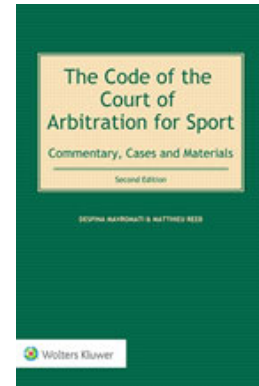


## **The Code of the Court of Arbitration for Sport Commentary, Cases and Materials**

**2<sup>nd</sup> Edition, 2025**

by *Lucas Ferrer de Robles\**



The publication of the second edition of “The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials” by Despina Mavromati and Matthieu Reeb is a highly awaited event in the sports law community. The first edition, which was published in 2015, rapidly became a reference for anyone working in the field of sports law, and particularly for those whose practice is connected with the Court of Arbitration for Sport (the CAS): CAS arbitrators, litigants, academics, students, members of clubs and federations, amongst others have benefited from the insights and commentaries contained in this book. On a personal note, I can confirm that in our firm the Commentary has earned the name of “the green bible”, as we all turn to it constantly, not only looking for answers to complex substantive questions, but also for practical guidance on procedural matters that are difficult to find elsewhere.

The book -as accurately quoted in the brilliant forward by the legendary CAS arbitrator The Hon. Michael Beloff KC, referring to Prof. Tercier’s definition- is “an exhaustive commentary article by article, presenting the rule, its interpretation, its relationship to other provisions, the decisions and comments related thereto as well as the latest developments in doctrine and case law”. Matthieu Reeb, currently Director General of CAS, who has just celebrated his 30 years of service to the institution, is in a unique position to offer the perspective of someone who has not only witnessed but also shaped its evolution, and Dr. Despina Mavromati, in turn, perfectly complements that institutional approach with her natural rigor and elevated academic and practical insight. Together, Mavromati and Reeb have achieved

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something extremely difficult in this type of commentary: finding the right balance between the technical and theoretical realities of arbitration and its practicalities in the day-to-day work of the CAS.

This new edition comes at a particularly timely moment. Beyond marking the tenth anniversary of the first edition, it also consolidates and reflects upon the significant developments that have reshaped the CAS landscape over the past decade. Amongst other relevant additions, the book introduces the new CAS Alternative Hearing Centers and analyses establishment of the permanent CAS Anti-Doping Division, which started its operations in 2019 and since then has become a useful tool for federations wishing to delegate power to CAS to act as first instance body in the resolution of anti-doping related proceedings. However, the real added value of this second edition does not lie on structural and institutional novelties, but rather on the systematic and meticulous update of the sources and authorities that have been introduced to sustain the analysis of each of its articles: the incorporation of new CAS awards, the inclusion of recent and -notably, decisive- Swiss Federal Tribunal judgments, and the integration of the most relevant academic references in international arbitration and Sports Law. These three pillars are the foundation upon which this Commentary stands.

While I do not think that it is necessary to detail each and every improvement contained in this new edition of the CAS Commentary, it is certainly worth devoting some words to the remarkable rework of Article R27. As we all know, this provision serves as the true gatekeeper for the entrance of CAS and the corresponding commentary is simply outstanding and constitutes a vivid illustration of book's virtues previously mentioned. It would not be an overstatement to describe this section as a new *vademecum* on CAS jurisdiction and arbitrability, as it brings together and systematically organizes aspects and topics that are usually diversified and dispersed across multiple sources such as the PILA doctrine, SFT rulings or CAS awards. The list of topics analyzed and dissected by the authors in this chapter touch upon several key aspects such as the scope of article R27 and its relationship with other important procedural rules, the form, conditions and interpretation of a valid arbitration clause, or the principle *kompetenz-kompetenz* in Swiss arbitration and other selected topics on CAS jurisdiction. Reeb and Mavromati's work is far from being an archival update as they delve into the particularities and intricacies of the jurisdiction in sports arbitration successfully weaving into the Commentary both the most recent CAS jurisprudence and some of the most qualified scholars in arbitration and sports law. The authors engage and analyze the practical impact of the CJEU's judgment in ISU (C-124/21) and the Opinion of Advocate General Capeta of 16 January 2025, as well as their broader implications for the relationship between sports arbitration and EU law. This chapter ends with a particularly timely reflection on the consequences arising from the seat of the CAS in Lausanne considering the advantages but also analyzing the challenges that come with it.

Another important article that has received particular attention from the authors in this new edition is Article R58. There are very few provisions of the CAS Code that have been as thoroughly discussed and analyzed in academic literature as the one governing the law applicable in appeal proceedings. In this case, the authors have not only updated the references and case law but have also reorganized and expanded the commentary to provide a clearer analytical structure and deeper insight into its practical implications.

Unlike the first edition, which devoted a single section to the concept of the “law chosen by the parties,” the new edition begins by defining what is meant by the “applicable regulations,” making it clear that these constitute the primary source to be examined in appeals proceedings, while the “law chosen by the parties” operates only as a subsidiary one. In this context, particular attention is given to the statutes of FIFA, which identify Swiss law as a subsidiary source of law. The Commentary makes an important clarification: this reference to Swiss law should not be read as a blanket incorporation of the Swiss legal system, but rather as a complementary tool, to be applied only where necessary to fill gaps, while the federation’s own regulations remain the primary source.

The authors also address, with greater depth than before, the relevance of EU law, noting that CAS must apply EU law whenever it has a mandatory effect, especially for the purposes of Article 19 PILA. Similarly, in relation to alleged violations of rights protected by the European Convention on Human Rights, they recall that although CAS Panels, quoting the Swiss Federal Tribunal case law, have ruled that ECHR principles cannot be directly invoked before CAS or even before the SFT, it is now accepted that both its substantive and procedural principles are nonetheless recognized as applicable in practice.

Finally, the section concludes with an analysis of the law applicable in appeals against decisions rendered by national federations or by international federations with no seat in Switzerland. In such cases, national law may come into play, though the Commentary rightly notes that the domestic rules of national federations are, in most instances, heavily influenced by those of their respective international governing bodies.

These are just a few examples of the insights and practical value offered by the second edition of this remarkable Commentary. I could have chosen to highlight many other features and innovations, but the purpose of this review is simply to share my genuine appreciation for what is, without doubt, a book that deserves the most preferential place on the shelf of anyone working in sports law.

As we all know, CAS Panels are not formally bound by precedent, but we also know how persuasive and influential precedents can be in shaping consistent reasoning. This is precisely where the book’s greatest strength lies. It allows practitioners to find clear answers and practical solutions to procedural questions that arise in everyday cases, to design stronger strategies, and to draw on hundreds of references to CAS awards, Swiss Federal Tribunal decisions and doctrinal sources that will undoubtedly assist in the preparation of any case.

In short, Mavromati and Reeb have once again delivered an invaluable tool for everyone working in the field of sports arbitration, combining academic depth with real, hands-on usefulness. I am certain that before long, this new edition will be as worn, highlighted, and filled with post-its and notes as the previous one, an unmistakable sign of how essential it will become in everyday practice.