



SPORTS

ARE THE ARBITRATION CLAUSES CONTAINED IN THE FIFA REGULATIONS ILLEGAL?

Both FIFA, UEFA and their affiliated national federations may be sued in the national courts of the domicile of the claimant and this conflicts with the position taken by FIFA.

On 29 of August of 2018, the Court of Appeal in Brussels published a decision that promises to trigger extensive debate (see the text of the decision in Spanish [here](#)). The case was brought by Doyen Sport and the club Seraing United against FIFA, UEFA and the Belgian Football Association (ASBBL). In it, the court decided that the mandatory arbitration clauses contained in the regulations of FIFA, UEFA and its affiliates, the national federations, violate Belgian law. The court even invoked Article 6(2) of the European Convention on Human Rights and Article 47 of the Charter of Fundamental Rights of the European Union, which aim to protect the right of access to any person to an independent and impartial judge.

The Brussels court found that the arbitration clauses contained in the statutes and regulations of FIFA, UEFA and their affiliated national associations are so broad that they cannot be applied to a specific dispute. It thus held the clauses to be illegal under Belgian law.

The judgment also states that both FIFA, UEFA and their affiliated national federations may be sued in the national courts of the domicile of the claimant. This position contrasts FIFA's assertion that, if it were sued in a national court, it would have to respond before the Swiss courts, in the location of its headquarters.

This judgment promises to spark discussions on sports forums because it is common knowledge that the intention of sports bodies, particularly in football, is to promote a private sports justice system that is specialised and agile. Thwarting this intention, the judgment of the court in Brussels upholds the legitimacy of sports issues being decided by national courts. If this approach were to be adopted across other jurisdictions, it would be a major setback for FIFA and UEFA.

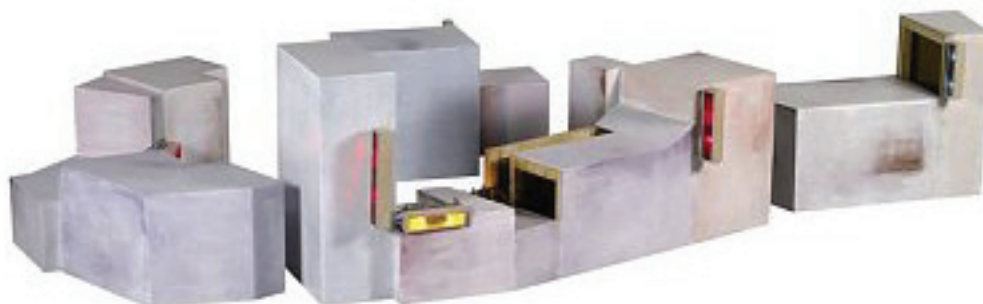
Aware of the negative effect that such a decision could have on it maintaining its relevance, the Court of Arbitration for Sport (CAS), the appellate body provided for in the regulations of football bodies, has already reacted to this judgment ([link](#)).

According to the CAS, the judgment of the Belgian court only finds that, under local law, the arbitration clause contained in the FIFA regulations is not specific enough, so it could not be applied in that jurisdiction.

In its press release, the CAS also adds that the risk of a national court not recognising an arbitral decision issued by the CAS is very limited.

Despite the visible effort of CAS to reduce the scope and importance of the decision of the Belgian court, it should be noted that this decision was also based on fundamental European legal rules and that, as such, it could have repercussions in other legal systems. Finally, it is also undeniable that, if the interpretation of the Belgian court were to be generally adopted, particularly in countries with national rules on arbitration similar to the Belgian rules, the sports dispute resolution system that FIFA and UEFA have been building would be at risk.

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EDUARDO MATOS
Récis C, 2004

Lâmpadas eléctricas, MDF, pinho,
vidro acrílico, tinta acrílica e transformador
62 x 186 x 266 cm

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