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# WHETHER THE COURT OF ARBITRATION FOR SPORT AN INDEPENDENT ARBITRAL TRIBUNAL?

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## ABSTRACT

In 1981, IOC President Juan Antonio Samaranch envisioned a dedicated arbitration court to tackle the rising tide of complex, cross-border sports disputes with speed, flexibility, and affordability. This led to the 1983 creation of the Court of Arbitration for Sport (CAS), now hailed as the "world's supreme court for sport," operating under Swiss law to resolve everything from Olympic battles and doping cases to football feuds and commercial contracts outside national courts. Over the decades, CAS has weathered challenges to its independence—like a 1994 Swiss ruling tying it too closely to the IOC—prompting key reforms: the launch of the independent International Council of Arbitration for Sport (ICAS) for oversight, arbitrator appointment changes in 2011, and 2019 updates splitting it into specialized divisions with options for public hearings. Today's 2021 CAS Code solidifies its role as a trusted, efficient arbiter for athletes, federations, and sports organizations worldwide.

## INTRODUCTION

In 1981, Juan Antonio Samaranch, President of the International Olympic Committee (IOC), proposed the establishment of a sport-specific jurisdiction within an arbitration tribunal to address all disputes related to sports. Samaranch believed a specialised body was essential for providing flexible, rapid, and cost-effective adjudication methods to address the growing complexity of transnational and cross-border disputes in both Olympic and professional sports. Two years later, the IOC ratified the Court of Arbitration for Sport (CAS), which claims to be the "world's supreme court for sport" and operates under Swiss law<sup>1</sup>.

The Court of Arbitration for Sport (CAS) was established to resolve international sports disputes outside national courts, offering a specialised forum for swift and cost-effective resolution through a flexible procedure<sup>2</sup>. Since its inception, CAS has earned recognition and trust within the international sports community and currently serves as the final appeal body for parties involved in various sports-related disputes, encompassing all Olympic sports, numerous non-Olympic sports, football disputes, doping infractions, and international commercial contracts. CAS offers athletes, governing bodies, and other sports entities an efficient, cost-effective, and definitive resolution to disputes<sup>3</sup>.

The CAS underwent multiple reforms in response to challenges to its authority and independence before reaching its current state. In 1994, the Swiss Federal Tribunal found a sufficient connection between the CAS and IOC to question the CAS's independence under Swiss law<sup>4</sup>, leading to the establishment of the International Council of Arbitration for Sports (ICAS). The ICAS served as an administrative and financial oversight entity for the CAS branch, while also creating operational distance from the IOC. In 2011, the ICAS revised the CAS Code of Sports-related Arbitration, replacing the previous system where sports organisations appointed arbitrators with a new procedure for appointing CAS arbitrators to its list<sup>5</sup>. In 2019, significant reforms to the CAS Code included the establishment of the Anti-

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<sup>1</sup> Goh, C.L. and Jack Anderson (2022) The credibility of the Court of Arbitration for Sport, Harvard Journal of Sports & Entertainment Law.

<sup>2</sup> Goh, C.L. and Jack Anderson (2022) The credibility of the Court of Arbitration for Sport, Harvard Journal of Sports & Entertainment Law.

<sup>3</sup> Court of Arbitration for Sport, 'Code of Sports-Related Arbitration (2021)' (Court of Arbitration for Sport, 1 January 2021).

<sup>4</sup> History of the CAS (2022). <https://www.tas-cas.org/en/general-information/history-of-the-cas.html>.

<sup>5</sup> Chiuariu, T. and Titu Maiorescu University (2012) 'Amendments to the Code of Sports-related Arbitration setting the procedure before the Court of Arbitration for Sport (in force as of January 1st, 2012),' Revista Romana De Arbitraj [Preprint]. <https://www.researchgate.net/publication/232321866>.

Doping Division, the Ordinary Division, and the Appeals Division, along with the option for public disciplinary hearings upon request. The current procedural rules for arbitration at the CAS are outlined in the 2021 CAS Code<sup>6</sup>.

