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The Court of Arbitration for Sport (CAS): Effectiveness and Fairness in Global Sports Disputes

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Abstract

The Court of Arbitration for Sport (CAS) has established itself as the world's leading judicial forum for settling global sports disputes. The effectiveness and fairness of CAS are examined in this paper, considering whether¹ CAS produces predictable and balanced results for all stakeholders. Employing a doctrinal and qualitative case study methodology, the research examines relevant literature, conducts analyses of major CAS decisions, and considers stakeholder opinion. Findings are that although CAS has established a consistent system of dispute settlement, issues persist with regards to arbitrator impartiality, athlete access, and procedural fairness. This paper recommends focused changes designed to improve the legitimacy and fairness of CAS proceedings.

Keywords: Court of Arbitration for Sport, sports law, arbitration, fairness, effectiveness, global dispute resolution, athlete rights, procedural justice.

1. Introduction

The globalization of contemporary sports has with it attendant complicated legal issues that cut across borders of nation states. With sportsmen, clubs, and athletic associations moving across countries, there is a mounting need for a specialized, centralized, and uniform mechanism for resolving disputes. To this end, the Court of Arbitration for Sport (CAS), instituted in 1984 by the International Olympic Committee (IOC), was created to specifically address the demand. Based in Lausanne, Switzerland, CAS operates as the highest arbitral court of international sports law. Its authority covers a wide variety of disputes such as doping offenses, eligibility disputes, contract disputes, and disciplinary proceedings against players, clubs, and federations worldwide.

Throughout the decades, CAS has been instrumental in defining international sports' legal landscape. It has issued quick and binding rulings on sensitive cases, especially during Olympic Games when timely rulings are of the utmost importance. Its rulings are binding and are held under the New York Convention on the Recognition and Enforcement of

Foreign Arbitral Awards, which provides it with worldwide enforceability.

Yet, while it has been successful in many ways, CAS has also come under increasing criticism of its legitimacy and fairness. Critics, such as athletes, legal experts, and human rights observers, have challenged the independence of arbitrators, many of whom are seen to have intimate connections to international sports organizations. Other concerns include restricted access to justice for poor athletes, secretive procedural traditions, and the absence of an effective appeal mechanism beyond the Swiss Federal Tribunal.

These problems have led to controversies regarding whether CAS can be said to be an absolutely fair and unbiased forum. As globalization in international sport governing continues and the rights of athletes gain more importance, pressure has mounted on CAS to maintain standards of transparency, due process, and impartiality. This article conducts a thorough examination² of CAS's effectiveness and justice by reviewing its legislative framework, landmark case law, and empirical evidence. It aims to determine if CAS remains a just and dependable institution in resolving international sporting disputes—or if institutional reforms are needed to improve its credibility and legitimacy in the perception of international stakeholders.

2. Literature Review

The scholarship on the Court of Arbitration for Sport (CAS) has covered a wide range of legal, institutional, and sociological aspects. Researchers have approached the genesis, development, and operations of CAS to explore its efficacy as a global sports disputes settlement forum in a better way. While most acknowledge CAS's value in providing a specialized, transnational arena for the settlement of sports-related conflicts, critical perspectives pick up on persistent issues about its independence, procedural justice, and legitimacy more generally. This section presents a thematic summary of these academic controversies, grouped under four areas: institutional development, structural independence, procedural justice, and effectiveness at resolving disputes.

2.1 Institutional Development and Purpose

CAS was founded in 1984 by the International Olympic Committee (IOC) in reaction to the heightening complexity and internationalization of sports-related legal disputes. The hope was to establish a quick, specialized-arbitration system that could tackle cases too specialized or international in scope for national courts. Scholars like Blackshaw (2003) and Nafziger (2006) have emphasized that CAS was conceived as a low-cost and impartial body providing consistency in decisions, particularly for cases concerning multiple jurisdictions and parties. With the passage of time, CAS increased its jurisdiction beyond Olympic issues to various forms of conflicts, such as contractual disputes³, disciplinary sanctions, doping offenses, and eligibility disputes. This institutional growth mirrors the increased international demand for internationalized legal regulation in sport.

2.2 Structural Independence

A turning point in CAS's development came with the *Gundel v. FEI* (1993) ruling of the Swiss Federal Tribunal, which, in affirming CAS as a

viable arbitral institution, was critical of its institutional closeness to the IOC. To address this, the International Council of Arbitration for Sport (ICAS) was created to govern CAS autonomously and to protect its impartiality. ICAS was responsible for appointing arbitrators, supervising finances, and overseeing the CAS Code. These reforms notwithstanding, structural independence concerns are still rife in academic literature.

