



Le Président  
The President

**REPORT OF THE INTERNATIONAL COUNCIL OF ARBITRATION FOR SPORT  
TO THE  
INTERNATIONAL OLYMPIC COMMITTEE SESSION**

**17 JULY 2020**

**1. CAS activities**

Between 1 January and 31 December 2019, 609 procedures were registered with the CAS. They are broken down as follows:

107	ordinary procedures
493	appeal procedures
5	Anti-Doping Division (ADD) procedures
4	mediation procedures (3 failed and 1 still pending)

Between 1 January and 30 June 2020, 457 procedures were registered with the CAS. These are broken down as follows:

62	ordinary procedures
384	appeal procedures
3	ADD procedures
8	mediation procedures (1 was successful, 6 failed and 1 still pending)

The most significant CAS case heard in the last 12 months was the appeal filed by WADA in the case of the swimmer Sun Yang. The appeal was filed by WADA in relation to a decision issued by the Fédération Internationale de Natation (FINA) Doping Panel dated 3 January 2019 exonerating Sun Yang from any sanction following an out-of-competition doping control. The CAS Panel in charge of this matter has imposed an 8-year ban on the swimmer on 28 February 2020. The CAS award has been challenged before the Swiss Federal Tribunal.

In this WADA v/ Sun Yang & FINA matter, the CAS held its hearing in public on 15 November 2019 in Montreux/Switzerland. It is the second public hearing in the history of CAS but the first one since the adoption of the new Article R57 of the CAS Code following the ECHR judgment in the case of Claudia Pechstein.

It is likely that more public hearings will take place in the coming months.



In January 2020, WADA referred the claim of RUSADA against the decision of non-compliance issued by the WADA Executive Committee. The hearing in this matter will be held in the first week of November 2020.

In the week of 13 July 2020, the CAS will issue its decision in the arbitration between Manchester City and the UEFA relating to alleged violations to the UEFA Regulations on Financial Fair-Play.

## **2. Swiss Federal Tribunal and other Tribunals**

In 2019, 16 appeals against CAS awards were filed at the Swiss Federal Tribunal (SFT). 12 were dismissed and 4 are still pending. In 2020, 8 new appeals against CAS awards were filed at the SFT. They are all pending.

Among the pending cases, there is an appeal by Caster Semenya and Athletics South Africa which is currently examined by the SFT. The SFT had initially granted an urgent request to stay the enforcement of the IAAF regulations on “Differences in sex development” at the beginning of June but has eventually annulled its own ruling upon the filing of the IAAF submissions a few weeks later. Accordingly, the CAS award remains in force pending the resolution of this matter.

In September 2019, the European Court of Human Rights (ECHR) rendered a decision in a case Erwin Bakker v/ Switzerland following a request filed in February 2007. The CAS award had imposed a life-ban on the athlete further to a second doping offence (cycling). The SFT declared the appeal filed by Bakker inadmissible. The ECHR confirmed the opinion of the SFT, stating that Bakker’s appeal before the SFT was lacking many important elements and, more importantly, that the athlete could not argue that the SFT did not review the matter on the merits, considering that he had his case reviewed in fact and in law by the CAS.

In a recent resolution dated 4 June 2020, the Committee of Ministers of the Council of Europe decided to end the supervision of the execution of the judgment of the European Court of Human Rights in the Mutu & Pechstein v. Switzerland case after having ascertained that the rules authorising public hearings have been implemented by the CAS in accordance with said judgment. Thus, since 2019, the CAS procedural rules have been updated to widen the scope for hearings to be held in public, which can be held at the sole request of the athlete when the dispute is of a disciplinary nature. In that respect, under this new regime, a first hearing has been held in public on 15 November 2019 in Montreux/Switzerland in the WADA/Sun Yang & FINA case.

In Germany, one procedure concerning the case of the speed skater Claudia Pechstein is still pending before the German Constitutional Court. It is an appeal against the decision of the German Federal Tribunal issued in 2016. A final judgment is expected in 2020 or 2021.

