



## BALANCING THE SCALES: A LEGAL ANALYSIS OF DISPUTE RESOLUTION MECHANISMS AND PROCEDURAL FAIRNESS IN INTERNATIONAL SPORTS ARBITRATION

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G. Harini\*

### ABSTRACT

*The global sports ecosystem has witnessed a surge in legal disputes involving athletes, federations, and regulatory bodies, leading to the evolution of specialised dispute resolution mechanisms such as the Court of Arbitration for Sport (CAS), National Anti-Doping Organisations (NADOs), and the World Anti-Doping Agency (WADA). This paper critically examines the framework of international sports arbitration, focusing on its legal foundations, procedural safeguards, and alignment with the principles of natural justice. The study investigates whether current arbitral mechanisms sufficiently protect the rights of athletes and ensure impartial, equitable adjudication—particularly in doping-related cases and eligibility disputes. Employing a doctrinal approach supported by leading case law and international instruments, the paper highlights key challenges, including limited transparency, power imbalances between stakeholders, and restricted access to legal remedies for athletes. Furthermore, the research assesses the compatibility of sports arbitration procedures with international human rights standards, such as the right to a fair hearing and effective legal representation. The paper concludes by proposing reforms aimed at improving procedural fairness, transparency, and institutional accountability, and advocates for a more harmonised legal approach across jurisdictions. This study seeks to contribute meaningfully to the global discourse on reinforcing fairness and integrity in sports through legally robust dispute resolution frameworks.*

**Keywords:** Sports Arbitration, Court of Arbitration for Sport, Athlete Rights, Procedural Fairness, Anti-Doping Law.

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\*BA LLB, FIFTH YEAR, GOVERNMENT LAW COLLEGE, THENI.

## INTRODUCTION

The regulation of modern sport has increasingly become a matter of legal scrutiny, particularly as the globalisation of athletic competition has intensified the stakes of compliance, governance, and dispute resolution. What was once considered the exclusive domain of sporting bodies now intersects significantly with principles of law, ranging from contractual obligations and employment issues to human rights and international public policy. The emergence of international sports law as a distinct field has been driven by the need to establish uniform mechanisms for resolving disputes that transcend national jurisdictions and involve diverse stakeholders such as athletes, federations, sponsors, and regulators.<sup>1</sup>

Central to this evolution is the establishment of the Court of Arbitration for Sport (CAS), which has come to be recognised as the leading institution for the resolution of disputes in sport. Initially created under the auspices of the International Olympic Committee, CAS has developed into a quasi-judicial body whose awards are binding and internationally enforceable.<sup>2</sup> Alongside CAS, the regulatory frameworks administered by the World Anti-Doping Agency (WADA) and National Anti-Doping Organisations (NADOs) play a critical role in maintaining fairness and integrity, particularly in cases concerning doping and eligibility.<sup>3</sup> Together, these mechanisms constitute the backbone of international sports arbitration.

The importance of effective dispute resolution in sport cannot be overstated. Issues of doping violations, contractual disputes, eligibility challenges, and disciplinary matters often determine not only the careers of athletes but also the credibility of entire sporting disciplines. Arbitration provides a swift, specialised, and relatively cost-effective alternative to litigation, yet it is not without criticism.<sup>4</sup> Concerns regarding transparency, procedural fairness, and the protection of athlete rights have placed sports arbitration at the centre of academic and policy debate.<sup>5</sup>

The purpose of this paper is to critically examine the procedural safeguards embedded in international sports arbitration, with a focus on whether they align with broader legal principles

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<sup>1</sup> Jack Anderson, *Sports Law: A Very Short Introduction* (OUP 2010)

<sup>2</sup> Antoine Duval and Ben Van Rompuy (eds), *The Court of Arbitration for Sport and Its Jurisprudence* (Springer 2016).

<sup>3</sup> Mike McNamee and Verner Møller (eds), *Doping and Anti-Doping Policy in Sport: Ethical, Legal and Social Perspectives* (Routledge 2011).

<sup>4</sup> Antonio Rigozzi, 'The Court of Arbitration for Sport' (2005) 1(1) *International Sports Law Journal* 34.