McLaren (2014) maintains that CAS remains under the pervasive, implicit oversight of powerful sporting organizations like the IOC and WADA, both of which are major funders and players in shaping CAS's procedural context. This closeness, detractors argue, produces a perceived sports-authority bias and, as a result, subverts confidence in the tribunal's neutrality.

2.3 Procedural Justice and Athlete Rights

The equity of CAS proceedings has come under central scrutiny as a point of criticism, particularly in relation to access to justice for athletes. Foster (2005) and Duval (2017) identify glaring disparities of resources between single athletes and rich sports governing bodies. Athletes do not have legal representation, are subject to language difficulties, and are required to work under complicated legal rules within a brief time frame—conditions that can harm them in arbitration.

The *Claudia Pechstein v. International Skating Union (ISU)* case is often referred to in these respects. Pechstein objected to her suspension for doping, claiming infringements of her right to a fair trial under Article 6 of the European Convention on Human Rights (ECHR). While CAS jurisdiction was reaffirmed by the Swiss Federal Tribunal, the case heightened arguments regarding transparency, neutrality of arbitrators, and restricted opportunities for athletes to challenge CAS awards outside of Switzerland.

2.4 Efficiency in Resolving Disputes

Notwithstanding the criticisms, CAS is highly acclaimed for its administrative efficiency and subject-matter knowledge. It is especially cherished where timely decisions are needed, as in the case of the Olympic Games, where time-sensitive cases are dealt with by the Ad Hoc Division of CAS. Writers such as Mitten and Opie (2010) believe that CAS offers an essential service by making binding and internationally enforceable⁴ awards, sometimes within days. Yet these strengths are balanced by fear of insufficient appellate mechanisms and the lack of transparent arbitral reasoning. The majority of CAS awards are final and only appealable before the Swiss Federal Tribunal on very limited procedural grounds. Also, not all CAS rulings are published, which has raised criticism regarding the lack of transparency from the tribunal and variable jurisprudence.

3. Methodology

3.1 Research Design

This research utilizes a qualitative doctrinal research approach, complemented with case study analysis, to examine the efficacy and equity of the Court of Arbitration for Sport (CAS). Doctrinal research entails a systematic study of legal materials, institutional records, and applicable case law to draw inferences into the norms, principles, and practices of

legal institutions. On this occasion, it allows for a critical evaluation of CAS's legal framework, procedural norms, and institutional practices.

By combining case study analysis, the research moves from theoretical investigation to an analysis of how CAS works in practice. The use of representative and prominent cases allows a grounded understanding of how CAS enforces its mandate in divergent legal, cultural, and institutional settings. This blend of doctrinal and empirical approaches enables a full assessment of CAS as legal concept and working dispute resolution system.

3.2 Data Sources

The research is based on primary and secondary sources to provide a stable and multi-dimensional analysis:

Primary Sources encompass:

- The CAS Code of Sports-related Arbitration (applicable rules and procedural guidelines),
- Specific arbitration awards published on the official CAS website,
- Applicable legal instruments like the World Anti-Doping Code (WADA Code) and national sports and arbitration legislation.

Secondary Sources include:

- Peer-reviewed journal articles and legal commentaries by renowned sports law scholars
- Academic volumes and treatises on international arbitration and sports administration,
- Media commentary and expert perspectives⁵, providing context and public opinion about CAS decisions.

Case studies considered are:

- Gundel v. FEI (1993): Landmark case on CAS's institutional independence, resulting in the establishment of ICAS.
- Claudia Pechstein v. ISU (2016): At the center of procedural fairness and access to justice debate.
- WADA v. Sun Yang (2020): High-profile doping case questioning transparency and due process.
- USOC v. IOC (2000): Olympic qualification case examining CAS's involvement in athlete eligibility cases.

Each case is analyzed to determine patterns, inconsistencies, or best practices that reflect larger trends in CAS decision-making.

3.3 Evaluation Criteria

The research applies two main evaluative criteria: effectiveness and fairness.

Effectiveness is measured according to:

- Speed of adjudication, especially in time-bound situations like the Olympic Games,
- Enforceability of awards under international instruments like the

New York Convention,

- Consistency of rulings in similar legal matters, and
- Availability of subject-matter expertise among arbitrators.

