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The CJEU establishes limits on the recognition of CAS awards: mandatory judicial review to ensure compatibility with European public policy

1. Introduction

In its [judgment of the Grand Chamber](#) in the Royal Football Club Seraing case C-600/23 (ECLI:EU:C:2025:24), the Court of Justice of the European Union (the “**CJEU**”) has set an important precedent for international sports arbitration by establishing that awards of the Court of Arbitration for Sport (the “**CAS**”) may be subject to review by the courts of Member States to verify that they are compatible with the public policy of the Union.

Consequently, CAS awards will not automatically have *res judicata* effects or probative value in the territory of Member States but will be subject to prior effective judicial review of their compatibility with EU public policy. This judgment introduces additional safeguards to sports arbitration, further developing the doctrine established in the International Skating Union case, C-124/21 P (ECLI:EU:C:2023:1012).

2. Background to the case

The main proceedings arose from a dispute between Royal Football Club Seraing (“**RFC Seraing**”), and the Fédération Internationale de Football Association (“**FIFA**”), the Union Européenne des Sociétés de Football Association (“**UEFA**”), and the Union Royale Belge des Sociétés de Football Association ASBL (“**URBSFA**”). The dispute arose from disciplinary sanctions imposed on RFC Seraing as a result of financing agreements between RFC Seraing and Doyen Sports. These agreements provided for the transfer of players' economic rights, which was considered contrary to the regulations of FIFA, UEFA and the URBSFA due to its infringement of the FIFA Regulations on the Status and Transfer of Players. In March 2016, RFC Seraing appealed that decision to the CAS.

In parallel, Doyen Sports brought proceedings before the Commercial Court of Brussels against FIFA, UEFA and the URBSFA, which were subsequently joined by RFC Seraing. The claimants argued that the total ban on third-party investment in players' economic rights established in the new FIFA Regulations on the Status and Transfer of Players breached EU law.

The case took a significant turn when, during the appeal proceedings before the Brussels Court of Appeal (*Cour d'Appel*), the CAS issued its decision on RFC Seraing's appeal. The *Cour d'Appel* held that this arbitral award had *res judicata* effects under Belgian national law, which prevented the national court from ruling on possible infringements of EU law and, therefore, also prevented it from referring questions to the CJEU for a preliminary ruling. The *Cour d'Appel* ultimately dismissed the appeal in December 2019.

RFC Seraing appealed the decision to the Belgian Court of Cassation (*Cour de Cassation*), which identified two fundamental legal questions: firstly, whether EU law permitted the recognition of the *res judicata* effects of an arbitral award that had not been subject to review by a court with jurisdiction to refer the matter to the CJEU; and secondly, whether it was appropriate to attribute probative value to that award vis-à-vis third parties in the same circumstances.

3. Decision of the CJEU

A. Fundamental principles established by the CJEU

The CJEU has reaffirmed that the Union is a “Union of law” in which effective judicial protection is an essential element, which is guaranteed by Article 19 of the Treaty on the European Union (the “TEU”). This protection requires that individuals be able to rely on the rights guaranteed by EU law, including Articles 45, 56, 63, 101 and 102 of the Treaty on the Functioning of the European Union (the “TFEU”) and Article 47 of the Charter of Fundamental Rights of the European Union (the “Charter”). In its judgment, the CJEU held that individuals affected by the awards are entitled to effective judicial protection, which, in this specific area, involves a review by a court of a Member State of the essential principles and provisions that form part of the Union's public policy.

B. Characteristics of the CAS arbitration system and analysis by the CJEU

The CJEU held that the CAS arbitration mechanism must be regarded as “unilaterally imposed on the individuals concerned”, conferring on it jurisdiction that is “not only general and obligatory, but also exclusive”, according to the FIFA Statutes. Articles 47(3) and 50(1) of the FIFA Statutes provide that any appeal against its decisions must be brought before the CAS, while Article 51 prohibits appeals before the ordinary courts.

As a result of this obligation to refer the matter to the CAS, the CJEU ruled that nationals of Member States must be able to seek effective judicial review of CAS awards. The Court based this requirement on the fact that, where an arbitration mechanism has been imposed unilaterally on individuals, as is the case with the CAS, and does not constitute a free and voluntary waiver of the right to judicial protection, the legal autonomy of sports associations cannot justify limiting the option for individuals to invoke the rights and freedoms of EU law that form part of public policy before a court of the Union.

