

Settlement of Administrative Disputes in the Sports Field: The Court of Arbitration for Sport (CAS) as a Model of Specialized International Administrative Judiciary

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Abstract: In light of the presence of international institutions exercising quasi-public regulatory powers, the contemporary sports landscape reflects the emergence of a vertical relationship of subordination among athletes. This study examines the Court of Arbitration for Sport (CAS) as a model of specialized international administrative judiciary overseeing the legality of these entities. It focuses on CAS Code specifically the De Novo review power under Article R57 alongside traditional administrative law principles such as "Full Jurisdiction" (Plein Contentieux), through both analytical and comparative methodologies. The outcome of the study reveals that CAS functions as a court of full jurisdiction, enabling it to re-evaluate facts, rectify procedural defects, and modify sanctions through the principles of proportionality and individualization. The analysis further underscores its creative judicial role in landmark cases such as Sharapova v. ITF, while the "Comfortable Satisfaction" standard of proof highlights its distinct administrative character. Accordingly, CAS has developed into a "Judicial Regulator" within an emerging framework of Global Sports Administrative Law. To enhance its legitimacy and ensure alignment with human rights standards, it is recommended that CAS strengthen its institutional independence and expand the use of public hearings to promote greater transparency in the sports administration.

Keywords: Court of Arbitration for Sport (CAS), Sports Administrative Disputes, Judicial Review, De Novo Review, Doping Cases, Global Administrative Law.

1. Introduction

In the contemporary world, international sports institutions, such as the IOC, WADA, and International Federations (IFs), have dramatically increased their authority. Although these entities are private associations mostly subject to Swiss law, they exercise regulatory and punitive powers similar to those of public administration in states. They issue binding regulations, grant licenses, and impose sanctions, placing the athlete under regulatory authority rather than in an equal contractual relationship. Consequently, CAS emerges not merely as an ordinary arbitration court, but as a final judicial instance overseeing the legality of these bodies. The mechanism followed by CAS in the Appeals Arbitration Division aligns with the "Action for Annulment" (Recours pour excès de pouvoir) known in public law (Aljazi & Al Heilat, 2026).

2. Statement of the Problem

This study sheds light on the legal nature of the review exercised by CAS over disciplinary decisions issued by sports bodies.

This study addresses the pivotal questions:

1. Can CAS be considered an international administrative court exercising a review of legality and proportionality over the decisions of sports administration?
2. Does CAS limit its review to a formal review (External Legality), or does it extend to a re-examination of the facts and the appropriateness of the sanction (De Novo Review), especially in sensitive doping cases?

3. Significance of the Study

- **Theoretical Significance:** Developing the theory of "Global Administrative Law" (GAL) and applying it to the sports field.
- **Practical Significance:** Enhancing the understanding of defense standards before CAS in doping cases and clarifying the limits of the discretionary power of sports federations.

4. Objectives of the Study

This study represents a crucial step forward in accomplishing the following objectives:

- Characterizing the relationship between the athlete and the IFs, as an administrative relationship rather than a purely contractual one.
- Analyzing Article R57 of CAS Code and its judicial applications.
- Comparing CAS review with administrative judiciary review (such as that of French Conseil d'État or Arab administrative judiciary) in terms of "Full Jurisdiction" (Plein Contentieux) and "Review of Legality".

5. Methodology

In order to achieve the aim of this study, an analytical approach has been employed to analyse the provisions of CAS Code and its rulings. Moreover, a comparative approach has been utilized to examine this framework in relation to the principles of domestic administrative law and international law.

Section One: Legal Characterization of CAS as an International Administrative Judiciary for Sport

This section begins with the premise that IFs exercise administrative functions; therefore, any dispute with them is inherently an "administrative dispute," even if resolved via arbitration.

First: IFs as Administrative Authorities (The Vertical Relationship)

In traditional commercial arbitration, the relationship is horizontal (between merchant and merchant). Whereas in sports, the relationship is vertical. Jurisprudence, such as the theory of Casini (2015) in Global Administrative Law, considers IFs as possessing "monopolistic power" (Casini, 2015).

Legislative Authority: IFs enact binding regulations (e.g., WADA Code).

Executive Authority: IFs conduct doping tests and manage tournaments.

Initial Judicial Authority: Internal disciplinary committees issue sanctions.

