# Table of Contents

About the Authors vii  
List of Annexes xxix  
Introduction – Word of the ICAS/CAS President xxxiii  
Foreword xxxv  
Preface and Acknowledgements xxxvii  
List of Abbreviations xxxix  

## Chapter 1  
Introduction: The International Council of Arbitration for Sport (ICAS) and the Court of Arbitration for Sport (CAS): 30 Years of History  

§1.01 Creation 1  
§1.02 Organization of the CAS from Its Creation until 1994 2  
§1.03 The 1994 Reform 3  
§1.04 The Paris Agreement 4  
§1.05 The Code of Sports-Related Arbitration of 22 November 1994 4  
§1.06 The International Council of Arbitration for Sport (ICAS) 5  
§1.07 The Court of Arbitration for Sport (CAS) 5  
§1.08 Decentralized Offices, Alternative Hearing Centres and Ad Hoc Divisions 6  
§1.09 The Future of the Institution 7  

## Chapter 2  
Statutes of the Bodies Working for the Settlement of Sports-Related Disputes 9  

[A] Joint Dispositions 9  
[B] The International Council of Arbitration for Sport (ICAS) 10  
[1] Composition 10
Table of Contents

[2] Attributions 10
[C] The Court of Arbitration for Sport (CAS) 13
[3] Organisation of the CAS 14
[D] Miscellaneous Provisions 15

PROCEDURAL RULES
A General Provisions 17

R27 Application of the Rules 19
I Article R27: Introduction 21
[A] General Scope of Article R27 and Delimitation from Other Articles of the Code 21
[B] Chapter 12 of the Swiss PILA and Relation with the Swiss CCP 23
II CAS Jurisdiction: Arbitration Clause in Favour of the CAS 24
[A] General Issues 24
[B] Autonomy of the Arbitration Clause 25
[C] Jurisdiction of the Panel to Rule on Its Own Jurisdiction (Kompetenz-Kompetenz) 27
[D] Form, Material Conditions and Interpretation Criteria for the Validity of the Arbitration Agreement 28
[1] Form of the Arbitration Clause 28
[3] Interpretation Criteria for the Arbitration Agreement 31
[E] Express-, Tacit Arbitration Agreement, and Arbitration Agreement by Reference 33
[1] Tacit Arbitration Agreement and Appeal to CAS as an Offer to Arbitrate 33
[2] The Validity of the Arbitration Clause by Reference 35
[3] Arbitration Clause Contained in the Entry Form Prior to a Competition 37
[4] Direct and Indirect Arbitration Clause in Football Cases 38
[5] Disputes Related to an Anti-Doping Rule Violation and Validity of the Arbitration Clause 41

III Nature of the Dispute and Arbitration Procedure: Ordinary and Appeal Procedures 45

IV Questions Related to Jurisdiction, to Arbitrability and to Legal Standing 46
[A] Introduction 46

[1] Qualification of a ‘Sports-Related’ Dispute under Article R27 49


[3] Arbitrability under Article 177 PILA 51


[5] Arbitrability of the Dispute if a Foreign Law Prohibits Recourse to Arbitration 54


V Annexes 58

[A] Example of an Arbitration Clause by Reference 58

[B] Example of an Express Arbitration Clause 58

[C] Standard Clauses in Favour of the CAS 59

[D] IBA Guidelines for Drafting International Arbitration Clauses of 2010 – Checklist 60

[E] Football: Process in Case of Disputes of International Dimension according to the RSTP (2012) 60


[H] Jurisdiction, Arbitrability, Admissibility and Standing 62

R28 Seat

I Article R28: Introduction 63

[A] Definition of the Seat of the Arbitral Tribunal and Article R28 CAS Code 64

[B] Seat of the Arbitral Tribunal in Other Arbitration Rules 65

[C] Article R28 CAS Code and Article 176 of the Swiss PILA 66

II Implications Arising from the Seat of the CAS in Lausanne 68

[A] Distinction between the Seat of the Arbitral Tribunal and the Place of the Hearing 68

[B] Impact of the Seat of the CAS on the Conduct of the Hearing and Other Procedural Issues 69

[1] Seat of the CAS and Appeal to the SFT 69

[2] Seat of the Arbitral Tribunal and Control of the Arbitrability of the Dispute 70