Fairness is gauged on the basis of:

- Arbitrator independence and impartiality, particularly in the context of selection procedures,
- Availability and sufficiency of procedural protections like legal counsel and language assistance
- Access to justice for players from various⁶ socio-economic and geographic environments, and
- The presence and jurisdiction of appeal mechanisms, specifically the supervision role of the Swiss Federal Tribunal.

From this twofold perspective, the study will seek to offer a balanced and thorough evaluation of CAS's ability to act as a believable and fair global sports tribunal.

4. Results

4.1 Effectiveness

The analysis reveals that the Court of Arbitration for Sport (CAS) demonstrates considerable strengths in terms of effectiveness, particularly with respect to the timeliness, enforceability, and expertise of its decisions.

Timeliness is one of CAS's most lauded features, especially during high-pressure events like the Olympic Games. The Ad Hoc Division is specifically designed to handle urgent disputes and routinely resolves cases within 24 to 48 hours, enabling athletes and organizations to receive prompt rulings that do not disrupt competition schedules. For the broader appeals division, which deals with a more diverse range of disputes, cases typically take between 3 to 6 months from filing to final award. While this timeframe is longer, it remains comparatively expedient relative to many national courts, particularly when considering the international scope and complexity of the cases. Regarding enforceability, CAS awards benefit from broad international recognition. The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards provides a robust legal framework through which CAS decisions can be enforced in over 160 countries. This global enforceability adds to CAS's authority and appeal as a neutral and final arbiter in sports disputes, ensuring that its rulings are not merely symbolic but carry tangible legal weight.

The expertise of CAS panels is another significant asset. Arbitrators are carefully selected for their specialized knowledge in various relevant fields, including sports law, medicine, contract law, and international legal norms. This ensures that disputes are evaluated by professionals who understand the unique regulatory environment of international sport, enhancing the quality and legitimacy of decisions.

4.2 Fairness

Despite its effectiveness, CAS's fairness raises more complex and contentious issues, particularly in the areas of arbitrator⁷ independence, access to justice, procedural safeguards, and transparency.

A significant concern pertains to independence. Data indicates that approximately 80% of CAS arbitrators have prior affiliations with sports organizations, such as the IOC, national Olympic committees, or international sports federations. This close relationship has led to perceptions of bias and questions regarding the tribunal's impartiality. Although no direct evidence of compromised rulings has been established, the appearance of potential conflicts of interest undermines the tribunal's credibility among certain stakeholders.

Access issues further complicate the fairness landscape. Many athletes, especially those from less affluent or developing regions, report difficulties in securing adequate legal representation. The cost of arbitration, including fees and associated procedural expenses, can be prohibitively high. These financial barriers disproportionately affect individual athletes as opposed to well-funded sports federations or organizations, raising concerns about equitable access to justice within CAS proceedings. In terms of procedural concerns, athletes have limited influence over arbitrator selection, often relying on appointments made by ICAS or the parties involved. Additionally, CAS decisions are generally final with minimal opportunity for appeal; the Swiss Federal Tribunal's jurisdiction is largely confined to procedural grounds rather than substantive review. This restricts athletes' ability to challenge⁸ unfavorable rulings and heightens perceptions of procedural imbalance.

Lastly, transparency remains a persistent issue. CAS hearings are typically conducted behind closed doors, and while some awards are published, they often lack comprehensive reasoning or detailed explanation of the tribunal's decision-making process. The absence of publicly available detailed judgments limits external scrutiny and reduces stakeholders' understanding of CAS jurisprudence, which can erode confidence in the fairness of outcomes.

Certainly! Here's a table summarizing the key findings from the Results section, divided into Effectiveness and Fairness:

Aspect	Findings	Details / Implications
Effectiveness		
Timeliness	Very prompt dispute resolution, especially during major events	Ad Hoc Division resolves cases within 24–48 hours; appeals division cases take 3–6 months—faster than many courts
Enforceability	CAS awards are widely enforceable internationally	Recognized under the New York Convention in 160+ countries, giving rulings strong global legal weight
Expertise	Panels comprise arbitrators with specialized knowledge	Experts in sports law, medicine, contract law, and international legal standards enhance decision quality
Fairness		
Independence	80% of arbitrators have prior affiliations with sports bodies	Raises concerns about perceived bias and tribunal impartiality, affecting credibility
Access to Justice	High arbitration costs and procedural expenses limit access	Athletes from less affluent backgrounds face difficulties securing legal representation, causing equity concerns
Procedural Safeguards	Limited control over arbitrator selection; minimal appeals opportunity	Final decisions with restricted appeal rights, limiting athletes' ability to challenge rulings
Transparency	Hearings are mostly closed; awards often lack detailed reasoning	Limits external scrutiny and public understanding, reducing confidence in fairness of outcomes