Jurisprudential Analysis: A Federation's decision to ban an athlete due to doping is comparable to a government administrative agency's decision to revoke a professional license. Consequently, the athlete approaches CAS not as a contractor, but as a "governed person" challenging the decision of the "governor" (Alhawtmeh et al., 2026; Rigozzi, 2010). The Swiss

Federal Tribunal's judgment in the Lazutina case confirmed the hierarchical nature of the sports relationship, justifying strict judicial review.

Second: CAS Appeals Division as a Substitute for Judicial Review

CAS is divided into an Ordinary Division and an Appeals Division. This study focuses on the Appeals Arbitration Division. According to Article R47 of the Code of Sports-related Arbitration: "An appeal against the decision of a federation, association or sports-related body may be filed with CAS. If the statutes or regulations of the said body so, provide". This provision establishes a mechanism similar to the "Appeal for Annulment".

CAS performs the following:

Examining External Legality: Is the issuing IF competent? Was the right of defense respected (due process)?

Examining Internal Legality: Does the decision violate the IF's regulations or general principles of law (such as public policy)?

Comparison with Administrative Judiciary: In Egyptian or French administrative judiciary, judges review "Abuse of Power" (Détournement de pouvoir). In CAS, similar terms are applied such as "arbitrariness" or "lack of proportionality". The fundamental difference is that CAS is a private body but functionally exercises the role of the administrative judge.

Section Two: Scope of CAS Judicial Review in Disciplinary Cases (Doping as a Model)

This section represents the core of the research, analyzing the scope and depth of the review exercised by CAS. It examines whether CAS performs merely a review of legality (annulling the defective decision) or a full jurisdiction review (modifying and replacing the decision).

First: The Principle of "De Novo Review" according to Article R57

Article R57 of CAS Code is the cornerstone in transforming CAS into a full jurisdiction court (Plein Contentieux). The article states:

“The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance” (Mavromati & Reeb, 2015) .

In-depth Analysis:

Curing Procedural Defects: In traditional administrative judiciary, if a judge identifies a procedural defect (e.g., the athlete was not heard before the National Federation), the decision is annulled and the case is remitted to the administration. In CAS, thanks to the De Novo feature, the hearing is treated as a completely new trial. If the athlete was denied the right of defense before their federation, their appearance before CAS "cures" this defect, because CAS reviews the case from scratch as if the previous decision did not exist.

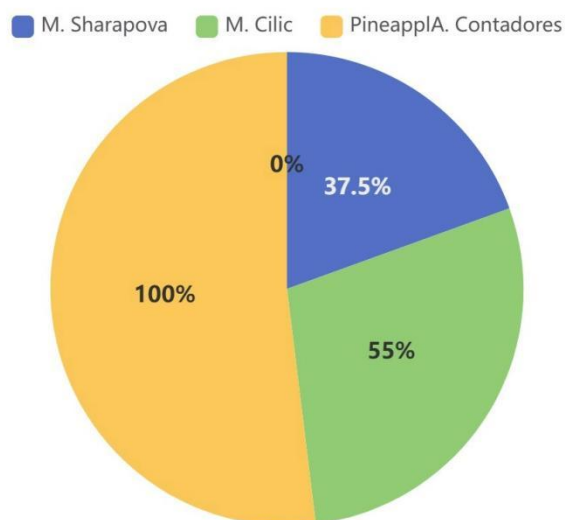
Judicial Precedent: WADA v. Sun Yang. Despite controversy over sample collection procedures, CAS examined the facts directly with extreme precision, rather than relying solely on the previous committee's report.

Authority to Modify the Sanction: CAS does not limit itself to annulment; it can directly reduce the sanction (e.g., from four years to two years) without needing to return the file to the IF. This exercise corresponds to the principle of "Full Jurisdiction" in administrative law.