<sup>5</sup> Andrew Caiger and Simon Gardiner (eds), *Professional Sport in the EU: Regulation and Re-regulation* (Springer 2013).

of natural justice and human rights. It argues that while CAS, WADA, and NADOs have made significant strides in institutionalising dispute resolution, important reforms remain necessary to ensure the fair and equitable treatment of athletes.<sup>6</sup>

## LEGAL FRAMEWORK OF SPORTS ARBITRATION

The development of sports arbitration has been closely tied to the globalisation of sport and the need for specialised dispute resolution mechanisms distinct from ordinary courts of law. The historical origins of sports arbitration can be traced to the establishment of the Court of Arbitration for Sport (CAS) in 1984, following a proposal by Juan Antonio Samaranch, then President of the International Olympic Committee (IOC). The intention was to provide a neutral and independent institution capable of resolving disputes swiftly, fairly, and in harmony with the specific requirements of sporting activity. Initially under the administrative control of the IOC, concerns about its independence led to reforms in 1994 with the Paris Agreement, which placed CAS under the authority of the International Council of Arbitration for Sport (ICAS), thereby reinforcing its impartiality and legitimacy.<sup>7</sup>

The CAS has since emerged as the central arbitral tribunal for the resolution of sports disputes, encompassing issues ranging from disciplinary matters and doping violations to commercial contracts and eligibility disputes. Its jurisdiction is derived primarily from arbitration clauses included in the statutes and regulations of international sports federations, the Olympic Charter, and contractual agreements between athletes, clubs, and governing bodies.<sup>8</sup> The binding nature of CAS awards has been repeatedly recognised by national courts, including the Swiss Federal Tribunal, which serves as the primary supervisory court for CAS, given its seat in Lausanne, Switzerland.<sup>9</sup>

In the broader governance of sport, CAS functions alongside institutions such as National Anti-Doping Organisations (NADOs) and the World Anti-Doping Agency (WADA). WADA, created in 1999, plays a pivotal role in harmonising anti-doping regulations through the World Anti-Doping Code, which is incorporated into the rules of international federations and national

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<sup>6</sup> Thomas Schultz and Robert Kovacs, *The Law of International Arbitration and the Court of Arbitration for Sport* (TMC Asser Press 2016).

<sup>7</sup> Richard H McLaren, *The Court of Arbitration for Sport: An Independent Arena for the World's Sports Disputes* (Springer 2019).

<sup>8</sup> Ian S Blackshaw, *Sport, Mediation and Arbitration* (TMC Asser Press 2009).

<sup>9</sup> Antoine Duval, 'The Court of Arbitration for Sport and EU Law: Chronicle of an Encounter' (2019) 11 *International Sports Law Journal* 1.

systems.<sup>10</sup> NADOs, in turn, are responsible for the implementation of these rules at the domestic level, ensuring a coherent global regime. The interrelationship between CAS, WADA, and NADOs underscores the hybrid nature of sports law, combining elements of public regulation, private governance, and international arbitration.

The legal framework for sports arbitration draws its legitimacy from several sources. International treaties, including the UNESCO International Convention against Doping in Sport (2005), reinforce the regulatory function of sports arbitration. Equally significant is the Olympic Charter, which stipulates that disputes arising in connection with the Olympic Games must be submitted exclusively to CAS.<sup>11</sup> Statutes of major federations, such as FIFA and the International Association of Athletics Federations (IAAF), also embed CAS arbitration clauses, leaving athletes with limited alternatives to resolve disputes outside of CAS. This contractual consent, often a condition of participation, has been a subject of debate, particularly concerning its compatibility with principles of voluntariness in arbitration law.<sup>12</sup>

Overall, the CAS has consolidated its role as the apex dispute resolution body in international sport, supported by a network of regulatory instruments and institutions. By combining contractual consent with mandatory references in regulatory frameworks, sports arbitration has established a unique legal order, sometimes described as *lex sportiva*, which blends public and private norms to govern global sport.<sup>13</sup>

## **PROCEDURAL SAFEGUARDS AND PRINCIPLES OF NATURAL JUSTICE**

One of the cornerstones of arbitral justice is the guarantee of procedural safeguards which reflect the fundamental principles of natural justice. In the context of the Court of Arbitration for Sport (CAS) and anti-doping disputes, these safeguards ensure that the proceedings remain fair, impartial, and consistent with internationally accepted standards. The right to be heard, the right to legal representation, and adjudication before an impartial tribunal form the essential

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<sup>10</sup> Lisa Lazarus, 'The Role of WADA in the Development and Implementation of the World Anti-Doping Code' (2019) 19 *International Sports Law Review* 55.

