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ROLE AND FUNCTIONS OF THE CAS

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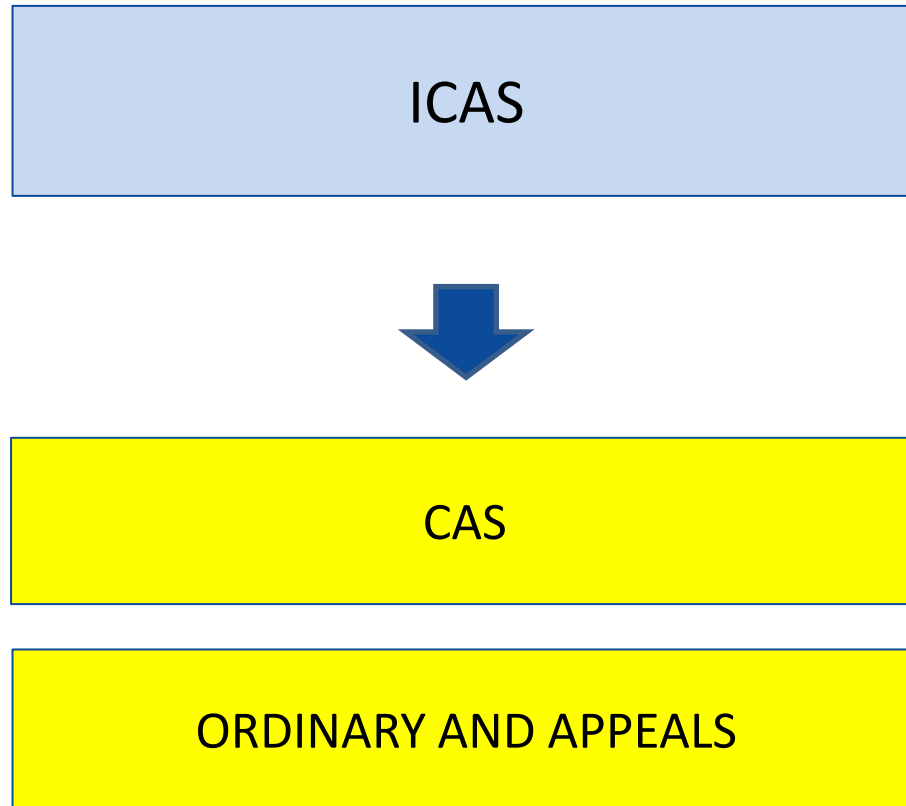
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ICAS/CAS Financing and Structure

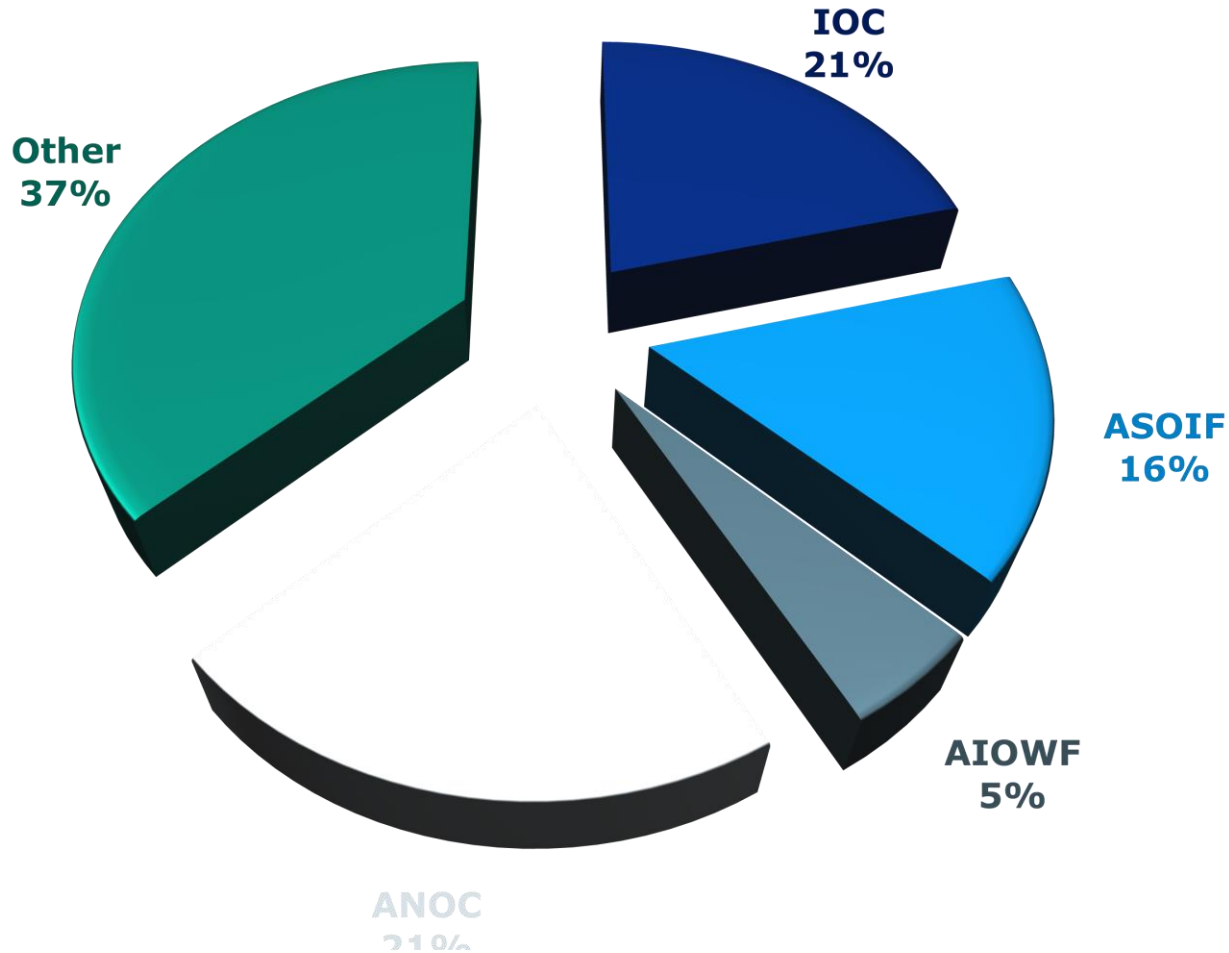
ICAS:

- ATHLETES
- ANOC
- IOC
- ASOI AIOWF
- OTHER

ICAS/CAS Financing and Structure



ICAS/CAS Financing and Structure



Delocalization of CAS Offices / Services

- CAS ad hoc Divisions
 - Olympic Games since 1996 – in Rio, first time Anti-Doping Division in addition to Ad Hoc Division
 - Commonwealth Games since 1998
 - EURO since 2000
 - FIFA World Cup since 2006
 - Asian Games since 2014
- Decentralized offices
 - New York
 - Sydney
- Alternative Hearing Centres
 - Shanghai
 - Abu Dhabi
 - Kuala Lumpur
 - Cairo

CAS MILE STONES

The most important international federations that recognized the CAS jurisdiction:

2001: IAAF

2002: FIFA

2003: WADA (adoption of WORLD ANTIDOPING CODE)

2003: The Independence of CAS is confirmed by the Swiss Federal Tribunal in the Lazutina/Danilova case

“Having gradually built up the trust of the sporting world, this institution which is now widely recognized (...) remains one of the principal mainstays of organized sport”.

2016: The Decision of the German Supreme Court

- Claudia Pechstein voluntarily accepted the jurisdiction of CAS
- The monopolistic situation of the ISU, the acceptance by athletes of the ISU regulations and of the arbitration clause in favour of CAS does not constitute an abuse of a dominant position in the sense of German competition law
- The CAS is a genuine arbitral tribunal in the sense of German law
- The existence of a mandatory list of arbitrators, constituted by the ICAS, regardless of its number of representatives of federations and of athletes, does not affect the equality of the parties

2016: The Decision of the German Supreme Court

- The interests of sports federations and of athletes are aligned when the question at stake is the fight against doping
- The advantages of having a uniform international sports jurisdiction, such as uniform standards and timely procedures stand not only for sports federations but also for athletes
- Any possible predominance of federations [within ICAS] is balanced 1.) by the CAS procedural rules 2.) by the independence and neutrality of the CAS arbitrators, who can be challenged and removed from a CAS panel if they are not independent from the parties and 3.) by the possibility given to any party affected by a CAS decision to file an appeal to the Swiss Federal Tribunal

CAS Arbitrators

- Personalities with full legal training and experience in sports law and/or international arbitration (S14)
- Panel of 1 or 3 arbitrators
- Objectivity and independence (S18 par. 2)
- Prohibition of CAS arbitrators to act as counsel before the CAS (since the last amendment of the CAS Code; S18)
- Duty of confidentiality (S19)
- ≈ 350 arbitrators from 90 countries
- ≈ 60 mediators
- Two arbitration divisions with one President each
- CAS Court Office (1 Secretary General, 1 Deputy Secretary General, 1 Finance Director, 11 counsels, 12 secretaries)