## CRITICISM

A prominent criticism of the CAS is its perceived lack of independence and impartiality as the "world's supreme court for sport."<sup>7</sup> The majority of the CAS's funding, as well as most ICAS members and CAS arbitrators, is sourced from the IOC. The independence of the CAS from the IOC, as initially intended, raises questions regarding its compliance with the requirements of Article 6(1) of the European Convention on Human Rights<sup>8</sup>. The criticism of the CAS has continued, despite institutional reforms initiated in 1994.

In 1993, the Swiss Federal Tribunal ruled in *Gundel v. Federation Equestre Internationale and Court of Arbitration for Sport* that if the IOC participated in a proceeding before the CAS, the substantial links between the CAS and the IOC could undermine the CAS's independence<sup>9</sup>. The Swiss Federal Tribunal determined that the CAS was entirely funded by the IOC, which held significant authority over CAS administration, including the power to amend CAS statutes and appoint members and arbitrators. The CAS implemented substantive reforms to enhance its independence and impartiality, leading to the IOC and other international sports governing bodies signing the Paris Agreement, which placed the CAS under the administration of the ICAS. The Paris Agreement involved the IOC, ASOIF, AIOWF, and ANOC. The ICAS was created under Swiss law to serve as a governance intermediary between the CAS and the IOC.

In 2002, Russian cross-country skiers Larisa Lazutina and Olga Danilova contested the CAS decision favouring the IOC at the Swiss Federal Tribunal. They argued that the closed list of arbitrators restricted the parties' fundamental right to select their arbitrator, violating Article 190(2) of the Swiss Private International Law (PILA)<sup>10</sup>. The Swiss Federal Tribunal concluded

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<sup>6</sup> Chiuariu, T. and Titu Maiorescu University (2012) 'Amendments to the Code of Sports-related Arbitration setting the procedure before the Court of Arbitration for Sport (in force as of January 1st, 2012),' *Revista Romana De Arbitraj* [Preprint]. <https://www.researchgate.net/publication/232321866>.

<sup>7</sup> Goh, C.L. and Jack Anderson (2022) *The credibility of the Court of Arbitration for Sport*, *Harvard Journal of Sports & Entertainment Law*.

<sup>8</sup> European Court of Human Rights and Council of Europe (1950) *European Convention on Human Rights*, *European Convention on Human Rights*. [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>9</sup> Blackshaw, I.S. (2013) 'CAS 92/A/63 GUNDEL v FEI', in Anderson, J. (ed.) *Leading Cases in Sports Law*. The Hague, The Netherlands: T.M.C. Asser Press. (ASSER International Sports Law Series).

<sup>10</sup> Goh, C.L. and Jack Anderson (2022) *The credibility of the Court of Arbitration for Sport*, *Harvard Journal of Sports & Entertainment Law*.

that the existing administration of the CAS indicated its adequate independence from the IOC. The Swiss Federal Tribunal noted that “[t]here appears to be no viable alternative to [the CAS] for resolving international sports-related disputes quickly and inexpensively.”<sup>11</sup>

Despite the Swiss courts' finding in the Lazutina-Danilova case, scholars maintain that the CAS lacks institutional independence. ICAS members are appointed by International Federations, the IOC, and National Olympic Committees, enabling the potential refusal to reappoint a non-compliant member if they do not align with the expectations of their appointing bodies. The ICAS aims to serve as a governance buffer; however, the appointment process for its members raises concerns about its integrity. ICAS members possess significant authority to appoint arbitrators from CAS's list and to amend the CAS Statutes. The ICAS appoints CAS arbitrators from the closed list based on nominations from the IOC, IFs, and NOCs. During the election of the President and Vice Presidents of the ICAS, members are expected to consult the IOC, ASOIF, AIOWF, and ANOC, which represent the majority of international sports administration. The President of the CAS is automatically appointed from the elected President of the ICAS, which reinforces the concern that ICAS members or CAS arbitrators may view the IOC, IFs, and NOCs as their primary stakeholders, potentially leading to a desire to satisfy that constituency, whether intentionally or unintentionally<sup>12</sup>.