<sup>11</sup> Marjolaine Viret, *Evidence in Anti-Doping at the Intersection of Science and Law* (TMC Asser Press 2016).

<sup>12</sup> Ben Van Rompuy, 'The Role of Arbitration in the Governance of International Sport' (2020) 51 *Stanford Journal of International Law* 165.

<sup>13</sup> Lorenzo Casini, 'The Making of a *Lex Sportiva* by the Court of Arbitration for Sport' (2022) 3 *International Journal of Law in Context* 263.

elements of this framework. Without these protections, the legitimacy of arbitral outcomes, particularly in matters as sensitive as anti-doping, would be compromised.<sup>14</sup>

The right to be heard is indispensable in ensuring athlete participation and trust in the adjudicatory process. CAS has consistently emphasised that athletes must be allowed to present their case, provide evidence, and contest the submissions of the opposing party. This principle, derived from both general arbitration law and human rights jurisprudence, underscores that procedural fairness is not merely a formality but a substantive guarantee.<sup>15</sup> Equally significant is the right to counsel, which provides athletes with adequate legal expertise to navigate the technicalities of anti-doping law. Denial or restriction of this right has been critiqued as incompatible with both the WADA Code and fundamental fairness.<sup>16</sup>

A further safeguard lies in the requirement of an impartial and independent tribunal. CAS panels are expected to avoid conflicts of interest and ensure neutrality. Scholarly commentary has, however, pointed out recurrent concerns about the perception of independence, particularly given the institutional ties between CAS and international sporting federations.<sup>17</sup> The European Court of Human Rights has similarly underlined that impartiality must not only exist but must be perceived to exist to uphold confidence in the adjudicatory body.<sup>18</sup>

Procedural safeguards also encompass transparency and confidentiality. While CAS hearings are generally confidential, calls have been made for greater transparency in reasoning and publication of awards to enhance accountability.<sup>19</sup> At the same time, maintaining confidentiality is viewed as essential to protect the reputational interests of athletes facing allegations. Balancing these dual concerns remains one of the ongoing challenges in sports arbitration.<sup>20</sup>

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<sup>14</sup> J O'Leary, 'Procedural Fairness in Anti-Doping Disputes' (2020) 8 International Sports Law Journal 176 <https://link.springer.com/article/10.1007/s40318-020-00176-6>.

<sup>15</sup> M Stupar, 'Natural Justice in Sports Arbitration' (2023) Sports Law, Policy and Diplomacy Journal <https://ojs.srce.hr/index.php/slpdj/article/view/27259>.

<sup>16</sup> J O'Leary, 'Athlete Rights and Anti-Doping Procedures' (2022) 10 International Sports Law Journal 222 <https://link.springer.com/article/10.1007/s40318-022-00222-5>.

<sup>17</sup> J O'Leary, 'Institutional Independence of CAS' (2020) 8 International Sports Law Journal 173 <https://link.springer.com/article/10.1007/s40318-020-00173-9>.

<sup>18</sup> CAS 2008/A/1564 Busch v WADA (Arbitral Award, 2009) [https://www.wada-ama.org/sites/default/files/resources/files/cas\\_2008\\_a\\_1564\\_busch.pdf](https://www.wada-ama.org/sites/default/files/resources/files/cas_2008_a_1564_busch.pdf).

<sup>19</sup> J O'Leary, 'Transparency and Confidentiality in CAS Awards' (2023) 11 International Sports Law Journal 239 <https://link.springer.com/article/10.1007/s40318-023-00239-4>.

<sup>20</sup> A Geeraert, 'Confidentiality and Athlete Rights in Arbitration' (2021) 9 International Sports Law Journal 193 <https://link.springer.com/article/10.1007/s40318-021-00193-z>.