C. Requirements for effective judicial review

The CJEU has established four fundamental requirements for judicial review:

- i) **Remedies:** individuals must be able to obtain effective judicial review of the compatibility of an award with the public policy of the Union, either directly or incidentally.
- ii) **Scope of review:** the courts must review the interpretation of the principles of European Union public policy, the legal consequences arising therefrom and the legal classification of the facts.
- iii) **Consequences of review:** it is no longer sufficient to declare, where appropriate, that there is an incompatibility with European Union public policy, but rather “all the necessary legal consequences” must be drawn from that incompatibility.
- iv) **Interim measures:** every court must be empowered to grant interim measures to ensure the full effectiveness of the above.

4. Judgment and scope of the decision

The CJEU has declared that Article 19 of the TEU, in conjunction with Article 267 of the TFEU and Article 47 of the Charter, precludes:

- i) **The attribution of *res judicata* effects to CAS awards** in the territory of the Member States where the dispute concerns the practice of sport as an economic activity within the European Union, and where there has been no prior effective judicial review by a court or tribunal empowered to refer questions to the CJEU for a preliminary ruling.
- ii) **The attribution of probative value** to such awards vis-à-vis third parties as a consequence of these *res judicata* effects.

5. Practical implications

A. For international sports arbitration

The decision does not deprive the CAS of its jurisdiction or substantially alter the framework for the recognition of foreign arbitral awards. CAS awards, which are Swiss awards, remain subject to the 1958 New York Convention for their recognition and enforcement in Member States. However, the CJEU has made a fundamental clarification: it prohibits CAS awards from automatically enjoying *res judicata* effects in the territory of Member States without first being reviewed by a court of a Member State to ensure that they are compatible with the public policy of the Union.

B. For legal practice and the enforcement of awards

National courts must not apply provisions that automatically confer *res judicata* effects on CAS awards without prior review. This obligation is particularly important when national provisions prevent the effective review of compatibility with European public policy. The review may be exercised “incidentally” when there is no direct means of appeal.

C. Interpretation of the public policy analysis under the New York Convention

The CJEU further added that the 1958 New York Convention also provides for the judicial review of arbitral awards concerning respect for public policy. For EU Member States, this review must include compliance with the public policy of the Union, to the extent described in the following paragraph.

6. Evolution of CJEU case law

This judgment is part of an evolution in case law that includes, among others, the Nordsee (C-102/81, ECLI:EU:C:1982:107), Achmea (C-284/16, ECLI:EU:C:2018:158), Avio Lucos (C-116/20, ECLI:EU:C:2022:273) and International Skating Union (C-124/21 P ECLI:EU:C:2023:1012) cases. The CJEU has emphasised the distinction between voluntary and compulsory arbitration, stressing the need for the effective judicial protection guaranteed within the Union's judicial system to be respected when parties resort to arbitration.

The main new developments include: (i) the systematic application of specific requirements for the effective judicial review of CAS awards; (ii) the obligation of judicial review by a Member State, even if only incidentally; and (iii) the prohibition of automatic recognition without prior effective judicial review.

The CJEU has confirmed that EU public policy expressly includes Articles 101 and 102 of the TFEU (rules on competition), as well as the fundamental free movement of workers (Article 45 of the TFEU), the freedom to provide services (Article 56 of the TFEU), and the free movement of capital (Article 63 of the TFEU). However, the above list is not exhaustive.

Finally, the CJEU has noted that, in order for there to be an effective review of compliance with European public policy, such a review must cover the legal consequences to be attributed to the rules of public policy considered applicable, including the non-application of a national rule if necessary. European courts must not merely declare that there has been a breach of EU public policy, but must also remedy the damage caused by the breach and end the conduct that constitutes that breach.

Consequently, the CJEU appears to be ordering a review of the substance of the CAS awards on issues that may affect EU public policy, with the only limitation being the analysis of the facts carried out by the arbitral tribunal. On the basis of those facts, courts are required to issue a decision that applies the provisions of EU public policy in order to give them full effect.

In this new context, it remains to be seen how the scope of the judicial review of awards will be defined in practice. This CJEU judgment refers exclusively to awards in sports arbitration and has carefully distinguished this area from commercial arbitration. However, the fundamental problem is defining European Union public policy on a case-by-case basis, and how far the CJEU will go in future cases, which could also have consequences for the judicial review of commercial arbitration awards.

7. Conclusions

This judgment represents a new step by the CJEU in the review of arbitral awards and the assessment of their compliance with European Union law. Similarly, it anticipates the CJEU's possible approach in subsequent cases concerning commercial arbitration, such as the preliminary ruling requested by the High Court of Justice of Madrid in the dispute between Cabify and Auro.

For legal practitioners, the decision highlights the importance of systematically assessing the compatibility of arbitral awards with EU public policy when they may affect the freedoms of movement or essential rules of competition law.

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