

CAS decision declining jurisdiction over Algerian football dispute upheld (Swiss Supreme Court)

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Legal update: archive | [Published on 10-Dec-2019](#) | Algeria, International, Switzerland

In *Decision 4A_268/2019*, the Swiss Supreme Court rejected an application to set aside a Court of Arbitration for Sport (CAS) decision declining jurisdiction over a dispute between an Algerian football player and an Algerian football club over unpaid wages. The Supreme Court examined whether the CAS rightfully declined jurisdiction over the dispute.

In a recently published French-language decision, dated 17 October 2019, the Swiss Supreme Court refused to set aside a decision issued by the Court of Arbitration for Sport (CAS) in which the CAS found that it lacked jurisdiction over a dispute between an Algerian football player and an Algerian football club in relation to unpaid wages.

In this case, the player challenged a decision issued by the Algerian Tribunal for Sports Disputes (ATS) before the CAS. The player directed his challenge against both the club and the Algerian Football Federation (AFF) and argued that both the Fédération Internationale de Football Association (FIFA) and the AFF statutes provided that ATS decisions could be challenged before the CAS.

First, the CAS ruled that it did not have *ratione personae* (subject matter) jurisdiction over the AFF as the AFF was not bound by the arbitration agreement contained in the employment contract signed between the club and the player.

Second, the CAS decided that neither the FIFA nor the AFF statutes provided that the decision of the ATS could be challenged before the CAS. With regard to the FIFA statutes, the CAS held that they were mere instructions to FIFA's member federations to provide for proper judicial review of their decisions and did not provide for a right to challenge all decisions rendered by member federations or by their judicial bodies before the CAS. As for the AFF statutes, the CAS found that they only provided for an appeal to the CAS for disputes to which the AFF is a party.

Therefore, the Swiss Supreme Court rejected the application to set aside the CAS decision confirming that neither the FIFA nor the AFF statutes constituted sufficient ground to challenge the AFF decision before the CAS. It also confirmed that pursuant to the AFF statutes, only decisions pertaining to disputes involving the AFF as a party may be appealed before the CAS.

Case: *Decision 4A_268/2019 (Swiss Supreme Court)*.

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