



## MEDIA RELEASE

### STATEMENT OF THE INTERNATIONAL COUNCIL OF ARBITRATION FOR SPORT (ICAS) REGARDING THE CASE RFC SERAING / DOYEN SPORT / FIFA / UEFA / URBSFA

*Lausanne, 11 September 2018* – The International Council of Arbitration for Sport (ICAS) notes the decision issued by the Brussels Court of Appeal on 29 August 2018 in a procedure involving RFC Seraing and Doyen Sports against the Fédération Internationale de Football Association (FIFA), the European Football Union (UEFA), the Union Royale Belge des Sociétés de Football Association (URBSFA - the governing body of football in Belgium) and the International Federation of Professional Footballers (FIFPro). The ICAS/CAS is not a party to the procedure in Belgium.

In its judgment, the Court of Appeal rejected a new request for interim measures filed by Doyen Sport/RFC Seraing, which sought to suspend the application of the disciplinary sanctions imposed by the CAS on the Belgian club for having violated the prohibition of “Third-Party Ownership of players’ economic rights” (TPO). Such decision is consistent with the previous ruling of the same Court of Appeal of 10 March 2016 which refused to suspend the implementation of the worldwide ban on TPO.

It is noted that most articles and comments on this matter do not properly reflect the reasons expressed by the Brussels Court of Appeal regarding the jurisdiction of CAS.

In reality, the Brussels Court of Appeal rejected an objection against its own jurisdiction to rule on the dispute between Doyen Sports/RFC Seraing and FIFA/UEFA/URBSFA/FIFPro. The Court said that, in the light of Belgian law, the arbitration exception does not apply in this particular matter, on the grounds that the arbitration clause in the FIFA Statutes is not specific enough. In other words, had that specific CAS clause been more detailed, the arbitration exception would have been upheld and the Brussels Court of Appeal could have denied its jurisdiction. Accordingly, the problem lies only with the wording of the CAS clause in the FIFA Statutes; such drafting issue does not affect the jurisdiction of CAS globally. The Court neither expressed any objection nor reservation towards sports arbitration as a dispute resolution mechanism globally, nor criticized the CAS system. Furthermore, no CAS arbitration clauses have been declared “illegal” in the Brussels judgment. Such judgment also does not revisit the reasons expressed by the German Federal Tribunal in the case ISU/Pechstein in 2016, whose decision confirmed the status of CAS as a genuine independent arbitration tribunal.

The decision of the Brussels Court of Appeal does not affect the decision issued by CAS in this matter in 2017 (see <http://jurisprudence.tas-cas.org/Shared%20Documents/4490.pdf>), which remains in force. The main difficulty is that one may potentially end up with two contradictory decisions: one issued by the Belgian courts, enforceable in Belgium only, and the original one issued by CAS (and which was confirmed by the Swiss Federal Tribunal), enforceable in the rest of the world. In any event, the proceedings before the Belgian courts in the matter of RFC Seraing are still ongoing and for an undetermined period of time.

The risk that a national court does not recognize CAS arbitration or does not enforce a CAS award is very limited, is quite rare and mostly depends on local legislation (e.g. see the case of Roberto Heras in Spain / Cycling / Vuelta 2005). However, these exceptions are isolated and are not new. It must be emphasized that CAS awards can always be challenged before the Swiss Federal Tribunal, which is the highest court in Switzerland.