The independence and impartiality of CAS arbitrators have drawn critical scholarly attention, despite reforms in 2011 that altered the appointment mechanisms for the CAS arbitrators list, eliminating the prior requirement for nominations by the IOC, IFs, and NOCs. Moreover, despite the presence of over 400 arbitrators on CAS's list, only a limited number are utilised regularly. In the CAS Appeals Arbitration Division, the panel president is typically appointed by the Division's President, rather than by the parties or their appointed arbitrators, although parties retain the right to reject such appointments<sup>13</sup>. This raises concerns about the independence of the ICAS and its potential influence from the IOC, IFs, or NOCs, particularly when they are involved in cases before the CAS.

These arguments were presented to the Swiss Federal Tribunal and the European Court of Human Rights in various cases. In 2016, the CAS adjudicated the case RFC Seraing v. FIFA,

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<sup>11</sup> History of the CAS (2022). <https://www.tas-cas.org/en/general-information/history-of-the-cas.html>

<sup>12</sup> View of Turning Medals into Metal: Evaluating the Court of Arbitration of Sport as an International Tribunal (no date). <https://journals.library.ualberta.ca/asperreview/index.php/asperreview/article/view/185/185>.

<sup>13</sup> Court of Arbitration for Sport, 'Code of Sports-Related Arbitration (2021)' (Court of Arbitration for Sport, 1 January 2021).

concerning violations of third-party ownership regulations in football as established by FIFA.<sup>14</sup> The CAS issued a ruling against Seraing, a Belgian football club. In 2017, Seraing contested this CAS award at the Swiss Federal Tribunal, arguing that the CAS lacked adequate operational independence from FIFA<sup>15</sup>. The CAS disclosed that FIFA's contribution constituted less than 10% of its total annual budget, in contrast to the Olympic Movement's 65% contribution. The Swiss Federal Tribunal analysed the financial dependence of the CAS on major sports organisations in relation to the funding of ordinary courts by the state. The Swiss Federal Tribunal concluded that financial dependence does not directly affect judges' subjective impartiality. The Swiss Federal Tribunal in *Seraing* found no sufficient grounds to reconsider its decisions in *Gundel* and *Lazutina*, thereby dismissing the challenge to the CAS award. The Swiss Federal Tribunal's decision in *RFC Seraing v. FIFA* heavily referenced a 2016 ruling by the German Bundesgerichtshof in the case of *Claudia Pechstein v. Deutsche Eisschnelllauf-Gemeinschaft and International Skating Union*, which confirmed that the CAS operates as an arbitration court under the German Code of Civil Procedure<sup>16</sup>.

Claudia Pechstein, a German Olympian and national speed skater, received a doping ban in 2009. In 2009, she contested the ban set by national and international sports federations before the CAS, and in 2018, she brought her case to the German Bundesgerichtshof and the European Court of Human Rights (ECtHR), alongside Romanian football player Adrian Mutu<sup>17</sup>. The ECtHR ruled in *Mutu and Pechstein v. Switzerland* that the CAS qualifies as a tribunal under Article 6(1) of the ECHR. The ECtHR dismissed Pechstein's challenge regarding the independence and impartiality of the CAS's list of arbitrators, citing insufficient evidence for the individual allegations<sup>18</sup>. However, it acknowledged the vulnerability of athletes within the CAS dispute framework concerning the nomination process of CAS arbitrators. The ECtHR acknowledged the impact of IFs and the IOC (via the ICAS), which holds authority over the nomination of CAS arbitrators and the appointment of presiding individuals for the three Divisions in the CAS. The ECtHR noted the benefits of a specialised body outside the national

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<sup>14</sup> Regulations on the status and transfer of players (2021) Fédération Internationale de Football Association. <https://digitalhub.fifa.com/m/e7a6c0381ba30235/original/g1ohngu7qdbxyo7kc38e-pdf.pdf>.

<sup>15</sup> *RFC Seraing v. FIFA: A Game-Changer for Sports Disputes?*. <https://www.morgansl.com/en/latest/rfc-seraing-fifa-cas-res-judicata-advocate-general-cjeu-eu-law>.