Table of Contents

[6] Seat of the CAS and Provisional Measures 73

III Advantages from the Establishment of the Seat of the CAS in Lausanne 74

R29 Language 75
I Article R29: Introduction 76
[A] Content of Article R29 CAS Code 76
[B] Language of the Procedure in Other Arbitration Rules 79
II Determination of the Language of the Procedure before the Constitution of the Panel 80
[A] Determination of the Language of the Procedure by Means of an Order 80
[B] Criteria for the Determination of the Language of the Procedure 80
[1] Choice of English or French in the Absence of an Agreement between the Parties 80
[2] Language of the Contract / the Decision Appealed against and Language of the Procedure 81
[3] Citizenship, Mother Tongue of the Parties and Language of the Parties’ Counsel 83
[C] Acceptance of More Than One Language by the CAS Panel 83
[D] Translation of Documents 83
[E] Impact of the Language on the Conduct of the Hearing 84
[1] Inadmissibility of Documents Submitted in a Foreign Language and Excessive Formalism 84
[2] Translation of the Parties’ Names and Inadmissibility of the Appeal 85

III Final Remarks 86

IV Annexes 87
[A] Example of an Order on Language Rendered by CAS 87
[B] Figure 1: Language of the Proceedings before CAS 89

R30 Representation and Assistance 91
I Article R30: Introduction 92
II Content of Article R30 CAS Code and Comparison to Other Arbitration Rules 92
[A] Article R30 and Amendments of the CAS Code 92
[B] Parties’ Representation in Other Arbitration Rules 94
III Production of the Power of Attorney 95
IV Issues Relating to Parties’ Representation Drawn from the CAS Case Law 96
Table of Contents

[A] Choice of a Party Not to Engage a Legal Representative and Inadequate Legal Advice 96
[B] Time Limit to Appeal to the CAS in Case of Representation 96
[C] Legal Representation and Standing to Lodge an Appeal before CAS 97

V Costs of Legal Representation and the Creation of a Legal Aid Fund 97

VI Annexes 99
[A] Legal Aid Application Form 99
[B] Legal Aid Guidelines (2013) 102
[C] Statistics on Legal Aid 105

R31 Notifications and Communications 107

I Article R31: Introduction 109
[A] Content of Article R31 and Definition of ‘Notifications’ and ‘Communications’ 109
[B] History of Article R31 through the Amendments of the CAS Code 110
[C] Notifications and Communications from the CAS or the Panel to the Parties 111
[2] Address Used by the CAS Court Office for the Notifications and Communications to the Parties 112
[3] Proper Notification of a Written Communication to the Parties and Appeal to the CAS 113
[D] Communications Addressed from the Parties to the CAS / Panel: Electronic Filing 115
[1] Number of Copies of the Parties’ Submissions 116
[2] Sending of the Exhibits to the Parties’ Submissions via Electronic Mail 116

R32 Time Limits 119

I Article R32: Introduction 120

II Time Limits under Article R32 CAS Code and CAS Case Law 122
[A] Time Limits ‘Fixed under This Code’ 122
[B] Calculation of the Time Limits under Article R32 and Relation to Article R49 CAS Code 123
[C] Failure to Comply with the Time Limits and Possibility to Request an Extension 126
[D] Suspension of Pending Arbitration Procedures 129

III Annexes 131
[A] Indicative Calculator of Time Limits Based on Article R32 CAS Code 131
Table of Contents

[B] Indicative Time Limit to File the Statement of Appeal Pursuant to Article R49 CAS Code 131
[C] Sample Letter Sent by the CAS to Extend the Time Limit for Filing the Answer to the Appeal 132

R33
Independence and Qualifications of Arbitrators 133
I Article R33: Introduction 134
[A] Meaning of Independence under Article R33 CAS Code 134
[B] Distinction between Independence and Impartiality 136
[C] The Independence of Arbitrators in Other Rules and in Article R33 CAS Code 137
[D] Is Same Degree of Independence Required for ‘Party-Appointed’ Arbitrators and for the Chairman of the Panel? 138

II Independence of Arbitrators as Viewed by the CAS and the SFT 139
[A] Independence according to the Perception of a Reasonable Observer 139
[B] Relationship of Subordination or Significant Economic Affiliation 139
[C] Strong Positive or Negative Emotional Bonds between the Arbitrator and One Party or Its Counsel 141
[D] Recurrent Appointments of Arbitrators by the Same Party 142
[E] Nationality of Arbitrators 143
[F] The Application of the IBA Guidelines and the Specificities of Sports Arbitration 144
[G] The ‘Prohibition of the Double-Hat’ under the Amended Article S18 CAS Code 145

III The Obligation of Disclosure under Article R33 CAS Code 146
[A] Purpose of the Duty to Disclose and Facts That Have to Be Disclosed 146
[B] Consequences of the Breach of the Arbitrator’s Duty of Disclosure 147

