

COURT OF ARBITRATION FOR SPORT (CAS)

**ARBITRATION RULES FOR THE
ASIAN GAMES**

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Article 1 Application of Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)

The purpose of these Rules is to provide, in the interests of the athletes and of sport, for the resolution by arbitration of any disputes covered by Article 34 of the Constitution of the Olympic Council of Asia, insofar as any such dispute may arise in the host country of any of the Asian Games (Summer Games, Winter Games, Beach Games and Indoor & Martial Arts Games; hereafter “the Asian Games”) within a period commencing 2 days prior to the Opening Ceremony (4 days for the Asian Summer Games) and ending at the beginning of the Closing Ceremony of such Games.

Article 2 Ad hoc Division

For the period fixed in Article 1, the International Council of Arbitration for Sport (ICAS) shall establish an ad hoc Division of the CAS (the “ad hoc Division”), the function of which is to provide for the resolution by arbitration of the disputes covered by Article 1 by means of Panels established in accordance with these Rules.

The ad hoc Division consists of arbitrators appearing on a special list, a President and a Court Office.

Article 3 Special List of Arbitrators

The ICAS Board shall establish the special list of arbitrators referred to in Article 2.

This special list shall consist of arbitrators who appear on the CAS general list of arbitrators and who are present at the Asian Games.

The special list of arbitrators shall be published prior to the opening of the Asian Games. It may, if necessary, be subsequently modified by the ICAS Board.

Article 4 President

The ICAS Board shall appoint the President of the ad hoc Division (the President) from among the members of the ICAS. The President shall perform

the functions conferred upon him or her by these Rules and all other functions relevant to the proper operation of the ad hoc Division.

Article 5 Court Office

The CAS shall establish a Court Office of the ad hoc Division in the host city of the Asian Games. Such office shall be placed under the authority of the CAS Secretary General.

Article 6 Language of Arbitration

The arbitration shall be conducted in English.

Article 7 Seat of Arbitration and Law Governing the Arbitration

The seat of the ad hoc Division and of each Panel is in Lausanne, Switzerland. The ad hoc Division and each Panel may, however, carry out all actions falling within their mission in the host city of the Asian Games, or in any other place they deem appropriate.

The arbitration is governed by Chapter 12 of the Swiss Act on private International Law.

Article 8 Representation and Assistance

Parties may be represented or assisted by persons of their choice, insofar as circumstances permit, particularly with regard to the time limit set for the rendering of awards. The names, addresses, email addresses, telephone and facsimile numbers of the persons representing the parties shall appear in the application referred to in Article 10 or, in the case of respondents or intervenors, be submitted at the commencement of the hearing.

Article 9 Notifications and Communications

- a) All notifications and communications from the ad hoc Division (Panel, President or Court Office) shall be given as follows:
- to the claimant: by delivery to the address at the Asian Games site appearing in the request, by facsimile, or at the electronic mail address specified in the request or, in the absence of all of the above, by deposit at the Court Office.
 - to the respondent: by delivery, facsimile or electronic mail to his or her office or place of residence at the site of the Asian Games.

The ad hoc Division may also give notifications and communications by telephone and confirm them subsequently in writing, or by electronic mail. In the absence of written confirmation, the communication is nevertheless valid if the addressee had actual knowledge of it.

- b) Notifications and communications from the parties shall be delivered, faxed or sent by electronic mail to the Court Office, with the exception of the application referred to in article 10 which must be delivered to the Court Office in return for a receipt.

Article 10 Application

Any individual or legal entity wishing to bring a dispute pursuant to Article 1 of these Rules before the ad hoc Division shall file a written application with the Court Office.

The application shall include:

- where applicable, a copy of the decision being challenged;
- a brief statement of the facts and legal arguments on which the application is based;
- the relief sought by the claimant;
- where applicable, an application for a stay of the effects of the decision being challenged, or for any other preliminary relief of an extremely urgent nature;
- any appropriate comments with respect to the jurisdiction of CAS;
- the claimant's address at the site of the Asian Games and, where applicable, the facsimile number and electronic mail address at which the claimant can be reached for purposes of the proceedings and, where applicable, the same information in respect of the person representing the claimant.

The application shall be written in English. A standard application form is available to the parties at the Court Office.

The application shall be brief. If it is not, the Panel may request the Applicant to limit it to the relevant issues.