<sup>16</sup> Bürk et al. (2016) *Pechstein / International Skating Union, Federal Court of Justice*. <https://isu-d8g8b4b7ece7aphs.a03.azurefd.net/isudamcontainer/CMS/press/isustatements/pechsteinisugermansupremecourtdecisionengfinal057958400%2017326333165211.pdf>.

<sup>17</sup> Rigozzi, A. (2022) *The Pechstein case*, *Football Legal*. <https://lk-k.com/wp-content/uploads/2022/07/RIGOZZI-Claudia-Pechstein-v.-Court-of-Arbitration-for-Sport-Football-Legal-17-2022-pp.-108-119.pdf>.

<sup>18</sup> *Mutu and Pechstein v Switzerland*. [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-186828%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-186828%22]}).

court system for swift and cost-effective adjudication. A joint dissenting judgement regarding Pechstein's challenge at the ECtHR noted that two judges found the IOC's influence over the CAS to be "disproportionate and unjustified."<sup>19</sup>

Sports arbitration at the CAS is mandated by the IOC for decisions related to the IOC and disputes arising from or connected to the Olympic Games, as well as issues concerning the World Anti-Doping Code involving international athletes<sup>20</sup>. All NOCs, Ifs, and numerous national sports governing bodies, particularly those involved in the Olympic Games, must include mandatory arbitration at the CAS in their governing documents, thus binding their members to an arbitration agreement by reference at the CAS.

The issue of *noles volens* arbitration was first addressed by the Swiss Federal Tribunal in the 2007 case of *Guillermo Canas v. ATP Tour*, which recognised that Canas had to choose between competing and not agreeing to arbitral jurisdiction<sup>21</sup>. In 2018, Pechstein argued at the ECtHR that the German Speed Skating Union and ISU monopolise the speed skating industry, asserting that without complying with the requirement to submit disputes to the CAS, she would be unable to earn a living and practise professionally<sup>22</sup>. The ECtHR concluded that Pechstein's case constituted "compulsory arbitration," indicating that she was not free and unequivocal in her choice to submit to the CAS's jurisdiction, in accordance with Article 6(1) of the ECHR. The ECtHR acknowledged the legitimacy of "compulsory arbitration" clauses for ensuring harmonisation and uniformity in sports decisions. However, it ruled that protections under Article 6(1) of the ECHR must be provided to the party lacking free consent to arbitration. Despite the stance of the European Court of Human Rights, significant moral debate persists regarding the "forced" and "compulsory" aspects of arbitration and the jurisdiction of the CAS to resolve disputes involving parties that did not voluntarily consent to CAS arbitration. Lloyd Freeburn characterises dispute resolution in the CAS as a "consent-based form for a non-consensual regulatory function,"<sup>23</sup> noting the ECtHR's ruling that athletes bound to CAS dispute resolution through arbitration agreements linked to sporting organisations' regulations and competition conditions were effectively coerced.

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<sup>19</sup> Goh, C.L. and Jack Anderson (2022) The credibility of the Court of Arbitration for Sport, *Harvard Journal of Sports & Entertainment Law*.

<sup>20</sup> World Anti-Doping Code. [https://www.wada-ama.org/sites/default/files/resources/files/2021\\_wada\\_code.pdf](https://www.wada-ama.org/sites/default/files/resources/files/2021_wada_code.pdf).

<sup>21</sup> *Guillermo Canas v. ATP Tour*. <https://jurisprudence.tas-cas.org/Shared%20Documents/951.pdf>.

<sup>22</sup> *Mutu and Pechstein v Switzerland*. [https://hudoc.echr.coe.int/fre#%22itemid%22:\[%22001-186828%22\]](https://hudoc.echr.coe.int/fre#%22itemid%22:[%22001-186828%22]).

<sup>23</sup> Goh, C.L. and Jack Anderson (2022) The credibility of the Court of Arbitration for Sport, *Harvard Journal of Sports & Entertainment Law*.