IV Conditions for Being Appointed in a CAS Procedure 148
[B] Good Command of the Language of the Arbitration 149
[C] Availability to Expeditiously Complete the Arbitration 150

V Annexes 151
[A] Declaration of Independence 151
[B] Ad Hoc Clerk’s Declaration of Independence 152
[C] Guidelines for CAS Arbitrators Sent to CAS Arbitrators Together with the Letter of Appointment 153
[D] Application Form for CAS Membership 155
R34
Challenge
I Article R34: Introduction 158
II Procedural Issues Related to the Challenge of an Arbitrator in CAS
Arbitration 160
[A] Time Limit to File the Petition for Challenge 160
[B] Powers of the ICAS Board to Discuss Challenges 162
[C] Formal Conditions for the Challenge and Procedure before CAS 163
III Publication of the Reasoned Decisions on Challenge 163
IV Review of the Decision on Challenge by the SFT 164
[A] The Finality of the Decision on Challenge of an Arbitrator 164
[B] Power of the SFT to Order the Removal of an Arbitrator 164
[C] Factual Basis for the Judgment of the SFT 165
V Annexes 166
[A] Example of a Decision Rendered by the ICAS on the Petition for Challenge 166
[B] Decision Rendered by the ICAS on a Petition for Challenge 169

R35
Removal 181
I Article R35: Introduction 181
II Conditions Prone to Lead to the Removal of Arbitrators 183
III The Removal Procedure: Exclusive Competence of the ICAS / The ICAS Board 184

R36
Replacement 185
I Article R36: Introduction 186
II Cases in Which an Arbitrator Is Replaced by Another Arbitrator 186
[A] Death, Challenge, Removal 186
[B] Resignation 187
[1] The Relationship between the Arbitrator and the Parties 187
[3] Replacement of an Arbitrator after His Valid Resignation 189
III Procedural Aspects Related to the Replacement of an Arbitrator 190
[A] Application of the Provisions Applicable to the Appointment of the Arbitrator 190
[B] Continuation of the Proceedings in Case of Replacement of an Arbitrator 191
IV Annex 192
[A] Illustrative Table on Articles R33-R36 CAS Code 192
R37
Provisional and Conservatory Measures 195
I Article R37: Introduction 197
II Provisional Measures according to the CAS Rules and Other Arbitration Rules and Laws 199
III The Power of the CAS to Order Provisional Measures and the Waiver of the Jurisdiction of State Courts 201
IV The Procedure for Provisional Measures under Article R37 CAS Code 202
[A] Application by a Party and Position of the Opponent and the Filing of the CAS Court Office Fee 202
[B] Exhaustion of Legal Remedies and Prima Facie Control of CAS Jurisdiction 204
[C] Time Limit to Issue an Order: Cases of Utmost Urgency and Right to Be Heard 205
V Substantive Requirements for Granting the Provisional Measures according to the CAS Case Law 207
[A] Irreparable Harm 208
[B] Likelihood of Success to the Merits 211
[C] Balance of Interests 212
VI Enforcement of Provisional Measures and Provision of Security 214
[A] Enforcement by the Arbitrator / the Division President 214
[B] Provisional and Conservatory Measures Conditional upon the Provision of Security 214
VII Annexes 217
[A] Example of an Order Granting the Provisional Measure Requested 217
[B] Example of an Order Dismissing the Request for Provisional Measures 222

B Special Provisions Applicable to the Ordinary Arbitration Procedure 225

R38
Request for Arbitration 227
I Article R38: Introduction 228
II The Request for Arbitration 229
[A] General 229
[B] Request for Arbitration and Commencement of the Proceedings 231
[C] Content of the Request for Arbitration in Detail 231
[1] The Name and Full Address of the Respondent(s) 231

xvi
Table of Contents

[4] Number of Arbitrators and Language of the Proceedings 233
[D] The Court Office Fee Provided in Article R64.1 234

III Consequences from the Non-fulfilment of the Conditions
Enumerated under Article R38 234

IV Annexes 236
[A] Sample CAS Letter Following a Request for Arbitration 236
[B] Statistics on the Registered Ordinary Procedures from 2004
to First Half of 2014 239
[C] Example of a Request for Arbitration 239
[D] Checklist for Request for Arbitration under Article R38 CAS Code 241

R39
Initiation of the Arbitration by CAS and Answer: CAS Jurisdiction 243

I Article R39: Introduction 245

II Initiation of the Arbitration by the CAS, Answer, and Consolidation
of the Proceedings 245
[A] Initiation of the Arbitration by the CAS 245
[B] Time Limits of the Answer to the Request for Arbitration
and the Choice of Arbitrators 246
[C] Extension of the Time Limit until the Payment of the Advance
of Costs and Counterclaims 247
[D] Content of the Answer to the Request for Arbitration and
Counterclaims 249
[E] Consolidation of the Proceedings (Article R39 Last Paragraph
CAS Code) 250

