

CAS Mediation Rules

Pursuant to Articles S2 and S6 paragraph 10 of the Code of Sports-related Arbitration, the International Council of Arbitration for Sport adopts the present Mediation Rules.

A. Definitions

Article 1 CAS mediation is a non binding and informal procedure, based on a mediation agreement in which each party undertakes to attempt in good faith to negotiate with the other party, and with the assistance of a CAS mediator, with a view to settling a sports-related dispute.

CAS mediation is provided solely for the resolution of disputes related to the CAS ordinary procedure. A decision passed by the organ of a sports organization cannot be the subject of mediation proceedings before the CAS. All disputes related to disciplinary matters, as well as doping issues, are expressly excluded from CAS mediation.

Article 2 A mediation agreement is one whereby the parties agree to submit to mediation a sports-related dispute which has arisen or which may arise between them.

A mediation agreement may take the form of a mediation clause inserted in a contract or that of a separate agreement.

B. Scope of application of rules

Article 3 Where a mediation agreement provides for mediation under the CAS Mediation Rules, these Rules shall be deemed to form an integral part of such mediation agreement. Unless the parties have agreed otherwise, the version of these Rules in force on the date when the mediation request is filed shall apply.

The parties may however agree to apply other rules of procedure.

C. Commencement of the mediation

Article 4 A party wishing to institute mediation proceedings shall address a request to that effect in writing to the CAS Court Office, and at the same time send a copy of this to the other party.

The request shall contain: the identity of the parties and their representatives (name, address, telephone and fax numbers), a copy of the mediation agreement and a brief description of the dispute.

Upon filing its request, the party shall pay the administrative fee stipulated in Article 14 of the present Rules.

The day on which the mediation request is received by the CAS Court Office shall be considered as the date on which the mediation proceedings commence. The CAS Court Office shall immediately inform the parties of the date on which the mediation commences, and shall fix the time limit by which the other party shall pay its share of the administrative costs pursuant to Article 14 of the present Rules.

D. Appointment of the mediator

Article 5 The ICAS draws up the list of mediators chosen from the list of CAS arbitrators or from outside.

The personalities whom the ICAS chooses appear on the list of mediators for a four-year period, and are thereafter eligible for reselection.

Article 6 Unless the parties have agreed between themselves on who the mediator will be, he shall be chosen by the CAS President from among the list of CAS mediators and appointed after consultation with the parties.

In accepting such appointment, the mediator undertakes to devote sufficient time to the mediation proceedings as will allow these to be conducted expeditiously.

The mediator shall be and must remain independent of the parties, and is bound to disclose any circumstances likely to compromise his independence with respect to any of the parties.

Having duly been informed thereof, the parties may however authorize the mediator to continue his mandate, by means of a signed separate or joint declaration.

In the event of an objection by any of the parties, or at his own discretion if he deems himself unable to bring the mediation to a successful conclusion, the mediator shall cease his mandate and inform the CAS President accordingly, whereupon the latter will make arrangements to replace him, after consulting the parties.

E. Representation of parties

Article 7 The parties may be represented or assisted in their meetings with the mediator.

If a party is being represented, the other party and the CAS must be informed beforehand as to the identity of such representative.

The representative must have full authority to settle the dispute alone, without consulting the party he is representing.

F. Conduct of mediation

Article 8 The mediation shall be conducted in the manner agreed by the parties. Failing such agreement between the parties, the mediator shall determine the manner in which the mediation will be conducted.

As soon as possible, the mediator shall establish the terms and timetable for submission by each party to the mediator and to the other party of a statement summarizing the dispute, including the following details :

- a brief description of the facts and points of law, including a list of the issues submitted to the mediator with a view to resolution ;
- a copy of the mediation agreement.

Each party shall cooperate in good faith with the mediator and shall guarantee him the freedom to perform his mandate to advance the mediation as expeditiously as possible. The mediator may make any suggestions he deems appropriate in this regard. He may meet with separately with one of the parties, if he deems it necessary to do so.