Comparison Table 1: Applications of "Proportionality" and "Degree of Fault" in CAS Rulings

Case (Reference)	Prohibited Substance / Violation	Initial Administrative Decision (IF Decision)	CAS Decision	Legal Basis and Reasoning (Jurisprudential Analysis)
Maria Sharapova v. ITF (CAS 2016/A/4643)	Meldonium: Taking a newly prohibited substance without verifying its status on the updated anti-doping list.	Suspension for twenty-four months (two years): The IF considered the fault significant, as the athlete did not disclose the substance in the required forms.	Reduced sanction to 15 months.	No Significant Fault: CAS found the athlete had not hidden the substance intentionally, but had been using it for medical purposes over several years. The fault was in "not checking" the new list. CAS exercised a review of appropriateness and modified the sanction to reflect the degree of negligence.
Marin Cilic v. ITF (CAS 2013/A/3327)	Nikethamide: The inadvertent ingestion of glucose tablets contaminated with the prohibited substance.	Suspension for nine months. The IF determined that the violation involved negligence, but was not fully intentional.	Reduced sanction to 4 months.	Degree of Fault: CAS accepted the athlete's defense that he relied on his mother to buy glucose from a pharmacy and did not seek to enhance his performance. CAS considered the original sanction was excessive in relation to the athlete's minor fault, thereby reflecting its role as an administrative judge protecting the individual from administrative individuals from administrative arbitrariness.
Alberto Contador (UCI & WADA v. Contador) (CAS 2011/A/2384)	Clenbuterol: Trace amount detected, with the athlete claiming ingestion was due to contaminated meat.	Acquittal by the Spanish Federation (RFEC) which accepted the contaminated meat hypothesis.	Annulment of Acquittal and imposition of a 2-year suspension.	Strict Liability: CAS exercised a reverse review in this case; it increased the sanction. This was due to the athlete's failure to provide conclusive proof of the meat source. CAS applied the law strictly under the De Novo standard and annulled the National Federation's decision for

				violating international standards, thereby confirming the supremacy of "sports public order".
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6. Data Analysis

The above table reveals that CAS does not exercise its role in a rigid stereotypical manner; rather, it adopts the methodology of "individualization of sanctions," which constitutes a core feature of modern administrative judiciary.

In the Sharapova and Cilic case, CAS abandoned the literal interpretation of texts in favor of a teleological interpretation, searching for the athlete's intent and the surrounding circumstances. This mimics the administrative judge's authority to reduce disciplinary penalties for public employees if they find an excess in assessment. This proves that CAS applies the principle of proportionality in administrative law, whereby the sanction is measured with a gold scale to equate the size of the fault accurately, rather than applied as ready-made templates (Blackshaw, 2018).

In the Contador case, CAS demonstrates a further dimension of its role as a guardian of international legality. When the National Federation (Spanish) was lenient in applying international standards, CAS intervened to impose uniformity of application. Accordingly, it played a similar role to that of a Supreme Administrative Court or the Council of State, correcting deviations by lower bodies to ensure equality before the Global Sports Law (Foster, 2012).

The researcher argues that this variation in rulings confirms the study's hypothesis; CAS has transcended the function of dispute resolution to play the role of a "judicial regulator", balancing the strictness of regulations (as in Contador) with the protection of individual rights against disproportionate sanctions (as in Sharapova and Cilic). In this context, the reduction of the sanction in the Sharapova case was not merely an application of legal rules, but a judicial application of the administrative proportionality principle, balancing the public interest in clean sports and with the athlete's interest, which is the essence of the administrative judge's work. (Cassese, 2015).

Second: Review Standards in Doping Cases: Between Legality and Appropriateness

In doping cases, CAS confronts the principle of "strict liability" imposed by WADA, whereby the mere presence of a prohibited substance implies the athlete's guilt. In such situations, CAS exercises its review according to the following criteria:

Fact-Finding: CAS applies a unique standard of proof called "**comfortable satisfaction**," which lies between the civil "balance of probabilities" and the criminal "beyond reasonable doubt." This standard is distinctively "administrative," designed to facilitate the work of sports bodies while preserving the athlete's rights.

Proportionality Test (Review of Sanction Appropriateness): the creative role of CAS appears in its proportionality assessment. Even under strict regulations, CAS evaluates whether the sanction fits the athlete's degree of fault. For instance, in the Sharapova Case, CAS decided to reduce the penalty imposed on Maria Sharapova. Although the Court did not find an error in the application of the law, since the athlete tested positive for Meldonium, it conducted a review of the sanction's appropriateness, considering that the athlete's degree was not significant and did not warrant the maximum penalty. This represents a direct intervention in the discretionary power of the International Tennis Federation (ITF). In contrast, the Puerta Case shows that CAS confirmed it would not intervene in the sanction unless it was "grossly disproportionate". This resembles the principle of **Manifest Error of Assessment** in comparative administrative law.