III Control of CAS Jurisdiction and Article R39 252
[A] Power of the Panel to Rule on Its Own Jurisdiction:
Kompetenz-Kompetenz 252
[B] Lis Pendens 253
[C] Objection to the CAS Jurisdiction: Procedure 254

IV Annexes 254
[A] Example of an Answer to the Request for Arbitration under
Article R39 CAS Code 254
[B] Initiation of the Arbitration by CAS 257
[C] Three-Stages Control of CAS Jurisdiction 258
[D] Checklist: Answer to the Request 259

R40
Formation of the Panel 261

I Article R40: Introduction 263
[A] Article R40 and the Appointment of the Arbitral Tribunal 263
[B] The Choice of an Arbitrator from the CAS List of Arbitrators 264
<table>
<thead>
<tr>
<th>R42</th>
<th>Conciliation</th>
<th>305</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Article R42: Introduction</td>
<td>305</td>
</tr>
<tr>
<td>II</td>
<td>Conciliation in Other Arbitration Rules</td>
<td>308</td>
</tr>
<tr>
<td>III</td>
<td>Conciliation Proceedings and CAS Case Law: Practical Issues</td>
<td>308</td>
</tr>
<tr>
<td>IV</td>
<td>Annex</td>
<td>310</td>
</tr>
<tr>
<td></td>
<td>[A] Statistics on Consent Awards Rendered by CAS</td>
<td>310</td>
</tr>
<tr>
<td>R43</td>
<td>Confidentiality</td>
<td>311</td>
</tr>
<tr>
<td>I</td>
<td>Article R43: Introduction</td>
<td>311</td>
</tr>
<tr>
<td>II</td>
<td>Overview of Article R43 and Comparison to Article R59 CAS Code</td>
<td>312</td>
</tr>
<tr>
<td>III</td>
<td>Confidentiality in the Different Stages of the Arbitral Procedure</td>
<td>314</td>
</tr>
<tr>
<td></td>
<td>[A] Confidentiality of the Deliberations</td>
<td>315</td>
</tr>
<tr>
<td></td>
<td>[B] Confidentiality of the Award</td>
<td>317</td>
</tr>
<tr>
<td></td>
<td>[C] Violation of the Principle of Confidentiality</td>
<td>318</td>
</tr>
<tr>
<td>IV</td>
<td>Conclusive Remarks</td>
<td>319</td>
</tr>
<tr>
<td>R44</td>
<td>Procedure before the Panel</td>
<td>321</td>
</tr>
<tr>
<td>I</td>
<td>Article R44: Introduction</td>
<td>325</td>
</tr>
<tr>
<td>II</td>
<td>Written Procedure: Content and Time Limit</td>
<td>326</td>
</tr>
<tr>
<td>III</td>
<td>Oral Procedure</td>
<td>328</td>
</tr>
<tr>
<td></td>
<td>[A] Necessity to Have a Hearing</td>
<td>328</td>
</tr>
<tr>
<td></td>
<td>[B] Conduct of the Hearing</td>
<td>329</td>
</tr>
<tr>
<td>IV</td>
<td>Witnesses and Experts Heard by the Panel</td>
<td>331</td>
</tr>
<tr>
<td></td>
<td>[A] General</td>
<td>331</td>
</tr>
<tr>
<td></td>
<td>[B] Witnesses and Experts Heard by the Panel Based on Article R44.2</td>
<td>334</td>
</tr>
<tr>
<td></td>
<td>[C] Evidentiary Proceedings Ordered by the Panel according to Article R44.3</td>
<td>334</td>
</tr>
<tr>
<td></td>
<td>[1] General</td>
<td>334</td>
</tr>
<tr>
<td></td>
<td>[2] Production of Evidence Requested by a Party and Right to Be Heard</td>
<td>336</td>
</tr>
<tr>
<td></td>
<td>[3] Production of Additional Evidence Ordered by the Panel</td>
<td>337</td>
</tr>
<tr>
<td>V</td>
<td>Expedited Procedure: Conditions</td>
<td>339</td>
</tr>
<tr>
<td>VI</td>
<td>Default</td>
<td>339</td>
</tr>
<tr>
<td></td>
<td>[A] Non-submission of the Statement of Claim or the Response</td>
<td>339</td>
</tr>
<tr>
<td></td>
<td>[B] Non-presence of the Parties / Witnesses at the Hearing</td>
<td>340</td>
</tr>
<tr>
<td>VII</td>
<td>Annexes</td>
<td>342</td>
</tr>
<tr>
<td></td>
<td>[A] Ordinary Procedure: Overview</td>
<td>342</td>
</tr>
<tr>
<td></td>
<td>[B] Written Submissions: Different Steps and Content</td>
<td>343</td>
</tr>
<tr>
<td></td>
<td>[C] Evidentiary Measures</td>
<td>343</td>
</tr>
<tr>
<td></td>
<td>[D] Directions with Respect to CAS Hearings: Checklist</td>
<td>344</td>
</tr>
<tr>
<td></td>
<td>[E] Example of an Expert’s Declaration of Independence</td>
<td>345</td>
</tr>
</tbody>
</table>
## Table of Contents