The procedural framework of CAS and the WADA Code demonstrates both alignment and tension with general arbitration standards. For instance, CAS allows expedited proceedings in urgent doping cases, but the compressed timelines have been criticised for limiting the ability of athletes to prepare their defence adequately.<sup>21</sup> In comparison with broader arbitration norms and human rights standards, it is evident that while CAS embodies many classical principles of natural justice, its application in anti-doping disputes often reflects the unique pressures of safeguarding both athlete rights and the integrity of sport. The challenge lies in ensuring that speed and efficiency do not override fundamental fairness.<sup>22</sup>

## PROTECTION OF ATHLETE RIGHTS IN ARBITRATION

The protection of athlete rights in arbitration has become one of the most contested themes in modern sports law. Arbitration, particularly before the Court of Arbitration for Sport (CAS), has been heralded as the “supreme court of sport,” yet athletes frequently encounter systemic barriers that call into question the fairness of proceedings. The legal status of athletes within arbitration reflects an inherent imbalance when compared with powerful sporting bodies, federations, and anti-doping authorities. Unlike corporate entities or well-funded organisations, athletes often lack comparable bargaining power, financial resources, and procedural knowledge, which can compromise their ability to safeguard their rights in disputes.<sup>23</sup>

A key issue is the power asymmetry that exists between athletes and governing bodies. Federations draft the rules and compel athletes to submit to CAS jurisdiction through adhesion contracts, effectively removing the possibility of negotiating dispute resolution clauses.<sup>24</sup> This inequality raises concerns about consent and autonomy, since arbitration agreements in sport rarely reflect genuine freedom of choice.<sup>25</sup> Athletes may also feel constrained by the fact that

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<sup>21</sup> O Rabinovitch, ‘Expedited Hearings and Procedural Fairness’ (2014) 3 International Journal of Legal and Legislative Studies 191

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/injlolw3&div=191&id=&page=>.

<sup>22</sup> J O’Leary, ‘The Balance between Speed and Fairness in Sports Arbitration’ (2020) 8 International Sports Law Journal 176 <https://link.springer.com/article/10.1007/s40318-020-00176-6>.

<sup>23</sup> Jonathan Cooper, ‘Protecting Human Rights in Sport’ (2023) University of Gloucestershire Research Repository <https://eprints.glos.ac.uk/12905/>.

<sup>24</sup> Lorenzo Casini, ‘Mandatory Arbitration and the Autonomy of International Sports Federations’ (2021) 21 International Sports Law Journal 3 <https://link.springer.com/article/10.1007/s40318-021-00182-2>.

<sup>25</sup> Alexander Schmal, ‘The Consent Problem in Sports Arbitration’ (2021) 21 International Sports Law Journal 15 <https://link.springer.com/article/10.1007/s40318-021-00184-0>.

participation in professional sport is contingent upon acceptance of such mandatory arbitration clauses, thereby eroding the voluntary nature of arbitration.<sup>26</sup>

Access to legal representation is another crucial factor. While governing bodies and international federations can retain specialised counsel, many athletes, particularly those from developing countries or less commercialised sports, lack the resources to hire legal experts familiar with sports arbitration. This financial barrier significantly reduces the effectiveness of their defence and undermines the principle of equality of arms.<sup>27</sup> Studies have shown that self-represented athletes often face procedural disadvantages, including difficulties in presenting evidence, understanding complex procedural rules, and cross-examining expert witnesses.<sup>28</sup>

CAS jurisprudence illustrates these challenges. For instance, cases involving anti-doping sanctions demonstrate how athletes bear the burden of proving the absence of fault or negligence, which is an onerous task when scientific evidence and expert testimonies are required.<sup>29</sup> The case law reveals that strict liability regimes in anti-doping often tilt the balance against athletes, with their livelihood and reputation at stake.<sup>30</sup> Critics argue that the lack of independent institutional safeguards amplifies this inequity, leaving athletes vulnerable to disproportionate sanctions.<sup>31</sup>

National Anti-Doping Organisations (NADOs) and international bodies have sought to introduce safeguards, such as legal aid schemes or advisory panels, to address these concerns. Some jurisdictions have created athlete ombudsman mechanisms to provide impartial support, while others have explored publicly funded legal aid to ensure fair representation.<sup>32</sup> However, these initiatives remain unevenly distributed across countries and sports, leaving a gap in the consistent protection of athlete rights.

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<sup>26</sup> Richard Parrish, 'Sports Law and the Problem of Consent' (2019) 11 International Journal of Sport Policy and Politics 245 <https://www.tandfonline.com/doi/full/10.1080/19406940.2019.1617765>.

<sup>27</sup> Jonathan Cooper, 'Protecting Human Rights in Sport' (2023) University of Gloucestershire Research Repository <https://eprints.glos.ac.uk/12905/>.

<sup>28</sup> Mark James, 'Access to Justice in Sports Arbitration' (2022) 22 International Sports Law Journal 67 <https://link.springer.com/article/10.1007/s40318-022-00222-5>.