Comparative Standard:

In traditional Administrative Judiciary, courts generally tend not to substitute the administration's assessment with their own, except in cases of excess. In contrast, CAS, by virtue of Article R57 of the CAS Code, is empowered to substitute the Federation's assessment with its own, making it a true second-instance court, rather than merely a court of cassation or review.

Applied Research Model: CAS Judicial Review Between Appropriateness Check and Fair Trial Guarantees (Case Study Method)

First: Maria Sharapova Case and the Consecration of the Principle of Proportionality in Sanctions

This case is the ideal model for explaining the Court's authority in de novo review and its intervention in the discretionary power of the administrative body (International Federation) to modify the sanction. In this regard, the ITF suspended Sharapova for two years after testing positive for Meldonium. She appealed to CAS, claiming that there was no intent to enhance performance, but rather use for medical reasons, and ignorance of the 2016 prohibited list. From an administrative law perspective, the researcher observes that CAS did not limit its review to legality of the act, but extended it to include the principle of proportionality, which requires that the sanction correspond to the gravity of the fault. The Court concluded that there was no significant fault and that the athlete's violation resulted from negligence rather than intentional misconduct. Consequently, the Court annulled the ITF Disciplinary Committee's assessment and substituted it with its own evaluation. This action confirms the administrative nature of the Court, acting as a judiciary of annulment and modification rather than merely annulment and remand.

Second: Claudia Pechstein Case and the Issue of Sports "Contracts of Adhesion"

This case is one of the most important in the history of sports law, as it moved the dispute from sports adjudication bodies to human rights courts and addressed the legitimacy of CAS itself. In this context, German skater Pechstein was banned for two years based on indirect evidence (blood changes - Biological Passport), without a positive doping sample. After losing before CAS, she resorted to Swiss courts, then German courts, and finally the European Court of Human Rights (ECHR), arguing that arbitration before CAS was compulsory rather than voluntary and that the Court lacked neutrality and independence. Through this process, CAS demonstrated its ability to interpret and apply complex scientific rules, proving its role as a specialized administrative judge with full authority to assess facts (CAS 2009/A/1912, Claudia Pechstein v. ISU). From a public law and human rights perspective, the researcher analyzes that this case highlights the vertical relationship between athletes and IFs. Under a contract of adhesion, the athlete is effectively required to accept arbitration clauses to participate in the Olympics Games. The researcher analyzes that consent in sports arbitration is often presumed or metaphorical, making the relationship closer to the citizen-state relationship (regulatory) than to a contractual one.

The review of the Court itself is reflected in the ECHR ruling in (*Mutu and Pechstein v. Switzerland*), which recognized CAS as an independent court but demanded public hearings upon request. This requirement publicity is a key feature of public administrative and criminal judiciary, and its imposition on CAS brings the Court closer to being an international administrative judicial body, rather than just a private and confidential arbitration center.

The researcher concludes from the Pechstein case that the legal legitimacy of International Federations' and CAS decisions no longer derives strength solely from private sports regulations (*Lex Sportiva*), but is now subject to human rights standards and international public law, reinforcing the hypothesis that we are facing a 'Global Administrative Judiciary' system in formation (Faruqe, Omer & others, 2021)

7. Results:

- **Dual Nature of CAS:** It possesses a *sui generis* character; a private arbitration entity with the substance of a public judicial authority in reviewing administrative matters.
- **Administrative Characterization of Lex Sportiva:** International sports regulations constitute a legal system similar to Global Administrative Law, where Federations exercise monopolistic regulatory and punitive powers globally.
- **Full Jurisdiction Review (Plein Contentieux):** CAS review is not limited to formal legality (jurisdiction and procedure) but extends to substantial appropriateness and facts, making it effectively a fully competent second-instance court.
- **Application of Public Law Principles:** CAS rulings enshrine fundamental principles of administrative and public law, most notably:
 - **Proportionality:** In assessing sanctions (e.g., Sharapova case).
 - **Due Process:** Confirmed by the necessity of public hearings in specific cases (e.g., Pechstein case).
 - **International Judicial Unity:** Ensuring uniform application of the WADA Code, preventing national federations from applying unjustified lenient or strict standards (e.g., Contador case).