## REFORMS

Hope remains for CAS. The Court encounters significant challenges that hinder its evolution into the “Supreme Court of Sports.” Through careful reform, CAS can achieve its goal of serving as the ultimate court for sports disputes. CAS has undergone multiple reform periods aimed at enhancing its independence, impartiality, and legitimacy. Implementing reforms to enhance CAS’s governance and ensure fairness among arbitrators would restore confidence in sports governing bodies and athletes globally, affirming CAS as an appropriate venue for dispute resolution. For CAS’s legitimacy, it is essential that the Court obtains recognition from national courts, sports governing bodies, and athletes regarding the significance of its decisions and the effectiveness of its adjudicative process<sup>24</sup>. CAS has demonstrated significant value to international sports; without it, the global community would struggle to address increasing international sporting disputes. Implementing suitable solutions to the Court’s shortcomings would solidify its position as the premier forum for sports disputes.

CAS has markedly developed from the initial model established by the IOC in the mid-1980s. Since 1994, structural, governance, financing, and other reforms have been implemented to enhance the court’s efficacy. Regrettably, some of the issues the Court aimed to address persist to this day. CAS has consistently faced accusations of insufficient independence and impartiality. Improvements to the Court’s member appointment process, oversight of its administration, and financial commitments can enhance the perception of CAS’s independence and impartiality. The Court of Arbitration for Sport (CAS) exhibits a lack of impartiality among its arbitrators, attributed to its closed list of arbiters, the frequent use of repeat arbitrators, and insufficient diversity. Ensuring independence and impartiality is crucial to alleviating concerns about the Court’s potential bias.

Sport governing bodies continue to exert significant influence over CAS. Reforming CAS’s administrative structure may mitigate bias towards external sports organisations, according to scholars. CAS can achieve independence from international federations by altering the member appointment rules of ICAS. Experts assert that CAS selectively chooses arbitrators to favour sports governing bodies<sup>25</sup>. ICAS’s member appointment rules claim to consider athletes’

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<sup>24</sup> Alex Kingsley (2026) The Court of Arbitration for Sport: An investigation into its issues and solutions which can restore its legitimacy as “The Supreme Court of Sports”, Seton Hall University Seton Hall University eRepository @ Seton Hall eRepository @ Seton Hall Student Works Seton Hall Law. journal-article. [https://scholarship.shu.edu/student\\_scholarship](https://scholarship.shu.edu/student_scholarship).

<sup>25</sup> Weitz, J.S., S. (2022) Home field advantage: Is “The Supreme Court of Sport” independent?, Loyola of Los

interests; however, there is no assurance that athletes or their representatives will be nominated to the Council. Experts recommend revising Article S4 of the CAS Code to mandate that former athletes or their representatives account for a minimum of four out of the twenty ICAS members. The provision by CAS allowing for party-appointed arbitrators may lead to the selection of biased or partial arbitrators<sup>26</sup>. A method to ensure the independence of party-appointed arbitrators is to require their selection by mutual agreement of the litigants or through an independent neutral entity. Some scholars support eliminating party-appointed arbitrators, proposing that arbitrators be selected through a ballot system. The CAS Code should include provisions for joint appointments of arbitrators<sup>27</sup>. These recommendations may help reduce concerns regarding CAS's independence and enhance the governance of the Court.

A key aspect of sustainable sports governance is establishing a system to manage and monitor organisational performance. Entities should apply corporate governance principles to ensure the effective functioning of their elected boards and appointed management. However, the lack of accountability of CAS arbitrators to any entity, such as shareholders in a business, indicates that the court's independence could be enhanced. Some scholars argue that, alongside the administrative functions of the ICAS, a monitoring body consisting of athletes or their solicitors would offer an additional layer of oversight over CAS<sup>28</sup>. The primary mission of a monitoring group regarding CAS is to ensure compliance with the CAS Code and to maintain the Court's administration free from external influence. A monitoring group should comprise representatives from various sports, allowing members to elect a Chair for the cooperative. An oversight body above the ICAS can enhance CAS's current governance structure.

