

Milestones to sports ADR in Jordan

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The Jordan Football Association (“JFA”) is the official body governing football in Jordan, and consists of various committees that oversee all football tournaments and activities. Each committee has a specific function, which ensures the smooth running of all football related affairs. One such committee is the Jordan Football Association Disciplinary Committee (the “Disciplinary Committee”).

The Disciplinary Committee

As its name suggests, the Disciplinary Committee is an independent quasi-judicial tribunal, composed of a body of officials responsible for regulating Jordanian football on the playing field, and investigating complaints referred to it in particular. The President and Vice-President must both be lawyers and the committee must also include experts specialized in football. All officials in the Disciplinary Committee work pro bono, and with a great deal of passion. In my role and capacity as President of the Disciplinary Committee, I have seen first-hand the incredible results of the Disciplinary Committee’s efforts, and how this has transformed not just the local teams, but the nature of Jordanian football into one of the most professionally regulated sports in the Middle East.

As an illustration of this point, I will provide the following example. The Disciplinary Committee relies on the Public Instructions for the 2015 Season (the “Instructions”), which is modelled after FIFA’s own regulations, in order to guide committee officials in every area relevant to their task. In the heat of the moment, if a player were to breach ethical conduct and act in an unsportsmanlike manner by swearing or spitting at his rival opponent, the Disciplinary Committee official would turn to the Instructions to administer the appropriate penalties. It should be mentioned, however, that the Disciplinary Committee bases its decision on the referee’s reports, after having thoroughly scrutinized them. Furthermore, the penalties do not only concern offending other players; almost anyone, be it the club itself, the referee, club officials, the game audience, and so on may be subjected to penalties.

It is thus in such a manner that the Disciplinary Committee helped form the bedrock of Jordanian professionalism.

CAS - Court of Arbitration for Sport

Although the work undertaken by the Disciplinary Committee was an important and formative milestone in establishing professionalism in Jordanian football, it is clear that the journey is not over yet and there is still a long way to go. The next phase involves creating an official body specialized in dealing with all forms of judicial disputes related to football, which will essentially be an arbitration court modelled after the Court of Arbitration for Sport (“CAS”). Whilst the headquarters of CAS are located in Switzerland, its courts are located in New York, Sydney, Lausanne, and more recently Abu Dhabi, with temporary courts set up in current Olympic host cities.

CAS is an institution independent of any sports organization, which provides for services in order to facilitate the settlement of sports-related disputes through arbitration or mediation by means of procedural rules adapted to the specific needs of the sports world. The kinds of disputes and conflicts referred to CAS are wide-ranging and not simply restricted to disciplinary problems: they include sponsorship disputes, the eligibility of a particular athlete in accordance with a sport’s constitution, as well as the resolution of

disagreements concerning competition results. It should be noted that we are currently in the process of researching CAS, and looking into the possibility of using it as a foundation for establishing a similar court in Jordan. Such a task is not inconceivable, given that we have a joint committee already set up between the members of the JFA and the Olympic Committee.

The advantages of establishing such a court for Jordan would be numerous, including the above-mentioned wide range of issues that such a court would hear, given that the Disciplinary Committee cannot hear or investigate this broad range of conflicts. Unlike a traditional civil court, CAS acquires its jurisdiction in a particular case only through the mutual consent of the parties involved. This procedure, known as arbitration, is designed to create a resolution binding on all parties (there are very limited rights of appeal permitted from a CAS arbitration). The chief advantage of an arbitration conducted by the CAS is its expertise in sports-related disciplines (there are more than 300 arbitrators from 87 countries qualified to hear CAS disputes); a typical civil judge will not likely possess such sports-specific knowledge. CAS arbitration is also generally a much more expeditious proceeding, with the cases heard and determined within a few months, at a lower legal cost to the participants. If Jordan was to follow the above model, first starting with football, it would certainly be establishing a pioneering effort in creating the first specific sports court in the Levant region, alongside Abu Dhabi which has already set up its own CAS, the first of its kind in the Gulf. Abu Dhabi is also the second chamber for CAS outside of Switzerland. The UAE is further considering the establishment of another 'Emirates Sports Arbitration Centre'. Other countries are sure to follow in such footsteps, progressively expanding the range of sports that are dealt with.

Specific Features of CAS

Having given a preliminary outline of CAS, and a possible idea of what Jordan could potentially be pursuing in the near future, it is worth briefly investigating the nature of such an arbitration court. Although the subject matter of sports is as far away as anything from what a traditional corporate lawyer might conceive, the procedural and substantive characteristics of CAS very much resemble the arbitration courts as we know them. A good example of one such salient feature is the fact that, like the majority of arbitration cases, the CAS proceedings are confidential and the parties, arbitrators and CAS staff are obliged not to disclose any information connected with the dispute. Similarly, the parties are free to agree on the law applicable to the merits of the dispute. Failing such agreement, Swiss law will apply.

The procedure itself is quite straightforward. Once the arbitration request or statement of appeal is filed, the respondent submits a reply to the CAS. After any additional exchange of statements of case, the parties are summoned to a hearing to be heard, produce evidence and argue their case. The parties may choose to appear alone, or they may be represented or assisted at CAS hearings by a person of their choice, not necessarily a lawyer. The final award is communicated to the parties some weeks later, unless it is pronounced the same day (under the appeals procedure). The overall process might last somewhere between 6 - 12 months, depending on the complexity of the case and whether any appeals are submitted or not, and as mentioned in the previous section, the award pronounced by CAS is final and binding on the parties from the moment it is communicated. As can be seen, the reasonable level of flexibility offered by the CAS system, and its resemblance to norms and principles already well established within international arbitration law, is what makes it such a popular and commercially-attractive alternative to the normal litigation route.

Kais Zayadin is an Associate in the Banking & Finance practice in the firm's Jordan office and a member of Al Tamimi & Company's dedicated Sports Law practice. Kais has experience in drafting various types of sports related sponsorship agreements and has recently reviewed the contract of the Head Coach of the Jordanian National A team on behalf of the Jordanian Football Federation. Kais is currently Head of the Disciplinary Committee at the Jordanian Football Federation, as well as more recently, Head of the Disciplinary Committee at the West Asia Football Federation (Women). Additionally, he is a member of the Committee tasked with the establishment of a sports arbitral court in Jordan.