If the application is required to be filed again, the time limit provided by Art. 18 starts to run when the new application is filed.

If the NOCs concerned are not parties to the proceedings and do not receive a copy of the application, the application shall be communicated to them for information purposes by the Court Office.

Article 11 Formation of the Panel

Upon receipt of the application, the President shall appoint a Sole arbitrator or a Panel composed of three arbitrators appearing on the special list (see Article 2 of these Rules) and appoints the president of such Panel.

If an application is related to an arbitration already pending before the ad hoc Division, the President may assign the second dispute to the Panel appointed to decide the first dispute. In order to decide upon such assignment, the President shall take into account all the circumstances, including the relation between the two cases and the progress already made in the first case.

If the dispute is assigned to an existing Panel, the Court Office shall convey the application to the Panel.

Article 12 Independence and Qualifications of the Arbitrators

All arbitrators must have legal training and possess recognized competence with respect to sport. They must be independent of the parties and must immediately disclose any circumstance likely to compromise their independence.

All arbitrators must be present during the Asian Games and be available for the ad hoc Division at any time.

No arbitrator may act as counsel for a party or other interested person before the ad hoc Division.

Article 13 Challenge, Disqualification and Removal of Arbitrators

An arbitrator must disqualify him- or herself spontaneously or, failing that, may be challenged by a party if circumstances give rise to legitimate doubts as to his or her independence. The President is competent to take cognizance of any challenge requested by a party and shall decide the challenge immediately, after giving the parties and the arbitrator concerned the opportunity to be heard, insofar as circumstances permit. The challenge must be brought as soon as the reason for the challenge becomes known.

Any arbitrator may be removed by the President if the arbitrator is prevented from carrying out the assignment or fails to perform his or her duties pursuant to these Rules.

If an arbitrator disqualifies him- or herself spontaneously or if the President accepts a challenge by a party or removes an arbitrator, the President shall immediately appoint an arbitrator to fill the vacancy.

Article 14 Stay of Decision Challenged and Preliminary Relief of Extreme Urgency

In case of extreme urgency, the President may rule on an application for a stay of the effects of the challenged decision or for any other preliminary relief without first hearing the respondent. In case a Panel is already formed, it has jurisdiction to rule on such application for a stay. Any decision granting such relief ceases to be effective when the Panel gives a decision within the meaning of Article 20 of these Rules.

When deciding whether to award any preliminary relief, the President or the Panel shall consider whether the relief sought is necessary to protect the applicant from irreparable harm, the likelihood of success on the merits of the claim, and whether the interests of the applicant outweigh those of the opponent or of other persons or entities involved in the Asian Games.

Article 15 Procedure before the Panel

a) Defence of lack of jurisdiction

Any defence of lack of jurisdiction of the Panel must be raised at the start of the proceedings or, at the latest, at the commencement of the hearing.

b) Procedure

The Panel organizes the procedure as it considers appropriate, taking into account the specific needs and circumstances of the case, the interests of the parties, in particular their right to be heard, and the particular constraints of speed and efficiency specific to the proceedings before it. The Panel shall have full control over the evidentiary proceedings, including format and relevance to the subject matter of the dispute.

c) Hearing

Except where it considers another form of proceeding to be more appropriate, the Panel shall summon the parties to a hearing on very short notice following receipt of the application. It shall append a copy of the application to the summons to appear addressed to the respondent.

At the hearing, the Panel shall hear the parties and take all appropriate action with respect to evidence. The parties shall introduce at the hearing all the evidence they intend to adduce and produce any witnesses, who shall be heard immediately.

If it considers itself to be sufficiently well informed, the Panel may decide not to hold a hearing and to render an award immediately.

d) Other evidentiary measures

If a party requests an opportunity to introduce additional evidence which, for legitimate reasons, it was not able to produce at the hearing, the Panel may permit such introduction, to the extent that it is necessary for the resolution of the dispute.

The Panel may at any time take any appropriate action with respect to evidence. In particular, it may appoint an expert and order the production of documents, information or any other evidence. It may also, in its discretion, decide whether to admit or exclude evidence offered by the parties and assess the weight of the evidence.

The Panel shall inform the parties accordingly.

e) Failure to appear

If any party or both parties fail to appear at the hearing or to comply with injunctions, summonses or other communications issued by the Panel, the Panel may nevertheless proceed.