[F] Example of an Order of Procedure in Ordinary Arbitration Procedures 345

**R45**

**Law Applicable to the Merits**

I Article R45: Introduction 349

II Law Chosen by the Parties in Ordinary Procedures 350

[A] Express Choice of Law Made by the Parties 351

[B] Tacit Choice of Law and the Will of the Parties 352

III Application of Swiss Law in the Absence of a Choice by the Parties 354

IV Authorization to Decide *Ex Aequo Et Bono* 355

**R46**

**Award**

I Article R46: Introduction 358

II Conditions for the Issuance of the Award 359

[A] Award Written, Dated and Signed 359

[B] Award Containing Brief Reasons 361

[C] Deliberations of the Panel 364

[D] Award Taken by Majority: Dissenting Opinions 365

[1] Award Taken by Majority 365


[E] Proofreading by the Secretary General 366

III Notification of the Award: Effects 367

[A] General 367

[B] Finality of the Award in Terms of Articles R46 and R59 368

[1] Finality of the Award and Appeal to the SFT 368

[2] Appeal against Partial / Interlocutory Awards to the SFT 371

[C] Possibility to Waive the Appeal to the SFT 374

[D] No Stare Decisis of CAS Case Law 375

**C Special Provisions Applicable to the Appeal Arbitration Procedure**

**R47**

**Appeal**

I Article R47: Introduction 380

II The Conditions of Admissibility and Jurisdiction of the Appeal 382

[A] General 382

[B] Notion of a Decision in Terms of Article R47 383

[1] Content and Form of the Decision 383


[3] Conclusion 388

[C] Arbitration Clause or Arbitration Agreement 389

[D] Exhaustion of Legal Remedies 390
Table of Contents

III Appeals against Awards Rendered by CAS Acting as a First-Instance Tribunal 394

IV Annexes 395
  [A] Notion and Characteristics of a Decision within the Meaning of Article R47 of the CAS Code 395
  [B] Example of a ‘Premature’ Appeal 395
  [C] Table Indicating the Respective Provisions in Ordinary / Appeal Procedures in the CAS Code 399
  [D] Indicative Statistics on the CAS Registered Appeal Procedures 401

R48
Statement of Appeal 403
I Article R48: Introduction 404
  [A] Overview of Article R48 of the CAS Code 404
  [B] Comparison to Article R38 on the Request for Arbitration in Ordinary Procedures 405
II Content of the Statement of Appeal and Consequences of the Non-conformity with the Requirements of Article R48 407
  [A] General 407
  [B] The Name and Full Address of the Respondent(s) 408
    [1] General 408
    [2] Standing to Be Sued in CAS Appeals and Article 75 Swiss CC 411
  [C] Copy of the Decision Appealed against 413
  [D] The Appellant’s Request for Relief 414
  [E] Nomination of Arbitrator by Appellant 415
  [F] Request for a Stay of the Appealed Decision 416
  [G] A Copy of the Contract Containing the Arbitration Agreement or of Any Document Providing for Arbitration 416
  [H] The Court Office Fee Provided in Article R64.1 417
  [I] Consequences from the Non-fulfilment of Article R48 417
III Annexes 419
  [A] Statistics on the Registered CAS Procedures from 1995 to 2013 419
  [B] Example of a Statement of Appeal under Article R48 CAS Code 419
  [C] Checklist for the Statement of Appeal under Article R48 CAS Code 421
  [D] Notification of the Statement of Appeal 421

R49
Time Limit for Appeal 425
I Article R49: Introduction 426
II Calculation of the Time Limit to Appeal and Relation to Article R32 CAS Code 428
III Legal Nature of the Time Limit to File the Statement of Appeal 430
Table of Contents

