

IPACS Benchmark – Guidelines

Updated 2 September 2022, version 2

IPACS Benchmark E7 – Decisions can be challenged through internal appeal mechanisms with final recourse to an appropriate independent body ensuring the right to a fair trial

Definitions

- Internal appeal mechanism – a defined, formal process by which an individual or entity can request a review of a decision made by the organisation that affects them (e.g. disciplinary sanctions and other decisions that affect the rights of individuals or entities, generally separate from the field of play rules); the review will be conducted by a separate body and different judges/adjudicators/arbitrators from those which took the original decision
- Appropriate independent body – a number of bodies and mechanisms exist at domestic level where appeals against decisions by sports bodies can be heard; in international sport this will usually be the Court of Arbitration for Sport (CAS), an institution based in Switzerland under Swiss private law that is independent of any sports organisation which provides 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 (source: adapted from CAS website)
- Right to a fair trial – when a person or entity is involved in proceedings where civil rights and obligations or a criminal charge is at stake, they have a right to a fair trial. It notably includes the right to be heard by an independent and impartial tribunal established by law

Introduction to this benchmark and its significance

- Allowing for internal appeals gives recourse to people and entities involved with an organisation in the event of miscarriages of justice; it also enables the organisation itself to demonstrate a commitment to implementing rules correctly
- The right to be heard and to have access to a fair trial are a human right
- Having the possibility of an appeal to an independent court provides an extra level of protection against serious mistakes or political influence in sport-related decision-making
- Limiting the right of appeal to an appropriate specialist sports judicial system reduces the risk of disputed sporting matters subject to domestic laws, such as competition results, being determined in civil courts; domestic civil courts continue to have jurisdiction and an important role to play regarding national legislation, for example in relation to financial matters

Commentary on the action to be taken

- The organisation should have a provision in its Statutes for internal appeals against certain types of decisions, including disciplinary sanctions and other decisions that affect the rights of individuals and entities; the rules governing internal appeals, in particular rules restricting the possibility of appeals, should be formalised in a clear manner and be easily accessible to all
- The internal appeal process should be designed so as not to restrict access to justice in an unreasonable or disproportionate way; for example, fees for appeals should be at a modest level with assistance for individuals in financial hardship and there should be a realistic time limit for lodging an appeal
- The organisation should have a provision in its Statutes for a final opportunity to appeal against decisions to the relevant domestic body, CAS or another appropriate independent body outside the organisation ensuring the right to a fair trial
- The organisation may have separate procedures for appeals against decisions that occur in competition and away from competition
- It is understood that some organisations may legitimately decide, depending on their specific circumstances, to restrict the possibility of internal appeals to a narrow range of types of decisions (e.g. no appeal against decisions on the field of play)

- The organisation should publish the full decision taken upon internal appeals and cases determined by other bodies, including CAS, where possible, in a way in which the individual(s) concerned can understand it
- The rules and procedures for appeals should be comprehensive including who can bring an appeal (including whether the sport organisation can appeal a decision of its own judicial panel); they should include the procedures of the appeal (which satisfy the principles of natural justice) including whether the appeal is heard de novo (a fresh hearing) or a rehearing of the evidence on which the earlier decision was based; procedures should also cover other matters such as confidentiality and publication of the decision
- See also Recommendation B6 (publication of sanctions)

Investment requirement – there are limited costs for putting in place relevant rules; investment may be required in the event of internal appeals taking place; appeals to an appropriate independent body can result in substantial costs

Guidance according to stage of organisation

Early stage

- The organisation has an internal appeal policy and full procedure in place for selected decisions (e.g. disciplinary cases or any other decisions that affect the rights of individuals or entities)
- There is clarity about any separation of appeals processes between decisions relating to competition and away from competition
- The organisation's appeal process does not restrict access to justice in an unreasonable way; fees for appeals are modest with support for individuals in financial hardship and there is a realistic time limit for lodging an appeal
- The organisation allows for a final opportunity for an appeal by involved parties for selected decisions to an appropriate independent body (CAS for most international sports organisations), ensuring the right to a fair trial