Financial autonomy is essential for CAS to achieve genuine independence from the influence of sport governing bodies. Reforms aimed at reducing CAS's financial connections seek to establish an independent arbitration tribunal that guarantees fair treatment for all parties involved. ICAS was established to guarantee the total independence of CAS from the IOC; however, the Court remains financially reliant on the International Olympic Committee and other entities. One method to reduce CAS's financial dependence is by revising its existing

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Angeles International and Comparative Law Review, p. 227. <https://digitalcommons.lmu.edu/ilr/vol45/iss3/3>.

<sup>26</sup> Improving The Performance Of Sport's Ultimate Umpire: Reforming The Governance Of The Court Of Arbitration For Sport (2011) Melbourne Journal Of International Law,

<sup>27</sup> Improving The Performance Of Sport's Ultimate Umpire: Reforming The Governance Of The Court Of Arbitration For Sport (2011) Melbourne Journal Of International Law.

<sup>28</sup> Horvath, P. (2008) Organisational Structure, Economics And Best Governance Practice In Non-Professional Sporting Leagues, Australian And New Zealand Sports Law Journal, Pp. 69–71. <https://Classic.Austlii.Edu.Au/Au/Journals/Anzsportslawjl/2008/4.Pdf>.

capitalisation schemes. CAS may obtain alternative financing through increased court fees, elevated filing charges, or payments for the Court's advisory opinions.

Establishing levies according to predetermined formulas or percentages on broadcast or sponsorship revenues is an alternative method for securing additional funding. Imposing special fees on competition gains represents an additional potential revenue source for CAS. Establishing financial independence is essential to prevent CAS's benefactors from influencing the Court's administrative or adjudicative decisions. The proposed reforms would ensure CAS receives a stable income, free from influence by any governing sports body<sup>29</sup>.

Accusations of CAS's impartiality stem from its closed list of arbitrators. An alternative to the closed directory is an open arbitrator list<sup>30</sup>. In contrast to CAS, the International Court of Arbitration (ICC) utilises an open list of arbitrators. The ICC claims that utilising an open list allows for maximum choice and flexibility in forming the Arbitral Tribunal. Experts contend that open lists are more effective than closed lists in ensuring the selection of qualified arbitrators for CAS panels<sup>31</sup>. The use of an open list of arbitrators by CAS, as opposed to a closed list, could enhance the Court's perceived impartiality by reducing its dependence on arbitrators affiliated with sport governing bodies. CAS could enhance representation by allowing athlete unions to nominate their own arbitrators to the Court's list, in addition to using an open list of arbitrators. CAS could implement rules that prevent arbitrators from hearing cases involving governing bodies and athletes if they have previously represented either party. Reforming CAS's closed list of arbitrators could enhance the impartiality of the Court's arbiters. Without a reduction in the frequency of repeat arbitrations, concerns about the impartiality of CAS arbitrators will persist<sup>32</sup>.

There are viable solutions to the varying appointments of CAS arbitrators. The CAS may

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<sup>29</sup> Alex Kingsley (2026) The Court of Arbitration for Sport: An investigation into its issues and solutions which can restore its legitimacy as "The Supreme Court of Sports", Seton Hall University Seton Hall University eRepository @ Seton Hall eRepository @ Seton Hall Student Works Seton Hall Law. journal-article. [https://scholarship.shu.edu/student\\_scholarship](https://scholarship.shu.edu/student_scholarship).

<sup>30</sup> Straubel, M., S. (2005) Enhancing the performance of the Doping Court: How the Court of Arbitration for Sport can do its job better, Loyola University Chicago Law Journal. journal-article, p. 1203. <http://lawcommons.luc.edu/lucj/vol36/iss4/4>.

<sup>31</sup> Improving The Performance Of Sport's Ultimate Umpire: Reforming The Governance Of The Court Of Arbitration For Sport (2011) Melbourne Journal Of International Law.