[A]  Nature of Article R49 and Consequences from the Failure to Comply with the Time Limits 430
[B]  Submissions Made by the Other Parties before the Decision 432
[C]  Reinstatement of the Time Limit to File the Statement of Appeal 433
[D]  Request for Extension in Case of Reconsideration of the Case before the Previous Instance 434
[E]  Conflict with Article 75 of the Swiss Civil Code 435

IV  Annexes 436
[A]  Examples of the Time Limit to Appeal to CAS in the Rules of Federations 436
[B]  Indicative Time Limit to File the Statement of Appeal Pursuant to Article R49 CAS Code 437
[C]  Termination Order for an Appeal Filed Late: CAS 2010/A/2183 R. v. NADO 438

R50
Number of Arbitrators 441
I  Article R50: Introduction 442
II  Number of Arbitrators 442
[A]  Panel of Three Arbitrators as the Rule 442
[B]  Conditions for the Appointment of a Sole Arbitrator 444

III  Submission of Cases Involving the Same Issues to the Same Panel: Distinction from Consolidation under Article R52 446

IV  Annex 447
[A]  Constitution of the Panel in Appeal Procedures (Articles R50, R53, R54) 447

R51
Appeal Brief 449
I  Article R51: Introduction 450
II  Time Limit to File the Appeal Brief 451
III  Content of the Appeal Brief 452
[A]  Brief Stating the Facts and the Legal Arguments and Names of Witnesses/Experts 452
[B]  Request of Other Evidentiary Measures 453

IV  Annexes 455
[A]  Appeal Procedure: Overview 455
[B]  Appeal Procedure: Different Steps and Content 456
[C]  Notification of the Receipt of the Appeal Brief by the CAS 456
[D]  Sample Declaration of Acceptance and Independence of Experts Appointed by the CAS Panel 457

R52
Initiation of the Arbitration by the CAS 459
I  Article R52: Introduction 460
Table of Contents

II  Initiation of the Arbitration 461
    [A]  Clear Lack of Arbitration Agreement 461
    [B]  Actions to Set the Arbitration in Motion 462
III  Expedited Procedure: Conditions 463
IV  Conditions for the Consolidation of the Proceedings and Difference from Article R50 464
V   Annexes 466
    [A]  Initiation of the Appeal Arbitration Proceedings by CAS 466
    [B]  Three-Stages Control of CAS Jurisdiction 467
    [C]  Letter, for Information, to the Authority That Rendered the Decision Appealed against 467
    [D]  Letter Sent by the CAS Court Office Confirming the Expedited Proceedings 468

R53  Nomination of Arbitrator by the Respondent 471
I   Article R53: Introduction 471
II  Number of Arbitrators in Appeal Procedures 472
III  Appointment of an Arbitrator by the Respondent or the Division President 473
IV  Annex 475
    [A]  Statistics on the Constitution of the Panel Based on the Registered Cases before CAS 475

R54  Appointment of the Sole Arbitrator or of the President and Confirmation of the Arbitrators by CAS 477
I   Article R54: Introduction 478
II  Appointment of the Sole Arbitrator or the President of the Panel by the Division President 479
III  Confirmation of the Arbitrators and Transfer of the File 479
IV  Appointment of Ad Hoc Clerks in Appeal Proceedings 480
V   Multiparty Arbitration in Appeal Procedures 481
VI  Annex 482
    [A]  Notice of Formation of the Panel 482

R55  Answer of the Respondent: CAS Jurisdiction 483
I   Article R55: Introduction 484
II  Time Limit for the Answer and Possibility to Request an Extension 485
III  Content of the Answer 486
IV  Jurisdictional Issues Related to R55 488
    [A]  Power of the Panel to Rule on Its Own Jurisdiction: Kompetenz-Kompetenz 489
    [B]  Lis Pendens 490

xxiii
Table of Contents

V Annexes 491
  [A] Example of an Answer to the Appeal under Article R55 CAS Code 491
  [B] Initiation of the Appeal Arbitration Proceedings by CAS 493
  [C] Checklist: Answer to the Appeal 494

R56
Appeal and Answer Complete: Conciliation 495
I Article R56: Introduction 496
II No Right to Supplement the Parties' Submissions after the Appeal Brief and the Answer: Rule and Exceptions 496
  [A] Meaning and Interpretation of the Rule Established under Article R56 496
  [B] Late Submissions and ‘Exceptional Circumstances’ 497
III Particularities of Conciliation in Appeal Procedures 499