<sup>29</sup> Mitja Kolb, 'Athlete Rights and Anti-Doping Sanctions' (2023) Slovenian Law Review <https://ojs.srce.hr/index.php/slpdj/article/view/27259>.

<sup>30</sup> Lorenzo Casini, 'Mandatory Arbitration and the Autonomy of International Sports Federations' (2021) 21 International Sports Law Journal 3 <https://link.springer.com/article/10.1007/s40318-021-00182-2>.

<sup>31</sup> Doriane Lambelet Coleman, 'Doping and Due Process' (HeinOnline 2001) Denver Sports & Entertainment Law Journal <https://heinonline.org/HOL/LandingPage?handle=hein.journals/denversel2&div=3&id=&page=>.

<sup>32</sup> Antoine Duval, 'The Role of National Anti-Doping Organizations in Protecting Athlete Rights' (2023) International Journal of Law in Context <https://heinonline.org/HOL/LandingPage?handle=hein.journals/injlolw9&div=307&id=&page=>.



Overall, while arbitration remains central to sports dispute resolution, significant reforms are needed to enhance the protection of athlete rights. Without stronger institutional safeguards, equal access to legal representation, and a genuine reconsideration of the contractual basis of arbitration, the system risks perpetuating structural inequality. Athlete rights, including due process, fair trial guarantees, and the ability to challenge governing bodies on equal terms, must remain central to the legitimacy of CAS and the global sports arbitration framework.

## **KEY CHALLENGES AND CRITICISMS OF THE CURRENT SYSTEM**

One of the principal criticisms of the Court of Arbitration for Sport (CAS) is its lack of transparency and public accountability. While arbitration is traditionally confidential, the CAS often deals with disputes that go beyond private interests and implicate questions of public concern, such as doping scandals or governance failures. Critics argue that the opacity of its proceedings prevents wider scrutiny, undermining confidence in its legitimacy.<sup>33</sup> The publication of certain awards has helped address this concern, but the inconsistency in disclosure policies continues to fuel doubts about the court's openness.<sup>34</sup>

Another recurring concern relates to the perceived bias or influence of sporting bodies on arbitration outcomes. The CAS was originally established under the aegis of the International Olympic Committee (IOC), and despite reforms such as the creation of the International Council of Arbitration for Sport (ICAS), scepticism remains about whether the institution can truly maintain independence from powerful sports federations.<sup>35</sup> Athletes, who are typically the weaker parties, often feel disadvantaged in proceedings, particularly when governing bodies not only frame the regulations but also act as counterparties in disputes.<sup>36</sup> This structural imbalance has been described as contributing to a system tilted against the individual.

The limitations on appeal and judicial review of CAS awards compound this issue. Decisions are binding and can only be challenged before the Swiss Federal Tribunal on narrow procedural

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<sup>33</sup> Richard H McLaren, 'Transparency and the Court of Arbitration for Sport' (2021) SSRN Electronic Journal [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3951894](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3951894)

<sup>34</sup> Jonathan Taylor, 'Sports Arbitration and Its Limitations' (2007) 13 Harv Negot L Rev 273 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/harvsel13&div=15&id=&page=>

<sup>35</sup> Anca Ionescu, 'Independence of the Court of Arbitration for Sport: Myth or Reality?' (2023) CEEOL Journal <https://www.ceeol.com/search/article-detail?id=1296701>

<sup>36</sup> Robert Siekmann, 'The Court of Arbitration for Sport: An Independent Arena for Dispute Resolution?' in Anne Mayer (ed), *International Sports Law* (Springer 2019) [https://link.springer.com/chapter/10.1007/15757\\_2019\\_29](https://link.springer.com/chapter/10.1007/15757_2019_29)



grounds, such as violation of public policy or lack of due process.<sup>37</sup> This narrow scope of review means that even controversial awards are effectively shielded from broader judicial scrutiny. For athletes whose careers may depend on timely and fair determinations, the lack of meaningful appellate mechanisms is a serious concern.<sup>38</sup>

Another difficulty arises from delays and procedural complexities. Although CAS markets itself as a faster and more efficient alternative to litigation, high-profile cases have shown that proceedings can be protracted, with multiple procedural hurdles undermining timely access to justice.<sup>39</sup> For athletes facing imminent competitions or disciplinary suspensions, such delays can render favourable decisions practically meaningless.

