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Advocate General's Opinion in Case C-600/23 | Royal Football Club Seraing

Sports arbitration: AG Ćapeta proposes that awards by the Court of Arbitration for Sport must be open to full review by national courts to ensure the compatibility of FIFA rules with EU law

The principle of effective judicial protection precludes national law that limits access to national courts and the review of such awards by those courts

A Belgian football club, Royal Football Club Seraing, entered into a contract with a Maltese company, Doyen Sports, ¹ to transfer the economic rights of several football players. The Disciplinary Committee of the Fédération Internationale de Football Association (FIFA) considered that arrangement to violate the FIFA rules prohibiting third-party ownership of players' economic rights. That Committee imposed certain disciplinary measures on Royal Football Club Seraing, which were confirmed by the Court of Arbitration for Sport (CAS) and by the Swiss Federal Supreme Court.

Seeking a declaration that FIFA's rules prohibiting the third-party ownership of players' economic rights breach EU law, Doyen Sports brought proceedings before the Belgian courts. Those courts declined jurisdiction on the basis that Belgian law attributes the force of *res judicata* to certain types of commercial arbitration awards, including CAS awards. On appeal, the Cour de cassation (Court of Cassation, Belgium) seeks guidance from the Court of Justice *inter alia* on whether EU law precludes the application of such national provisions to an arbitral award that has been reviewed solely by a court of a State that is not a Member State of the European Union.

In today's Opinion, Advocate General Tamara Ćapeta considers that direct access to and full judicial review by a national court against any and all rules of EU law must be available to EU sport actors that are subject to FIFA's system of dispute settlement, a final CAS award notwithstanding.

The Advocate General distinguishes sports arbitration from commercial arbitration on two grounds.

First, she explains that **an essential feature of commercial arbitration is the free acceptance of the arbitration clause by both parties. That feature justifies limiting, in the field of commercial arbitration, the review of national courts to matters of public policy.** However, that justification does not apply to the type of sports arbitration clause at issue in the present case. **FIFA's sports arbitration clauses are mandatory.** Sport actors subject to FIFA's rules have no option but to submit their disputes to the FIFA Disciplinary Committee and subsequently to CAS. **Awards rendered under that system cannot therefore be limited to public policy issues and must be open to full judicial review.**

Second, **Advocate General Ćapeta explains that the system of dispute settlement established by the FIFA Statutes is characterised by its self-sufficient nature.** Unlike a party to commercial arbitration, **FIFA can enforce the arbitral award on its own** by prohibiting players to play or clubs or associations to participate in its

competitions. In other words, **FIFA does not need to turn to a court. Therefore, the Member States must enable direct access to a court with the power to judicially review FIFA's rules for their compatibility with EU law, even where a CAS arbitral award applying those rules was confirmed by the Swiss Federal Supreme Court.**

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the Opinion are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Doyen Sports' commercial activity focuses on providing financial assistance to football clubs in Europe. Its aims are, inter alia, (a) the purchase of football players, coaches and managers; (b) the representation of football players, coaches and managers; (c) the transfer of players, coaches and managers between different clubs; (d) the representation of clubs; (e) to profit from football clubs or to play an active role in their day-to-day management, provided that they comply with FIFA regulations and any other relevant national or international regulations; and (f) to grant loans to football clubs.