R57
Scope of Panel’s Review: Hearing 503
I Article R57: Introduction 505
II ‘Full Power of Review – The Facts and the Law’ through a De Novo Hearing 506
  [A] Legal Basis of Article R57 and Rationale of the De Novo Review 506
  [B] Meaning and Repercussions of the CAS’ Full Power of Review of the Appealed Decision 507
  [C] Power to Issue a New Decision 509
  [D] Power to Revert the Case Back to the Previous Instance 510
III Consequence of the Full Power of Review: Healing Effect of Procedural Irregularities Occurred in the Previous Instance 511
  [A] General Remarks 511
  [B] Healing Effect of Procedural Irregularities Occurred in the Previous Instance 513
  [C] Serious Procedural Defects That Might Not Be Healed through a De Novo Hearing before CAS 514
IV Other Legal and Practical Limitations to the CAS’ Full Power of Review 516
  [A] Restrictions Set by the International Federations 516
  [B] Full Power to Review and Relationship with Article 75 CC and Article R57 CAS Code 517
  [C] Discretion of the Panel to Refuse Evidence Based on Article R57 Paragraph 3 CAS Code 519
    [1] Scope and Rationale of the New Provision of Article R57 Paragraph 3 CAS Code 519

xxiv
<table>
<thead>
<tr>
<th>R58 Law Applicable to the Merits</th>
<th>535</th>
</tr>
</thead>
<tbody>
<tr>
<td>I Article R58: Introduction</td>
<td>536</td>
</tr>
<tr>
<td>[A] Short History of Article R58 through the Amendments of the CAS Code</td>
<td>536</td>
</tr>
<tr>
<td>[B] Law Applicable to the Merits according to Article 187 PILA, Article R58 of the Code and Other Arbitration Rules</td>
<td>538</td>
</tr>
<tr>
<td>II Applicable Law Chosen by the Parties</td>
<td>540</td>
</tr>
<tr>
<td>[A] Applicable Law Chosen by the Parties according to Article 187 (1) PILA and Article R58</td>
<td>540</td>
</tr>
<tr>
<td>[2] No State or National Law Chosen by the Parties</td>
<td>541</td>
</tr>
<tr>
<td>[B] Form of the Choice of the Applicable Law according to Article R58</td>
<td>542</td>
</tr>
<tr>
<td>[2] Tacit Choice of Law according to the CAS Case Law</td>
<td>543</td>
</tr>
<tr>
<td>[3] Express Choice of Law according to the CAS Case Law</td>
<td>546</td>
</tr>
<tr>
<td>[C] Limits in the Freedom of the Parties to Choose the Applicable Law</td>
<td>547</td>
</tr>
<tr>
<td>III Law of the Federation, Association or the Sports-Related Body and ‘the Closest Connection’ with the Dispute</td>
<td>550</td>
</tr>
<tr>
<td>[A] General Remarks</td>
<td>550</td>
</tr>
<tr>
<td>[B] Dépeçage</td>
<td>551</td>
</tr>
<tr>
<td>[C] CAS Awards Applying the Law of the Federation, Association or the Sports-Related Body</td>
<td>551</td>
</tr>
<tr>
<td>[1] FIFA Statutes and FIFA Regulations</td>
<td>551</td>
</tr>
</tbody>
</table>
IV Choice of the Law That the Panel Deems Appropriate and Obligation to Give Reasons for Such Decision: Difference from *Ex Aequo et Bono* or Equity

V Consequences of the Violation of Article R58 and Appeal to the SFT

R59 Award

I Article R59: Introduction

II Finality of the Award and Admissibility of the Appeal to the SFT

[A] Article 190 Paragraph 2 (a) PILA

[B] Article 190 Paragraph 2 (b) PILA

   [1] Scope and General Conditions of Article 190 Paragraph 2 (b) PILA

   [2] Interpretation of an Arbitration Clause according to the SFT

   [3] Limits to CAS Jurisdiction

[C] Article 190 Paragraph 2 (c) PILA

[D] Article 190 Paragraph 2 (d) PILA

   [1] Scope of Article 190 Paragraph 2 (d) PILA

   [2] Applicable Law and Violation of the Parties’ Right to Be Heard

[E] Article 190 Paragraph 2 (e) PILA

   [1] Introduction

   [2] Jurisprudence of the SFT on the Violation of Public Policy

[F] Finality and Possibility of Revision of the CAS Award

III Time Limits to Render the Award in Appeal Proceedings

IV Confidentiality of the Award Rendered by the CAS

V Annexes

[A] Table with All Motions to Set Aside CAS Awards before the SFT Based on Article 190 Paragraph 2 PILA