## **3. Amended CAS Rules – Spanish becomes a new official language**

Since the beginning of July 2020, Spanish is recognized as the third official language for CAS arbitrations, along with English and French. The decision to adopt Spanish as an official language acknowledges the growing importance of the Spanish language in the sports arbitration world (approximately 10% of the CAS arbitrations are conducted in Spanish). The formal adoption of Spanish as official language of CAS is implemented in an updated version of the Code of Sports-related Arbitration (the Code), in force as of 1



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July 2020. Other amendments to the Code pertain to the use of electronic filing and video-conferencing, the use of which has increased in importance in recent times.

In the first months of 2020, the CAS Court Office has taken the opportunity to develop its digital tools to ensure a proper management of its procedures, even at a distance. The new CAS electronic roll (internal to the CAS Court Office) and the CAS database for the publication of non-confidential awards (public and accessible through the CAS website) have been developed and improved.

#### **4. ICAS Board and ICAS meetings**

In 2019, the ICAS Board met on 21 October 2019 and the ICAS on 22 October 2019 in Budapest.

In 2020, the ICAS Board met by video-conference on 12 May 2020 and another video-conference is scheduled for 20 July 2020. The ICAS meeting, which was supposed to take place in Madrid in May 2020 (to celebrate the adoption of Spanish as new official CAS language), will eventually be held by video-conference on 22 September 2020. In the meantime, the most urgent resolutions could be voted by ICAS by correspondence: in particular, the 2019 financial statements and the amendments to the CAS Code have been so approved by the ICAS Members.

Federal Judge Monique Jametti was appointed as Chair of the ICAS Membership Commission, in replacement of Federal Judge Yves Rüedi.

The ICAS also decided to better reflect the managerial role of the chief executive of CAS through the years and acknowledged the person's supervision of the activities of the CAS Court Office by changing the title of Secretary General to Director General, the function exercised by Matthieu Reeb.

#### **5. CAS Anti-Doping Division (CAS ADD)**

The permanent CAS Anti-doping Division started its activities on 1 January 2019, under the presidency of former Swiss federal judge Ivo Eusebio. 54 arbitrators experienced in anti-doping regulations have been appointed to the CAS ADD. They will not be allowed to sit in the CAS Appeal Division in any cases.

The CAS ADD operates from its new offices located at Avenue de Rhodanie 60 in Lausanne.

The CAS ADD offers the opportunity for a hearing by a single arbitrator chosen from the CAS ADD list with right to appeal to the CAS Appeal Division or a hearing by a three person panel, the President of which will be selected from a shorter list of CAS ADD arbitrators and the parties each appointing an arbitrator from the wider CAS ADD list if they agree to a first and final hearing with no right of appeal other than by WADA or the ITA under the WAD Code or to the SFT which is available in all cases.

The first International Federation to delegate its first-instance authority to the CAS ADD was the ITU in March 2019. Since then, the following 14 IFs have fully delegated their adjudication of violations and sanctions to the CAS ADD:

- International Triathlon Union (ITU)
- Fédération Internationale de Ski (FIS)
- Fédération Internationale de Luge (FIL)



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- World Archery (WA)
- Fédération Internationale des Sociétés d'Aviron (FISA)
- International Bobsleigh & Skeleton Federation (IBSF)
- International Shooting Sport Federation (ISSF)
- International Biathlon Union (IBU)
- International Judo Federation (IJF)
- International Weightlifting Federation (IWF)
- International Table Tennis Federation (ITTF)
- World Curling Federation (WCF)
- Association Internationale de Boxe (AIBA)
- International Canoe Federation (ICF)

On-going discussions are taking place with other IFs as some are in the process of reviewing their internal anti-doping processes and are considering the use of ADD services in the future. Furthermore, a total of 21 Summer IFs are committed to the ADD for OG disputes: 9 on permanent delegation basis and 12 on partial delegation basis.

The CAS ADD registered a total of 5 cases in 2019. All cases were filed by the International Olympic Committee and concerned either retests from the London Olympic Games or ADRVs from the Youth Olympic Games. All cases were referred to Sole Arbitrators. The average duration of these procedures was 2 months. In all cases, the final awards have been notified within 2-3 weeks from the determination by the Sole Arbitrator that no hearing was necessary. In 2020, the CAS ADD registered 3 cases so far.