CAS Jurisdiction

- R27: Disputes related or connected with sport R27 par. 1: Valid arbitration agreement
 - Arbitration clause in a contract
 - Later arbitration agreement
 - Arbitration clause in the statutes or regulations of an association, federation, or sports-related body
- Exhaustion of internal legal remedies

Different procedures before the CAS

1. Appeal Procedure

2. Ordinary Procedure

3. Mediation Procedure

4. Ad hoc Divisions at the Olympic Games

Things to Remember Before Going to CAS

- Determine the request(s) for relief
- Select lawyer (if necessary) / pro bono lawyer
- Evaluate the budget / request legal aid
- Cost-free nature of appeals against decisions of disciplinary nature rendered by international federations
- Choose arbitrator from the CAS list

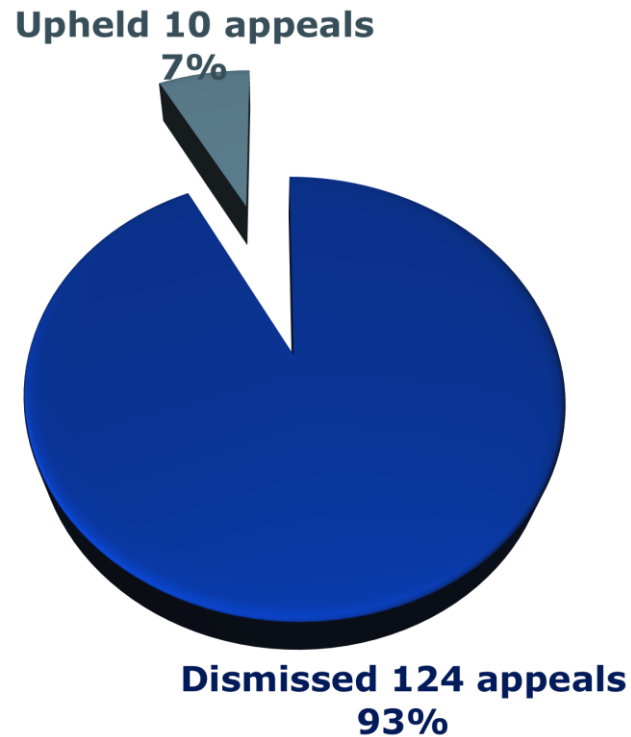
Enforcement of CAS Awards

- Generally
 - New York Convention for the recognition and enforcement of arbitral awards of 1958

Specifically

- Provisions in the statutes/regulations of the federations

Challenge of CAS Awards



Mediation Procedure

- Provided by the CAS Code (S3)
- Governed by separate rules – CAS mediation rules (14 articles) – amended on 1 January 2016
- Non-binding and informal procedure
- Agreement to mediate
- “Attempt to negotiate in good faith with the other party”
- Assistance of a CAS mediator
- In principle, limited to contractual disputes
- Disciplinary matters (doping, match-fixing, corruption) excluded except where the circumstances so require and where the parties expressly agree

Mediation Procedure

- Mediation agreement
 - Mediation clause for a dispute which may arise
 - Separate agreement for a dispute which has arisen
- Request for mediation
 - Identity of the parties
 - Mediation agreement
 - Description of the dispute
- Payment of CHF 1'000 as administrative costs (shared between the parties)
- Mediation costs
 - Disputed value up to CHF 50'000: maximum of CHF 2'000
 - Disputed value up to CHF 150'000: maximum of CHF 4'000

Mediation Procedure

- Mediator
 - Jointly selected by the parties
 - Appointment by CAS President
 - Impartial and independent from the parties – duty of disclosure
 - Determines how the mediation will proceed in the absence of agreement between the parties but after consultation of the latter
- Confidentiality agreement
 - Any information given by one party to the mediator may be disclosed to the other party with the consent of the former
 - No records of meetings
 - No use of mediation information in the context of arbitration

Mediation Procedure

- Termination of mediation
 - Settlement agreement
 - Written declaration of the mediator or of the parties
 - No payment of mediation costs
- Failure to settle
 - Arbitration if clause exists
 - Mediator cannot accept a nomination as arbitrator except if the parties expressly agree

THANK YOU FOR YOUR ATTENTION

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