[B] Grounds for Dismissal of Motions to Set Aside CAS Awards before the SFT

[C] Outcome of Motions to Set Aside CAS Awards before the SFT

[D] Grounds for Challenge of CAS Awards before the SFT

[E] Provisions of the CAS Code Discussed in SFT Judgments

D Special Provisions Applicable to the Consultation Proceedings

R60-62 and R66

[Abrogated]

I Articles R60-R62 and R66 [Abrogated]

E Interpretation
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>R63</td>
<td>Interpretation</td>
</tr>
<tr>
<td>I</td>
<td>Article R63: Introduction</td>
</tr>
<tr>
<td>II</td>
<td>Procedure of Interpretation of CAS Awards</td>
</tr>
<tr>
<td>[A]</td>
<td>Conditions</td>
</tr>
<tr>
<td>[B]</td>
<td>Decision on the Request for Interpretation</td>
</tr>
<tr>
<td>III</td>
<td>Annex</td>
</tr>
<tr>
<td>[A]</td>
<td>Decision on Request for Interpretation: CAS 2006/A/1117 C. FC v. E. FCE FC</td>
</tr>
<tr>
<td>F</td>
<td>Costs of the Arbitration Proceedings</td>
</tr>
<tr>
<td>R64</td>
<td>Costs of the Arbitration Proceedings – General</td>
</tr>
<tr>
<td>I</td>
<td>Article R64: Introduction</td>
</tr>
<tr>
<td>II</td>
<td>Arbitration Costs to Be Borne by the Parties according to Article R64</td>
</tr>
<tr>
<td>[A]</td>
<td>Costs of Arbitration</td>
</tr>
<tr>
<td>[B]</td>
<td>The CAS Court Office Fee</td>
</tr>
<tr>
<td>[C]</td>
<td>Costs of Witnesses, Experts and Interpreters</td>
</tr>
<tr>
<td>III</td>
<td>Calculation and Payment of the Advance of Costs</td>
</tr>
<tr>
<td>IV</td>
<td>Termination of the Arbitration Procedure / CAS Award and Arbitration Costs</td>
</tr>
<tr>
<td>[A]</td>
<td>Termination before the Constitution of the Panel and Costs</td>
</tr>
<tr>
<td>[B]</td>
<td>Determination of the Party Bearing the Arbitration Costs / Fees in the Award (Article R64.5)</td>
</tr>
<tr>
<td>V</td>
<td>Annexes</td>
</tr>
<tr>
<td>[A]</td>
<td>Termination Order Due to Non-payment of the Advance of Costs</td>
</tr>
<tr>
<td>[B]</td>
<td>Award on Costs</td>
</tr>
<tr>
<td>[C]</td>
<td>Arbitrators’ Costs and Fees: Guidelines for the Costs of the Arbitrators</td>
</tr>
<tr>
<td>R65</td>
<td>Appeals against Decisions Issued by International Federations in Disciplinary Matters</td>
</tr>
<tr>
<td>I</td>
<td>Article R65: Introduction</td>
</tr>
<tr>
<td>II</td>
<td>Conditions for a Procedure to Be Free of Charge under Article R65.1</td>
</tr>
<tr>
<td>III</td>
<td>Exceptions to the Free of Charge Rule under Article R65.4</td>
</tr>
<tr>
<td>IV</td>
<td>Costs That Still Need to Be Borne by the Parties according to Article R65.2</td>
</tr>
<tr>
<td>G</td>
<td>Miscellaneous Provisions</td>
</tr>
</tbody>
</table>
## Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>R67-R70</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous Provisions</td>
<td>647</td>
</tr>
<tr>
<td>I    Article R67: Transitional Provisions and Entry into Force of the CAS Rules</td>
<td>648</td>
</tr>
<tr>
<td>II   Article R68: Disclaimer regarding the Work of CAS Arbitrators, CAS Mediators, ICAS and Its Members, CAS and Its Employees</td>
<td>649</td>
</tr>
<tr>
<td>III  Article R69: Authentic Version of the CAS Rules</td>
<td>651</td>
</tr>
<tr>
<td>IV   Article R70: Amendment of the CAS Procedural Rules</td>
<td>651</td>
</tr>
<tr>
<td>Bibliography</td>
<td>653</td>
</tr>
<tr>
<td>List of CAS Awards Referred to in the Commentary</td>
<td>667</td>
</tr>
<tr>
<td>CAS Awards from the CAS Ad Hoc Divisions</td>
<td>687</td>
</tr>
<tr>
<td>Swiss Federal Tribunal Judgments</td>
<td>689</td>
</tr>
<tr>
<td>Index</td>
<td>697</td>
</tr>
</tbody>
</table>