Article 16 The Panel's Power to Review

The Panel shall have full power to review and establish the facts on which the application is based.

Article 17 Law Applicable

The Panel shall rule on the dispute pursuant to the Constitution of the Olympic Council of Asia, the applicable regulations, the general principles of law and the rules of law whose application the Panel deems appropriate.

Article 18 Time limit

The Panel shall give a decision within 24 hours of the lodging of the application. In exceptional cases, this time limit may be extended by the President if circumstances so require.

Article 19 Decision-making, Form and Communication of the Decision

The decision is taken by a majority or, in the absence of a majority, by the President of the Panel. It shall be written, dated and signed by the President of the Panel and, in principle, brief reasons will be provided.

Prior to the signing of the award, it shall be reviewed by the President, who may make amendments of form and, without affecting the Panel's freedom of decision, may also draw attention to points of substance.

The award shall be communicated to the parties immediately. The Panel may decide to communicate the operative part of the award prior to issuing the reasons for the award.

The award shall be final from the moment of such communication.

If the NOCs concerned are not parties to the proceedings and do not receive a copy of the award, the award shall be communicated to them for information.

Article 20 Enforceability and Scope of the Decision

a) Choice of final award or referral

Taking into account all the circumstances of the case, including the claimant's request for relief, the nature and complexity of the dispute, the urgency of its resolution, the extent of the evidence required and of the legal issues to be resolved, the parties' right to be heard and the state of the record at the end of the ad hoc arbitration proceedings, the Panel may either make a final award or refer the dispute to arbitration by the CAS in accordance with the Code of Sports-related Arbitration.

The Panel may also make an award on one or more portions of the dispute and refer any unresolved portion to regular CAS proceedings.

b) Preliminary relief in case of referral

If it refers the dispute to regular CAS proceedings, the Panel may grant preliminary relief, even though the parties made have made no application for such relief, which will remain in effect until the Panel decides otherwise in the regular CAS proceedings.

c) Referral

If the Panel refers the dispute to regular CAS proceedings, the following provisions shall apply:

- i) The Panel may set a time limit for the claimant to bring the case before the CAS according to Articles R38 and R48 of the Code of Sports-related Arbitration or provide for referral on its own initiative (“*ex officio* referral”). In either case, the time limits established by the statutes or regulations of the body whose decision is being challenged, or by Article R49 of the Code of Sports-related Arbitration, do not apply.
- ii) Depending on the nature of the case, the CAS Court Office shall assign the arbitration to the Ordinary Arbitration Division or to the Appeals Arbitration Division.
- iii) The Panel formed during the Asian Games remains assigned to the resolution of the dispute for purposes of regular CAS proceedings and, by submitting to the present Rules, the parties waive any provision to the contrary in the Code of Sports-related Arbitration, in addition to their agreement concerning the number of arbitrators and the way in which the Panel has been established.
- iv) In the event of *ex officio* referral, the CAS Court Office shall take any appropriate action which may facilitate initiation of the regular CAS proceedings, having particular regard to the present provision.

Article 21 Enforceability; no Remedies

The decision is enforceable immediately. It shall be final and binding upon the parties subject to recourse available in certain circumstances pursuant to Swiss Law within 30 days from the notification of the original decision. It may not be challenged by way of an action for setting aside to the extent that the parties have no domicile, habitual residence, or business establishment in Switzerland and that they have expressly excluded all setting aside proceedings in the arbitration agreement or in a subsequent agreement, in particular at the outset of the arbitration.

Article 22 Cost-free Nature of the Proceedings

The facilities and services of the CAS ad hoc Division, including the provision of arbitrators, are free of charge to the parties.

However, parties shall pay their own costs of legal representation, experts, witnesses and interpreters.

Article 23 Miscellaneous Provisions

These Rules have been adopted by the ICAS in Muscat on 26 October 2017, on the basis of Article 34 of the Constitution of the Olympic Council of Asia and of Articles S6 (paragraphs 1, 8 and 10), S8, S23 and R70 of the Code of Sports-related Arbitration. They form an integral part of the Code of Sports-related Arbitration.

These Rules may be amended by the ICAS pursuant to Article S8 of the Code of Sports-related Arbitration.

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