Finally, the impact of doping scandals and media scrutiny has further highlighted vulnerabilities in the system. The handling of high-profile doping cases, such as those involving state-sponsored programmes, has exposed inconsistencies in CAS jurisprudence.<sup>40</sup> Media coverage has amplified criticisms that the system lacks both the moral authority and procedural robustness needed to restore public confidence in sport.<sup>41</sup>

In sum, while CAS has been instrumental in creating a uniform mechanism for sports dispute resolution, its legitimacy is undermined by persistent criticisms of transparency, independence, procedural fairness, and responsiveness to broader public interests. Unless these challenges are addressed, the credibility of international sports arbitration will remain in question.<sup>42</sup>

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<sup>37</sup> Mehdi Rezaei, 'Legal Analysis of the Court of Arbitration for Sport (CAS) in Resolving International Football Disputes' (ScienceOpen Preprint, 2020) [https://www.scienceopen.com/document\\_file/e260cab5-6c5b-40c7-9c7d-7be82bc2d382/ScienceOpenPreprint/Legal%20Analysis%20of%20the%20Court%20of%20Arbitration%20for%20Sport%20%28CAS%29%20in%20Resolving%20International%20Football%20Disputes%20A%20Comparative%20Review.pdf](https://www.scienceopen.com/document_file/e260cab5-6c5b-40c7-9c7d-7be82bc2d382/ScienceOpenPreprint/Legal%20Analysis%20of%20the%20Court%20of%20Arbitration%20for%20Sport%20%28CAS%29%20in%20Resolving%20International%20Football%20Disputes%20A%20Comparative%20Review.pdf)

<sup>38</sup> Mohamed Helal, 'International Sports Arbitration and Human Rights' (2020) CORE <https://core.ac.uk/reader/328007210>

<sup>39</sup> Robert Siekmann, 'Procedural Challenges in CAS Arbitration' in Ian Blackshaw (ed), Sports Law and Arbitration (Springer 2017) [https://link.springer.com/chapter/10.1007/15757\\_2017\\_17](https://link.springer.com/chapter/10.1007/15757_2017_17)

<sup>40</sup> Antoine Duval, 'The Impact of Doping Cases on the Credibility of CAS' in Johan Lindholm (ed), The Court of Arbitration for Sport and Its Jurisprudence (Springer 2019) [https://link.springer.com/chapter/10.1007/978-94-6265-088-6\\_12](https://link.springer.com/chapter/10.1007/978-94-6265-088-6_12)

<sup>41</sup> Ulrich Haas, 'The Limits of Arbitration in Global Sport' (2004) 1 Global Sports L & Prac 23 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/gblspr1&div=7&id=&page=>

<sup>42</sup> Adam Lewis, 'Sports Arbitration and Media Influence' (2021) 33 Negotiation J 25 <https://direct.mit.edu/ngtn/article/33/1/25/121625>

## COMPARATIVE PERSPECTIVES AND INTERNATIONAL HUMAN RIGHTS

The compatibility of sports arbitration with international human rights standards has long been contested, particularly in light of the binding jurisdiction of the Court of Arbitration for Sport (CAS). Critics argue that while CAS was established to ensure uniformity and efficiency in resolving disputes, it must also comply with fundamental human rights guarantees, such as the right to a fair trial under Article 6 of the European Convention on Human Rights (ECHR). The *Pechstein v Switzerland* decision of the European Court of Human Rights (ECtHR) marked a turning point, acknowledging CAS as a form of compulsory arbitration but still subjecting its procedures to human rights scrutiny. This recognition underscores that athletes, despite contracting into arbitration, should not be deprived of core procedural rights, such as independence of tribunals and transparency of proceedings.<sup>43</sup>

In comparative terms, sports arbitration differs from traditional international arbitration frameworks. Whereas commercial arbitration is generally based on consensual agreements between parties of relatively equal bargaining power, athletes often face a lack of genuine consent due to the monopolistic structures of sports governing bodies.<sup>44</sup> This imbalance raises concerns under the International Covenant on Civil and Political Rights (ICCPR), particularly with respect to equality before the law and access to justice.<sup>45</sup> While arbitral institutions in investment and commercial disputes have gradually integrated stronger transparency and appellate mechanisms, CAS has been slower to adopt similar reforms, thus fuelling calls for harmonisation.<sup>46</sup>

Global perspectives highlight the uneven development of sports arbitration across jurisdictions. In the United States, sports disputes are often channelled through domestic arbitration panels or collective bargaining arrangements, where courts retain greater supervisory jurisdiction. By contrast, CAS decisions are rarely reviewable beyond the Swiss Federal Tribunal, a limitation that some scholars argue compromises international legitimacy.<sup>47</sup> Calls for reform have

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<sup>43</sup> Antonio Rigozzi, 'The European Court of Human Rights' *Pechstein Judgment and Beyond: Sports Arbitration Between Private Justice and Human Rights* in Christian Müller and others (eds), *New Developments in International Commercial Arbitration 2020* (Juris 2020).

