

THE COURT OF ARBITRATION FOR SPORT: TIME FOR A REFORM?

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ABSTRACT: This contribution analyses the current dispute resolution system provided by the Court of Arbitration for Sport and focuses on its controversial aspects, which were put under the spotlight by some recent major judgements delivered by state courts and the European Court of Human Rights.

In particular, despite the fact that the current sports arbitration system has successfully passed the scrutiny of such courts, the Authors analyse the reasons for the urgent reforms needed in order to safeguard the role of the Court of Arbitration for Sports as international supreme court in the sports world. Failing to do so, the foundations on which the current global sports system has been built could be seriously endangered.

Keywords: Court of Arbitration for Sport; governance; sports arbitration; Code of Sports-related Arbitration; Independence; Swiss Federal Tribunal; European Court of Human Rights; impartiality; CAS case law.

SUMMARY: 1. The CAS' structure and its independence – 2. The mandatory nature of sports arbitration – 2.1 The controversial aspects of the athletes' consent to sports arbitration – 2.2 The Cañas decision and the acknowledgment of sports arbitration as forced arbitration – 3. The main challenges of the CAS system outside of Switzerland – 3.1 The *Pechstein* saga – 3.1.1 The proceedings before German courts – 3.1.1.a The decision of the Landesarbeit München – 3.1.1.b The decision of the Oberlandesgericht München – 3.1.1.c The decision of the Bundesgerichtshof – 3.1.2 The proceedings before the European Court of Human Rights – 3.2 The *Seraign* case – 4. The essential role of the CAS and the need for a reform – 5. Final comments

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