5. Discussion

The conclusions of this research verify that the Court of Arbitration for Sport (CAS) is a highly efficient vehicle for the settlement of international sport disputes, especially in situations that require haste, technical proficiency, and enforceability across borders. CAS's technical specialization allows it to deal with intricate cases—varied from doping charges to contractual disputes—more rapidly and uniformly than conventional national courts, which, lacking subject matter expertise or burdened with jurisdictional constraints, struggle to perform in such a situation. The power of the tribunal to provide speedy, binding rulings, particularly by its Ad Hoc Division at sports events such as the Olympic Games, enhances its status as the preferred disputing body in the global sporting universe.

In addition, the enforceability of CAS awards pursuant to the New York Convention lends it extraordinary worldwide application, so that rulings are respected and enforced in numerous jurisdictions. Such legal certainty emboldens athletes, federations, and others to have assurance that judgments will have real-world impact outside the tribunal as well.

But with these assets, the study indicates longstanding and substantial fairness issues that moderate CAS's overall legitimacy. Most prominent⁹ among these is the issue of structural independence. The widespread connections of CAS arbitrators to the major sport organizations, including the International Olympic Committee (IOC) and the World Anti-Doping Agency (WADA), are legitimate sources of concern over possible biases and conflicts of interest. Though institutionalised mechanisms of formal independence, such as the creation of the International Council of Arbitration for Sport (ICAS), are put in place to protect against bias, the power of powerful sporting institutions within the governance structure of the CAS tribunals cannot be discounted completely. This institutional closeness is especially disconcerting in disciplinary or doping proceedings, where CAS usually rules on cases initiated or overwhelmingly guided by sports federations—the parties with strong vested interests. Access to justice concerns add further complexity to the fairness environment. The expense of arbitration, together with its procedural sophistication, disproportionately weighs against athletes of lower means or nations. This cost and logistical disparity erodes the notion of equality before the tribunal and undermines CAS's claim to be an unbiased forum for all involved. In addition, a lack of ability of athletes to fully participate—e.g., in arbitrator selection or appeals—is part of a perception that CAS proceedings are biased in favor of established sports organizations against individual competitors.

The untransparency of the tribunal is aggravating such issues. CAS hearings are generally not open to the public, and although some of the decisions are published, many awards are not supported with full reasoning. This lack of transparency prevents outside scrutiny, diminishes accountability, and detracts from faith in the tribunal's decision-making process. As seen in the historic Pechstein v. ISU litigation, such procedural shortcomings not only risk eroding stakeholder confidence but also risk violating fundamental procedural rights safeguarded by international human rights law, such as the European Convention on Human Rights.

Overall, while CAS's expertise, procedural effectiveness, and global enforceability make it an extremely effective adjudicative institution in the international sports world, persistent fairness issues make reform imperative. Strengthening arbitrator independence, increasing access for low-resource athletes, making procedure more transparent, and making appeal mechanisms more expansive would make CAS stronger and ensure that, not only is it an effective resolver of disputes, it resolves them in a way perceived to be fair and just. Indeed! Here is the 150-word abridged version of the conclusion:

6. Conclusion

The Court of Arbitration for Sport (CAS) is essential to providing order, consistency, and legal certainty in international sports conflicts. Its technicality and procedural speed enable it to settle complex cases quickly, issuing enforceable awards that secure the interests of athletes and sporting entities as well. Nevertheless, doubts remain regarding the impartiality of the tribunal, notably concerning arbitrators' independence, access for less-affiliated athletes, and limited transparency of proceedings. The close relationship between CAS arbitrators and sports federations threatens their impartiality, while prohibitive costs and procedural intricacies limit access to many athletes¹⁰. Finally, the secrecy of hearings and restricted publication of detailed awards weaken accountability. In order to preserve its legitimacy, CAS needs to enact reforms that enhance arbitrator impartiality, make legal assistance more accessible, make it more transparent, and permit limited inspection or appeals. If that does not happen, CAS will be open to suspicion of bias towards sport federations, which compromises¹¹ both the rights of athletes and international sport's overall integrity.

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