

Arab Lex Sportiva

First Legal Arab Sport Forum

***How to deal with the FIFA Judicial Bodies
and the subsequent CAS appeal***

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CAS Statutes

S12 The CAS sets in operation Panels which have the task of providing for the resolution by arbitration and/or mediation of disputes arising within the field of sport in conformity with the Procedural Rules (Articles R27 et seq.).

FIFA Statutes

2. FIFA objectives are -among others-:

- *to improve the game of football constantly and promote it globally*
- *to draw up regulations and provisions and ensure their enforcements*
- *to control every type of Association Football by taking appropriate steps to prevent infringements of the Statutes, regulations or decisions of FIFA or of the Laws of the game*

Disciplinary Committee: sanctions any breach of FIFA regulation which does not come under the jurisdiction of another body.

Ethics Committee: sanctions any immoral or unethical method or practice concerning football.

Appeal Committee: deals with appeals against decisions from the Disciplinary and the Ethics Committee that are not declared final by the relevant FIFA regulations and also the decisions passed by the Players' Status Committee.

Jurisdiction of CAS

CAS is entitled to deal with a certain case, if **-and only if:**

- i. either** the parties have agreed on CAS acting as an Arbitration Tribunal to deal with a certain dispute
- ii. or** the statutes or regulations of the body issuing the decision the appeal is made at, expressly recognize the CAS as such.

If neither of that is true and provided that a party disputes its jurisdiction, CAS will rule the said appeal as inadmissible.

FIFA Statutes, Article 63

1. Appeals against **final decisions** passed by FIFA's legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question.
2. Recourse may only be made to CAS after all other internal channels have been exhausted.
3. CAS, however, does not deal with appeals arising from:
 - (a) violations of the Laws of the Game;
 - (b) suspensions of up to four matches or up to three months (with the exception of doping decisions);
 - (c) decisions against which an appeal to an independent and duly constituted arbitration tribunal recognised under the rules of an Association or Confederation may be made.

What does "final decision" mean?

Final: implies the exhaustion of all legal remedies.

Decision?

It must "contain a ruling" (CAS 2005/A/899 par. 11)

It must "intend to affect the legal situation of the addressee of the decision or other parties".

The form, however, of that act is irrelevant.

Exceptions

CAS does not have jurisdiction to deal with certain cases, specifically stated on the Statutes of FIFA.

But is that also the case with other entities recognised by FIFA?

*e.g. UEFA' Statutes (art. 63) use the term "Sporting nature"
What does it mean?*

Conclusion

- Arbitration is, undoubtedly, the preferable method for resolving sport related disputes.*
- CAS is a specialized arbitral tribunal on resolving those disputes. It is fast and efficient. Its awards are respected, even when –and this very important– they don't have the expected content.*
- CAS, however, has to deal with an insuperable obstacle. The fact that it is competent to deal with a certain dispute, only, and as far as it is allowed to it by the will of the parties. This, results, contrary to the goal of FIFA, to a lack of uniformity in resolving sport, and in particular, football – related disputes.*

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Thank You for your attention

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