quality of the procedure, sometimes led by people lacking experience in arbitration, as well as the conciliation between the special rules applicable to this kind of disputes (the so-called *lex sportiva*) and mandatory provisions constituting public order. As a consequence, the Swiss Federal Tribunal, which is the competent appellate court to hear challenges against awards rendered by an institution with seat in Lausanne, rendered a number of decisions on CAS awards. Over the years and

with the various reforms, problems were rectified, practices refined, solutions adapted. The CAS is now solidly established.

The present work is a welcome comprehensive presentation of this system by the most knowledgeable experts. Indeed, no one could be more qualified to conduct this study than the person who has served as Secretary General of the Court of Arbitration for Sports for the last fifteen years. Mr Reeb joined the Court's secretariat in 1995 as counsel and became Secretary General in 2000. He knows every single precedent, is able to anticipate the problems which the arbitrators may encounter, and he has also been involved in some way in every appellate procedure. Dr Despina Mavromati works at the secretariat since 2006 as counsel, a position which, by all means, predestined her for the writing of the present commentary.

The result takes the form of an exhaustive commentary article by article, presenting the rule, its interpretation, its relationship to other provisions, the decisions and comments related thereto, together with relevant references reflecting current practice as well as latest developments in doctrine and case law. This is therefore a quasi-official presentation, made by the very persons in charge of administering the proceedings, assisting the arbitrators and who have a great influence on the developments in this field. The authors' respective positions within the CAS do not affect their objectivity and they know when to take some distance to analyse certain issues arising from the system.

The style adopted in this commentary is in line with its aims: the presentation is simple, clear, systematic and user-friendly, for lawyers and non-lawyers alike.

There is no doubt as to the fact that this work represents an important milestone, and will soon become the go-to reference resource for those practicing this "sport."

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