Developing

- The organisation has an internal appeal policy and process in place for a wide range of decisions (e.g. governing body decisions)
- The organisation has a final right of appeal for a wide range of decisions to an appropriate independent body (CAS for most international sports organisations), ensuring the right to a fair trial
- The organisation publishes the outcome of internal appeals and cases determined by independent bodies, where possible

Advanced

- The organisation publishes full decisions for internal appeals and cases determined by independent bodies, where possible
- The organisation provides support to individuals and entities based on the need to enable them to have access to the appeals process (e.g. voluntary legal support, reduced fees or funding support)

Good practice examples

International Sports Organisations (from 2020)

- FIVB: The right of appeal to CAS is covered in Constitution 2.7.5 and Disciplinary Regulations Section 3
- World Archery: There is a right of appeal to CAS for most decisions – see [Constitution 1.31](#)
- IBSF: [Statutes 18.2](#) - first instance appeals to appeals tribunal
 - [Appeals Tribunal Code](#) published and [recent decision](#) also available
- International Powerboating Union - UIM International Court of Appeal is the final appeal tribunal within the UIM. There is a right for a final arbitration at CAS. (See [By-law 12](#))
- Panam Sports – dispute resolution includes a process for appeals and right of appeal to CAS - [Article 37](#)

Overall standard among International Federations:

- 16 out of 31 members of ASOIF had an internal appeals policy and evidence of implementation. All 31 members had a right of appeal to CAS or equivalent. Many IFs have had examples of cases
- This topic was one of 20 covered in the 2018-19 GAISF assessment for non-Olympic sports (compared to 50 topics for Olympic sports) as it was judged to be important and feasible for small organisations to achieve

Selected references

- [ASOIF GTF Questionnaire 2019-20](#), Indicators 6.7 and 6.10
- [SIGGS Principle 1 \(Integrity, Indicator 5\)](#) - How would you define your organisation's sanctions system for dealing with cases of misconduct?
- European Commission Expert Group on Good Governance, ["Principles of Good Governance in Sport"](#):
 - Principle 7.f: Appropriate appeal framework.
- Parliamentary Assembly of the Council of Europe, [Addendum to the report](#) "Working towards a framework for modern sports governance":
 - Criterion 3.3: Procedural guarantees:
 - Internal appeal mechanisms;
 - The Court of Arbitration for Sport (or similar) as an external channel of complaint and dispute resolutions.
- IOC's ["Consolidated Minimum requirements for Implementation of the Basic Principles of Good Governance for NOCs"](#):
 - Theme 2.10 "Decisions and appeals", Principle 1: "Any member affected by a decision of a disciplinary nature taken by any sports organization should be offered the possibility to submit an appeal to an independent body within the sport's jurisdiction".
- [Court of Arbitration for Sport](#)
- Council of Europe – [Right to a fair trial](#)
- Council of Europe, [EPAS Good Practice Handbook n. 6](#), Disciplinary and arbitration procedures for the sport movement (2017)
- Council of Europe, [EPAS Good Practice Handbook n. 5](#), Human rights protection in Europe in the context of sports organisations' disciplinary and arbitration procedures (2018)
- [Council of Europe Recommendation on general principles of fair procedure applicable to anti-doping proceedings in sport \(CM/Rec\(2022\)14\)](#)
- Geeraert, A. (2018). [Sports Governance Observer 2018](#). An assessment of good governance in five international sports federations. Aarhus: Play the Game / Danish Institute for Sports Studies, p.11-15:
 - Principle 42: The organization's decisions can be contested through internal or external mechanisms.

- 0 – No
- 1 - Some opportunity for internal appeals
- 2 - Internal appeals policy in place
- 3 - Internal appeals policy in place, evidence of implementation
- 4 - State of the art appeals policy, evidence of implementation, full decisions published

ASOIF indicator 6.10 – scoring definitions used in the 2019-20 assessment

- 0 – No
- 1 - Some opportunity for external Appeals
- 2 - Right of appeal for some internal decisions to CAS or similar
- 3 - Right of appeal in statutes for all relevant internal decisions to CAS, evidence of implementation
- 4 - Right of appeal in statutes for all relevant decisions to CAS, implementation, outcomes published