<sup>32</sup> Alex Kingsley (2026) The Court of Arbitration for Sport: An investigation into its issues and solutions which can restore its legitimacy as "The Supreme Court of Sports", Seton Hall University Seton Hall University eRepository @ Seton Hall eRepository @ Seton Hall Student Works Seton Hall Law. journal-article. [https://scholarship.shu.edu/student\\_scholarship](https://scholarship.shu.edu/student_scholarship).

establish a cap on the frequency with which parties can nominate a specific arbitrator, potentially restricting it to a maximum of three appointments over a three-year span<sup>33</sup>. Nominating less frequently chosen arbiters to chair appointments can enhance panel impartiality. The CAS may prompt wing arbitrators, who sometimes select panel chairs, to take into account the frequency of potential arbitrators' selections to the Court when making arbitral nominations<sup>34</sup>. The Court may provide a shortlist of candidates or outline factors for parties to consider when assessing potential arbitrators, aiming to reduce the recurrence of selected arbitrators. These proposals can proceed without compromising the quality of arbitrators, as all arbitrators on CAS's list are vetted by the Court. Limiting the appointment of repeat arbitrators to CAS panels can enhance the impartiality of the Court's arbiters.

A significant challenge in achieving impartiality within CAS's roster of arbitrators is the absence of diversity<sup>35</sup>. A more heterogeneous list of CAS arbitrators may not impact a single case; however, a persistent lack of diversity in arbitrator appointments over years and numerous cases would have significant implications. A potential solution for enhancing diversity within CAS's roster of arbiters is the adoption of a rotational system similar to that employed by the Investment Court System (ICS). ICS utilises arbitrator-judges who are appointed for predetermined terms. The standing arbitrator-judges are assigned to panels on a rotating and unpredictable basis, similar to traditional state-based courts<sup>36</sup>. Another solution is for external sports governing bodies or CAS to directly nominate a greater number of arbitrators from diverse backgrounds to the Court's arbitral list<sup>37</sup>. Sports institutions can commit, through internal policy, to restrict the nomination of repeat arbitrators and to promote diversity in their arbitral appointments to the greatest extent feasible. CAS can commit to rotating chair

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<sup>33</sup> Straubel, M., S. (2005) Enhancing the performance of the Doping Court: How the Court of Arbitration for Sport can do its job better, Loyola University Chicago Law Journal. journal-article, p. 1203. <http://lawcommons.luc.edu/luclj/vol36/iss4/4>.

<sup>34</sup> Improving The Performance Of Sport's Ultimate Umpire: Reforming The Governance Of The Court Of Arbitration For Sport (2011) Melbourne Journal Of International Law.

<sup>35</sup> Alex Kingsley (2026) The Court of Arbitration for Sport: An investigation into its issues and solutions which can restore its legitimacy as "The Supreme Court of Sports", Seton Hall University Seton Hall University eRepository @ Seton HalleRepository @ Seton Hall Student Works Seton Hall Law. journal-article. [https://scholarship.shu.edu/student\\_scholarship](https://scholarship.shu.edu/student_scholarship).

<sup>36</sup> Alex Kingsley (2026) The Court of Arbitration for Sport: An investigation into its issues and solutions which can restore its legitimacy as "The Supreme Court of Sports", Seton Hall University Seton Hall University eRepository @ Seton HalleRepository @ Seton Hall Student Works Seton Hall Law. journal-article. [https://scholarship.shu.edu/student\\_scholarship](https://scholarship.shu.edu/student_scholarship).

<sup>37</sup> Alex Kingsley (2026) The Court of Arbitration for Sport: An investigation into its issues and solutions which can restore its legitimacy as "The Supreme Court of Sports", Seton Hall University Seton Hall University eRepository @ Seton HalleRepository @ Seton Hall Student Works Seton Hall Law. journal-article. [https://scholarship.shu.edu/student\\_scholarship](https://scholarship.shu.edu/student_scholarship).

appointments to achieve a more balanced representation of female, non-white, and geographically diverse arbitrators on the Court's master list. The CAS directory of arbitrators exhibits a lack of impartiality, attributed in part to insufficient diversity. Implementing strategies to enhance the geographical, racial, and gender diversity of the Court's arbiters could mitigate bias.