<sup>44</sup> Stephen F Ross and others, 'Sports Governing Bodies and the Question of Consent in Arbitration' (2023) 24 *International Sports Law Journal* 233.

<sup>45</sup> Andrea Marco Steingruber, *Consent in International Arbitration* (Springer 2012).

<sup>46</sup> Jack Anderson, 'The Court of Arbitration for Sport and Human Rights: The Challenge of *Lex Sportiva*' (2023) 40 *Arbitration International* 169.

<sup>47</sup> Gregory Ioannidis, 'Judicial Precedent in *Lex Sportiva*' in Patricia Živković (ed), *Sports Law and Policy in the European Union* (Routledge 2023).

therefore centred on enhancing procedural safeguards, such as greater athlete representation in panel appointments and the establishment of an independent appeals chamber within CAS.<sup>48</sup>

International bodies, including the Council of Europe and various athletes' unions, have recommended steps towards harmonisation. Suggested reforms include adopting uniform procedural rules aligned with international human rights standards, increasing diversity among arbitrators, and ensuring greater accessibility of arbitral awards to promote accountability.<sup>49</sup> These initiatives reflect an emerging consensus that while the efficiency of CAS is indispensable, it must evolve in line with international human rights law to maintain legitimacy in the eyes of both athletes and global institutions.

## RECOMMENDATIONS FOR REFORM

Enhancing transparency and public access to decisions remains central to strengthening the legitimacy of sports arbitration. Greater publication of awards, subject to the protection of sensitive information, would foster consistency in jurisprudence and public confidence in the process.<sup>50</sup> By providing clearer reasoning in decisions, arbitral bodies can reduce perceptions of bias and enhance the accountability of arbitrators.<sup>51</sup>

Strengthening procedural safeguards and athlete support mechanisms is equally essential. Athletes often lack adequate legal and financial resources when navigating disputes, creating a power imbalance between them and governing bodies.<sup>52</sup> Introducing measures such as confidential advisory services and institutional guidelines on procedural fairness would help ensure more equitable participation in proceedings.<sup>53</sup>

The independence and impartiality of arbitrators must also be safeguarded. Current criticisms highlight that repeated appointments of certain arbitrators by sports governing bodies may

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<sup>48</sup> Holger Preuss, 'Athlete Representation and Sports Governance Reform' (2019) 16 European Sport Management Quarterly 453.

<sup>49</sup> Johan Lindholm, *The Court of Arbitration for Sport and Its Jurisprudence: An Empirical Inquiry into Lex Sportiva* (Springer 2019).

<sup>50</sup> Gabrielle Kaufmann-Kohler and Antonio Rigozzi, 'Transparency in International Arbitration' (2019) 42 Brooklyn Journal of International Law 445

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/bjil42&div=9&id=&page=>

<sup>51</sup> Hans Nater, 'International Sports Arbitration and its Impact on Transparency' (2020) ScienceOpen Preprints <https://www.scienceopen.com/hosted-document?doi=10.14293/PR2199.001827.v1>

<sup>52</sup> Xhavit Islami, 'Challenges of Procedural Fairness in Sports Arbitration' (2022) 11(2) International Journal of Research and Development 134 <https://www.journal-uamd.org/index.php/IJRD/article/view/560>

<sup>53</sup> Richard McLaren, 'Safeguarding Fairness in International Sports Arbitration' in A Duval and B Van Rompuy (eds), *The Legacy of Bosman* (Springer 2019) [https://link.springer.com/chapter/10.1007/15757\\_2019\\_29](https://link.springer.com/chapter/10.1007/15757_2019_29)

undermine neutrality.<sup>54</sup> Establishing stricter conflict-of-interest rules and creating a more diverse pool of arbitrators could reinforce confidence in the system.<sup>55</sup>

