

# Amended CAS Code of Sports-related Arbitration enters into force

by *Practical Law Arbitration*, with *Schellenberg Wittmer Ltd*

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## Speedread

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The International Council of Arbitration for Sport (ICAS) recently amended its Statutes and Procedural Rules (jointly, CAS Code), which apply to proceedings before the Court of Arbitration for Sport (CAS). The new CAS Code entered into force on 1 November 2022.

The amendments to the ICAS Statutes include an increased number of ICAS members, as well as a doubling in the number of arbitrators on the CAS general list.

The most notable amendments to the CAS Procedural Rules include new provisions in relation to the Appeal Arbitration Procedure, according to which a panel must ask the parties whether they request a case management conference and the President of the Appeals Arbitration Division must consider diversity criteria when selecting an arbitrator.

Overall, except for the increased number of ICAS members and arbitrators on the CAS general list, the amendments are not substantial. They are nevertheless welcome, as they bring more clarity and codify an already-existing practice at the CAS.

The International Council of Arbitration for Sport (ICAS) recently amended its Statutes and Procedural Rules (jointly, CAS Code) applicable before the Court of Arbitration for Sport (CAS). The new CAS Code entered into force on 1 November 2022.

The main amendments regarding the ICAS Statutes include:

- **Change in the number of ICAS members.** The number of ICAS members has increased from 20 to 22 members (*article S4, CAS Code*). According to ICAS, the change is due to the significant increase in the number of arbitrations conducted by the CAS, in order to guarantee a better representation of football stakeholders (see *ICAS Press Release: Amendments to the code of sports-related arbitration with effect from 1 November 2022*).
- **Creation of a football legal aid fund.** A new legal fund dedicated to football disputes has been created, in addition to the general legal aid fund already existing (*article S6(9), CAS Code*).

- **Increase in the minimum number of arbitrators.** The minimum number of arbitrators on the CAS general list has doubled, from 150 to 300 (*article S13, CAS Code*).

The most notable amendments to the CAS Procedural Rules are:

- **Replacement of sole arbitrator by three-member panel.** A new provision specifies that the replacement of an arbitrator may also include the replacement of a sole arbitrator by a three-member panel during the procedure (*article R31, CAS Code*).
- **Possibility to agree on number of arbitrators at outset of an Ordinary Arbitration Procedure.** Parties can now agree to the appointment of a sole arbitrator at the outset of the procedure, while the prior version merely referred to the arbitration agreement as the starting point to determine whether the parties agreed on the number of arbitrators (*article R40.1, CAS Code*).
- **Automatic withdrawal of appeal if appellant fails to appoint arbitrator.** If the President of the Appeals Arbitration Division decides to submit the appeal to a three-member panel and the appellant does not appoint an arbitrator within the imposed time limit, the appeal shall be deemed withdrawn (*article R50, CAS Code*).
- **Diversity criteria applicable when President of the Appeals Arbitration Division selects arbitrator.** A new article now refers not only to expertise and availability, but also to diversity, equality and turnover of arbitrators as criteria to be applied by the President of the Appeals Arbitration Division when appointing a sole arbitrator or the President of the Panel (*article R54, CAS Code*).
- **Possibility to appoint arbitrators from different list.** Where a special list exists in relation to a particular sport or event, the sole arbitrator or the President must be appointed from that list, unless the parties agree otherwise or the panel so decides based on exceptional circumstances (*article R54, CAS Code*).
- **Possibility to hold case management conference in Appeal Arbitration Procedure.** A new article states that, after the filing of the answer, the panel will ask the parties whether they request a case management conference to discuss procedural issues, the preparation of the hearing (if any) and issues related to the taking of evidence. The new provision further provides that the panel shall issue a procedural order setting forth the major elements of the arbitration procedure. This is to be issued after the case management conference (if any) and prior to any hearing or the termination of the evidentiary proceedings (*article R56, CAS Code*).
- **Maximum four-month time limit to communicate operative part of award in an Appeal Arbitration Procedure.** The possible extension of the deadline to render the operative part of an award in an Appeal Arbitration Procedure is limited to a maximum of four months after the closing of the evidentiary proceedings. Under the previous version of the CAS Code, the President of the Appeals Arbitration Division was not bound by any limit when granting an extension. In addition, in cases of non-compliance, the arbitrators' fees may be reduced by the ICAS (*article R59, CAS Code*).
- **More transparency regarding costs.** The final account of the arbitration costs, to be included in the award or communicated separately to the parties, shall contain a detailed breakdown of each arbitrator's costs and fees, and of the administrative costs, and will be notified to the parties within a reasonable period of time (*article R64.4, CAS Code*).

Overall, except for the increased numbers of ICAS members and arbitrators on the CAS general list, respectively, the amendments are not substantial. They are nevertheless to be welcomed in that they bring more clarity and codify an already existing practice at the CAS.

The amendment regarding article R54 of the CAS Code is a particularly opportune change, in light of the pressing need to have more diverse arbitrators sitting at the CAS and not simply those listed in the CAS list of arbitrators. However, it is unclear why that provision was not also included for the Ordinary Arbitration Procedure (*article R40.2, CAS Code*). Nevertheless, the President of the Ordinary Division may well be mindful of the new provision, when selecting a sole arbitrator or a President in an Ordinary Arbitration Procedure.

The same holds true for the possibility to have a case management conference in an Ordinary Arbitration Procedure, and not only in an Appeal Arbitration Procedure, as no such amendment was introduced. That said, in practice, the parties can request that a case management conference be held. The difference with the Appeal Arbitration Procedure seems to be that in the Ordinary Arbitration Procedure the sole arbitrator or panel has no duty to ask the parties whether they wish to have one.

Source: [CAS: Code of Sports-related Arbitration Amendments 2022](#).

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