It is important to note the "pipeline problem." The "pipeline problem" indicates that education systems fail to generate a sufficient number of qualified workers from specific demographic groups, particularly diverse individuals<sup>38</sup>. The percentage of senior legal roles occupied by women is significantly lower than the proportion of female entrants to the profession. Consequently, women are excluded from the "pipeline" in the legal industry, as the pool of senior lawyers, from which arbitrators are usually chosen, includes a limited number of women<sup>39</sup>. It can be argued that enhancing diversity within CAS's list of arbitrators may not fully address the Court's issues of arbiter heterogeneity, as individuals from diverse backgrounds remain under-represented in the pool of lawyers eligible to serve as potential arbitrators. Despite the systemic challenges associated with diversity, CAS, its stakeholders, and parties involved in court proceedings can take proactive measures to address the "pipeline problem" in international sports arbitration. Programs like the Higginbotham Fellows Program, organised by the American Arbitration Association (AAA), address the issue of the "pipeline problem."<sup>40</sup> The pipeline issue may account for the systematic disadvantages faced by individuals from diverse backgrounds in international sports arbitration. However, experts identify opportunities for the Court of Arbitration for Sport (CAS) to enhance diversity in its arbitrator roster concerning gender, ethnicity, and geographical origin.

## CONCLUSION

The Court of Arbitration for Sport (CAS) is a key institution for resolving international sports disputes, offering a specialised forum that functions effectively in a complex transnational legal context. CAS has significantly evolved from its establishment under the International Olympic Committee (IOC) to an arbitral tribunal managed by the International Council of Arbitration

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<sup>38</sup> Arbitrator diversity at the Court of Arbitration for Sport - Part Two. <https://morgansl.com/en/latest/arbitrator-diversity-court-arbitration-sport-part-two>.

<sup>39</sup> Weidner, J. (2023) 'A Look at the "Pipeline Problem" I Codio,' Codio, 6 March. <https://www.codio.com/blog/taking-a-closer-look-at-the-pipeline-problem>.

<sup>40</sup> Arbitrator diversity at the Court of Arbitration for Sport - Part Two. <https://morgansl.com/en/latest/arbitrator-diversity-court-arbitration-sport-part-two>.

for Sport (ICAS), designed to ensure its independence and neutrality. Despite significant reforms, especially those from the 1990s and recent procedural advancements, critical issues remain that challenge the tribunal's independence.

The financial dependence on major sports organisations, such as the IOC and Olympic Movement, along with the governance structure of ICAS, which includes members associated with these entities, raises persistent concerns regarding CAS's independence from the sports institutions that frequently appear as parties before it. The tribunal's closed list of arbitrators, many of whom have ties to sports governing bodies, raises concerns about impartiality and conflicts of interest. The compulsory aspect of CAS arbitration, typically included in athlete contracts as a participation requirement, complicates the tribunal's legitimacy by restricting the voluntariness of consent in disputes, thereby increasing demands for stronger procedural safeguards.

National courts and the European Court of Human Rights (ECtHR) have recognised CAS as an independent arbitral body within the European Convention on Human Rights framework, affirming its role as a specialised tribunal for sports law. These decisions often come with reservations regarding procedural transparency, the necessity of public hearings, and the protection of rights for parties involved in "compulsory arbitration."

To maintain its position as the "supreme court of sport," CAS must persist in and enhance reform initiatives. Central to these reforms is attaining financial independence via diversified and stable funding mechanisms that lessen dependence on sport federations; expanding and diversifying the arbitrator pool to promote greater independence and representation; improving transparency through increased publication of awards and allowing public hearings; and implementing procedural rules aimed at minimising repeated appointments of the same arbitrators to reduce potential biases. Comprehensive and calibrated reforms are essential for CAS to sustain the legitimacy and public confidence that support its authority in the international sports legal framework.

In summary, although CAS exhibits traits of an independent arbitral tribunal, achieving true autonomy and impartiality requires continuous reform in structural, financial, and procedural aspects. These efforts are crucial for maintaining the institutional integrity of CAS and ensuring fairness, equity, and trust among all stakeholders in the international sporting community.