8. Conclusion

This study examined the legal characterization of the review exercised by CAS over IFs' decisions, exploring whether such review is limited to commercial arbitration or constitutes

comprehensive administrative judicial oversight. The findings indicate that CAS has transcended its traditional role as a private arbitral body and has effectively transformed into a specialized international administrative judicial authority competent to oversee the legality and appropriateness of the acts by public regulatory bodies in sports. Moreover, the relationship between the athletes and IFs is primarily regulatory subordination (vertical) rather than a contractual nature. In this context, CAS formed the judicial mechanism ensuring the balance between the interest of the global sports system, fundamental human rights principles, and the athlete's right to a fair trial. The *de novo* review under Article R57 grants CAS powers that sometimes exceed those of traditional national administrative judiciary (annulment jurisdiction), as it can modify the sanctions and replace the administration's decision with its own (full jurisdiction), as in cases such as Sharapova and Cilic.

8. Recommendations

It is recommended that the following be conducted in the future: **Functional Recognition:** International legal bodies should formally recognize the quasi-judicial and administrative role of CAS, and consider its rulings a guiding source for comparative administrative law, **Enhancing Administrative Independence:** Necessary steps to ensure full financial and administrative independence of CAS from the IOC and IFs, to dispel any doubts about the neutrality of the sports "administrative judge", **Including CAS Jurisprudence in Legal Education:** The researcher recommends including the study of CAS rulings, especially those related to the review of discretionary power and proportionality, within comparative administrative judiciary courses in law faculties and **Promoting Transparency:** CAS should generalize the principle of public hearings in the Appeals Division, in line with public judiciary standards confirmed by the ECHR, to enhance confidence in the justice of sports administrative judiciary.

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References

- Alhawatemeh, O., Alrababah, R., Al-Shoura, L., Alazzam, F & Jarah, B. (2026). Legal compliance as a mediating variable between project management practices and supply chain performance in Jordanian companies. *Journal of Project Management*, 11(2), 591-598.
- Aljazi, J.D. and Al Heilat, O.M.A. (2026) 'The importance of administrative enforcement in protecting the family from digital domestic violence, analytical study between reality and hope', *Int. J. Electronic Security and Digital Forensics*, Vol. 18, No. 3, pp.310–322.
- Blackshaw, I. (2018). The role of the Court of Arbitration for Sport (CAS) in countering the manipulation of sport. In M. Breuer & D. Forrest (Eds.), *The Palgrave handbook on the economics of manipulation in sport* (pp. 223–246). Palgrave Macmillan. https://doi.org/10.1007/978-3-319-77389-6_12.
- Casini, L. (2015). Global administrative law: The case of sport. *International Organizations Law Review*, 12(2), 242–261.

- Cassese, S. (2015). Global administrative law: The state of the art. *International Journal of Constitutional Law*, 13(2), 465–468. <https://doi.org/10.1093/icon/mov022>
- Code of Sports-related Arbitration (2020 ed.). Court of Arbitration for Sport.
- Court of Arbitration for Sport 2016/A/4643, Maria Sharapova v. International Tennis Federation (ITF).
- Court of Arbitration for Sport 2020/A/6759, World Anti-Doping Agency (WADA) v. Sun Yang & Fédération Internationale de Natation (FINA).
- Faruqe, O., Aditi, J., Jubaer, O., Jubaer, S., & Moumi, A. (2021). The global administrative law: A comparative study. *Global Journal of Human-Social Science: F Political Science*, 21(3), 1–10. <https://doi.org/10.13140/RG.2.2.21721.44645>
- Foster, K. (2012). Lex Sportiva and Lex Ludica: The Court of Arbitration for Sport's jurisprudence. In R. Siekmann & J. Soek (Eds.), *Lex Sportiva: What is sports law?* (pp. 123–148). T.M.C. Asser Press. https://doi.org/10.1007/978-90-6704-829-3_7
- Mavromati, D., & Reeb, M. (2015). *The code of the Court of Arbitration for Sport: Commentary, cases and materials*. Wolters Kluwer. SKU:10057385-0002 .
- Mutu and Pechstein v. Switzerland, Applications nos. 40575/10 and 67474/10 (European Court of Human Rights, October 2, 2018).
- Rigozzi, A. (2010). Challenging awards of the Court of Arbitration for Sport. *Journal of International Dispute Settlement*, 1(1), 217–265. <https://doi.org/10.1093/jnlids/idp010>
- World Anti-Doping Code (2021 version). World Anti-Doping Agency.