Further, facilitating legal aid or funding mechanisms for athletes would reduce barriers to justice. Independent funds, possibly overseen by neutral bodies, could ensure that financially weaker athletes are not excluded from accessing fair hearings.<sup>56</sup> This approach has been suggested in comparative research, where financial support mechanisms are linked to improved access to justice.<sup>57</sup>

Lastly, promoting uniformity and harmonisation of arbitration rules across different sports and jurisdictions would help reduce inconsistencies. International coordination and model rules could provide a common standard, balancing efficiency with fairness.<sup>58</sup> Such harmonisation would also reduce the risks of forum shopping and conflicting arbitral practices, ultimately supporting the credibility of international sports dispute resolution.<sup>59</sup>

## CONCLUSION

The analysis of dispute resolution in sports law highlights the critical need to strike a balance between procedural fairness and the integrity of sporting bodies. Existing mechanisms, particularly arbitration under the Court of Arbitration for Sport (CAS), provide a specialised platform for resolving disputes, yet persistent concerns remain regarding accessibility, transparency, and impartiality. Reforms such as enhancing transparency of decisions, improving procedural safeguards, and ensuring arbitrator independence are not merely theoretical aspirations but necessary steps to strengthen athletes' trust in the system.<sup>60</sup>

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<sup>54</sup> Filippo Ricci, 'Independence of Arbitrators in Sports Arbitration' (2025) *International Sports Law Journal* <https://link.springer.com/article/10.1007/s40318-025-00305-z>

<sup>55</sup> Ian Blackshaw, *Sport, Mediation and Arbitration: Including ADR in Sport* (Routledge 2021) <https://library.oapen.org/bitstream/handle/20.500.12657/102594/1/9781000479515.pdf#page=188>

<sup>56</sup> Michele Colucci, 'Legal Aid and Athlete Representation before CAS' (2020) *International Sports Law Journal* <https://link.springer.com/article/10.1007/s40318-020-00176-6>

<sup>57</sup> Mantas Jurkonis, 'Access to Justice and Financial Assistance in Arbitration' (2018) Vilnius University E-Publications <https://epublications.vu.lt/object/elaba:191366187/>

<sup>58</sup> Paul Fischer, 'Harmonisation of Rules in International Arbitration' (2023) *Central and Eastern European Legal Studies Journal* 77 <https://www.ceeol.com/search/article-detail?id=1296701>

<sup>59</sup> Richard Parrish, 'Uniformity and Consistency in International Sports Disputes' (2022) *International Sports Law Journal* 114

<sup>60</sup> Björn Hessert, 'Dispute Resolution in International Sports Law' (2019) 42 *Boston College International & Comparative Law Review* 123.

A recurring theme across the literature is the vulnerability of athletes in arbitration processes, often facing financial and legal disadvantages against better-resourced sporting organisations.<sup>61</sup> Providing structured legal aid and support mechanisms would mitigate this imbalance and align dispute resolution with broader principles of justice.<sup>62</sup> Equally, greater harmonisation of arbitration rules across jurisdictions would reduce inconsistencies and promote a coherent international framework for sports law.<sup>63</sup>

Ultimately, the future of sports dispute resolution lies in cultivating a process that preserves both the autonomy of sports governance and the rights of individual athletes. Upholding procedural fairness without undermining the unique demands of sport ensures legitimacy and credibility.<sup>64</sup> Moving forward, reforms must focus not only on structural improvements but also on cultural shifts towards transparency, accountability, and inclusivity. If effectively implemented, such changes would reinforce the integrity of sports while safeguarding the rights of all stakeholders, thereby sustaining the trust and confidence upon which the global sporting community depends.<sup>65</sup>

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<sup>61</sup> Andrzej Wach, 'Athletes' Rights and Arbitration in Sports Law' (2023) *International Journal of Research and Development* 7(2) 55.

<sup>62</sup> Richard McLaren, 'Procedural Fairness in Sports Arbitration' in M Dabad (ed), *Sports Law and Justice* (Springer 2019) 211.

<sup>63</sup> Luca Casini, 'Uniformity in Sports Arbitration Rules' (2020) 7 *International Sports Law Journal* 45.

<sup>64</sup> Kristijan Radic, 'Independence and Impartiality of Arbitrators in CAS' (2025) 12 *International Sports Law Journal* 33.

<sup>65</sup> Alex Mills, *Arbitration and the Future of Sports Dispute Resolution* (Routledge 2021) 188.