G. Role of the mediator

Article 9 The mediator shall promote the settlement of the issues in dispute in any manner that he believes to be appropriate. To achieve this, he will :

- a. identify the issues in dispute ;
- b. facilitate discussion of the issues by the parties ;
- c. propose solutions.

However, the mediator may not impose a solution of the dispute on either party.

H. Confidentiality

Article 10 The mediator, the parties, their representatives and advisers, experts and any other persons present during the meetings between the parties may not disclose to any third party any information given to them during the mediation, unless required by law to do so.

Under their own responsibility, the parties undertake not to compel the mediator to divulge records, reports or other documents, or to testify in regard to the mediation in any arbitral or judicial proceedings.

Any information given by one party may be disclosed by the mediator to the other party only with the consent of the former.

No record of any kind shall be made of the meetings. All the written documents shall be returned to the party providing these upon termination of the mediation, and no copy thereof shall be retained.

The parties shall not rely on, or introduce as evidence in any arbitral or judicial proceedings :

- a. views expressed or suggestions made by a party with respect to a possible settlement of the dispute ;
- b. admissions made by a party in the course of the mediation proceedings ;
- c. documents, notes or other information obtained during the mediation proceedings ;
- d. proposals made or views expressed by the mediator ; or
- e. the fact that a party had or had not indicated willingness to accept a proposal.

I. Termination

Article 11 Either party or the mediator may terminate the mediation at any time.

The mediation shall be terminated :

- a. by the signing of a settlement by the parties ;
- b. by a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile ; or
- c. by a written declaration of a party or the parties to the effect that the mediation proceedings are terminated.

J. Settlement

Article 12 The settlement is drawn up by the mediator and signed by the mediator and the parties.

Each party shall receive a copy thereof. In the event of any breach, a party may rely on such copy before an arbitral or judicial authority.

A copy of the settlement is submitted for inclusion in the records of the CAS Court Office.

K. Failure to settle

Article 13 The parties may have recourse to arbitration when a dispute has not been resolved by mediation, provided that an arbitration agreement or clause exists between the parties.

The arbitration clause may be included in the mediation agreement. In such a case, the expedited procedure provided for under article 44, paragraph 4 of the Code of Sports-related Arbitration may be applied.

In the event of failure to resolve a dispute by mediation, the mediator shall not accept an appointment as an arbitrator in any arbitral proceedings concerning the parties involved in the same dispute.

L. Costs

Article 14 Each party shall pay the CAS Court Office the administrative fees fixed by the Court within the time limit provided in Article 4 of the present Rules. In the absence of such payment, the mediation proceedings will not be set in motion.

The parties will pay their own mediation costs.

Unless otherwise agreed between the parties, the final costs of the mediation, which include the CAS fee, the fees of the mediator calculated on the basis of the CAS fee scale, a contribution towards the costs of the CAS, and the costs of witnesses, experts and interpreters, will be borne by the parties in equal measure.

The CAS Court Office may require the parties to deposit an equal amount as an advance towards the costs of the mediation.

Recommended clause for CAS mediation to be inserted in a contract

“Any dispute, any controversy or claim arising under, out of or relating to this contract and any subsequent amendments of or in relation to this contract, including, but not limited to, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the CAS Mediation Rules. The language to be used in the mediation shall be...”

Additional clause in the absence of settlement
of the dispute

“If, and to the extent that, any such dispute has not been settled within 90 days of the commencement of the mediation, or if, before the expiration of the said period, either party fails to participate or continue to participate in the mediation, the dispute shall, upon the filing of a Request for Arbitration by either party, be referred to and finally settled by CAS arbitration pursuant to the Code of Sports-related Arbitration. When the circumstances so require, the mediator may, at his own discretion or at the request of a party, seek an extension of the time limit from the CAS President.”