### **6. CAS Premises**

The ICAS is making progress with the renovation of the south wing of the Palais de Beaulieu in Lausanne, which will be the future CAS headquarters. Necessary renovations to the building have commenced and are expected to be completed in the last quarter of 2021. The pandemic has unfortunately affected the initial planning. Due to the mandatory sanitary measures, the construction work was delayed by about 6 weeks and it is likely that the future seat of CAS will not be available before November 2021.

A ceremony for the “foundation stone” took place on 3 October 2019 in the presence of the Mayor of Lausanne and of the Sports Minister of the Canton of Vaud. In the meantime, the CAS maintains part of its staff in its current premises (Château de Béthusy) and rents one floor of a building at Avenue de Rhodanie 60 in Lausanne, not far from the Maison du Sport International (MSI), to host the CAS ADD.



## **7. Representation activities (CAS Court Office)**

8-9 April 2019: Sports Forum of the European Union in Bucharest/Romania; Panel on sports arbitration (M. Reeb); the new involvement of CAS in that EU Forum was appreciated by the EU authorities, which shows a positive evolution compared to the silence of the past years.

13 April 2019: IOC Athletes' Forum in Lausanne (B. Nowicki and M. Reeb)

18 April 2019: Partnership for clean competition Conference (PCC) in London/UK (B. Nowicki)

6 May 2019: LawAccord Conference in Gold Coast/Australia (M. Lenard and M. Reeb)

15 May 2019: internal seminar in Phoenix/USA for CAS arbitrators based in North America (but open to all CAS members); presentations by M. Lenard, B. Nowicki, M. Reeb and arbitrators Jeff Benz and Juan Pablo Arriagada

17 May 2019: public CAS session co-organized by the US Sports Lawyers Association (SLA) and CAS, part of the official programme of the SLA Annual Conference in Phoenix/USA (B. Nowicki and M. Reeb)

5-6 September 2019: Edinburgh Sports Conference, dedicated to "The future of football transfers and players", Edinburgh/UK (A. Bonnet, delegate)

27-28 September 2019: International Football Law Conference, organized by FIFA and the Spanish Football Federation (RFEF), Madrid/Spain (M. Reeb, speaker; J.-P. Dubey and A. de Quesada, delegates)

17-18 October 2019: ANOC General Assembly (J. Coates, M. Lenard and M. Reeb)

29 October 2019: IFs Forum in Lausanne (B. Nowicki)

4-7 November 2019: World Anti-doping Conference in Katowice/Poland (M. Reeb and B. Nowicki)

28 November 2019: Conference on Sports Arbitration organized by the Chartered Institute of Arbitrators, Kenya Branch, in Nairobi/Kenya (M. Reeb)

7 February 2020: Conference on CAS Arbitration organized by the Irish Bar Association, in Dublin/Ireland (M. Reeb)

10-11 February 2020: Workshop on CAS Arbitration for pro bono lawyers Tokyo 2020 organized by the Japan Bar Association, in Tokyo/Japan (M. Lenard, B. Nowicki)

19 February 2020: Legal Conference on sports law organized by FIFPro in Amsterdam/Netherlands (A. De Quesada).

## **8. CAS Seminars in 2019/2020**

24-25 October 2019: internal Seminar for CAS members; location: Budapest/Hungary.

30 January 2020: public CAS session co-organized by the Sport Dispute Resolution Centre Canada (SDRCC) and CAS, in Montreal/Canada

## **9. Future CAS ad hoc Divisions**

Asian Beach Games in Sanya /China (28 November – 5 December 2020) (if held).

UEFA EURO 2020 in various European countries (11 June – 11 July 2021).



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Olympic Games in Tokyo/Japan (23 July – 8 August 2021). CAS ad hoc Division and CAS Anti-doping Division.

Olympic Winter Games in Beijing/China (4 – 20 February 2022). CAS ad hoc Division and CAS Anti-doping Division.

Commonwealth Games in Birmingham/UK (27 July – 7 August 2022)

Asian Games in Hangzhou/China (10 – 25 September 2022)

FIFA World Cup in Qatar (21 November – 18 December 2022):

10 July 2020

**John Coates AC**  
President