



PRESS RELEASE No 104/25

Luxembourg, 1 August 2025

Judgment of the Court in Case C-600/23 | Royal Football Club Seraing

Football: the Court affirms the right, for clubs and players in particular, to obtain effective judicial review of arbitral awards made by the Court of Arbitration for Sport

The courts or tribunals of the Member States must be able to carry out an in-depth review of those awards for consistency with the fundamental rules of EU law

In the field of football, as in many other sports, the submission of disputes to arbitration is generally not freely accepted but unilaterally imposed on athletes and on clubs by international associations, such as the Fédération internationale de football association (FIFA).

In those circumstances, it is essential that recourse to arbitration does not undermine the rights and freedoms that the fundamental rules of EU law guarantee athletes, clubs and, more broadly, any other person practising a professional sport or pursuing an economic activity linked to that sport. On those grounds, the Court of Justice rules today that the national courts or tribunals must be empowered to carry out, at the request of individuals or of the court's or tribunal's own motion, an in-depth judicial review as to whether arbitral awards made by the Court of Arbitration for Sport (the CAS) are consistent with EU public policy.

Furthermore, if national legislation or rules of a sports association prevent the national courts or tribunals from exercising their powers, those courts or tribunals are required to disapply that legislation or those rules.

In 2015, a Belgian club, Royal Football Club Seraing (RFC Seraing), concluded financing agreements with the Maltese company Doyen Sports; those agreements provided for the transfer to that company of a part of the economic rights of some of RFC Seraing's players. Finding that that type of contract was in breach of the prohibition on third parties holding players' economic rights, FIFA imposed a number of sanctions on the club, namely a prohibition on the registration of new players during several periods as well as a fine. Those sanctions were upheld by the CAS, which is the global body for dispute resolution in the field of sports, and subsequently by the Swiss Federal Supreme Court.

Challenging the compatibility of the FIFA rules with EU law, RFC Seraing then brought the case before the Belgian courts. The court of first instance and the court of appeal found that the award made by the CAS was final and had the authority of *res judicata*, and that, therefore, they could not carry out a fresh assessment of that question of compatibility. Seised of the case, the Belgian Court of Cassation decided to refer a question to the Court of Justice for a preliminary ruling. It asks, in essence, whether, having regard to EU law, the national courts or tribunals may be prevented, pursuant to the principle of the authority of *res judicata*, from reviewing an arbitral award made by the CAS and upheld by the Swiss Federal Supreme Court, namely a court of a third country that does not have the option open to it of referring a question to the Court of Justice for a preliminary ruling.

The Court of Justice holds that national rules granting the authority of *res judicata* such a scope **are contrary to EU law**. The application of rules of this kind **deprives** individuals of the possibility of obtaining, from the courts or tribunals of the Member States, **effective judicial review** of such arbitral awards.

More specifically, the Court recalls, first of all, that recourse to arbitration by individuals is in principle possible, adding, nevertheless, that if that arbitration is to be implemented within the European Union, it is necessary to ensure that it is compatible with the judicial architecture of the European Union and that it is consistent with EU public policy.

Next, the Court finds that, in the present case, the CAS award was made pursuant to an arbitration mechanism that was unilaterally imposed by an international sports association (FIFA), as is often the case in sports-related disputes.

For that reason, the Court rules that, in order to ensure effective judicial protection for athletes, clubs and other individuals who might be affected as a result of pursuing a sports-related economic activity within the European Union, the awards made by the CAS **must be amenable to effective judicial review**. Thus, even though it may legitimately be limited in order to take account of the specific features of arbitration, that review must in any event allow individuals to obtain in-depth judicial review as to **whether those awards are consistent with the principles and provisions of EU public policy**. Furthermore, the possibility must exist to obtain interim relief and to have **a reference made to the Court of Justice for a preliminary ruling**.

Lastly, where an infringement of the competition rules or of a freedom of movement is at issue, the individuals concerned must be able to request those courts or tribunals not only to find that that infringement exists and to order damages for the harm caused to them, but also to bring to an end the conduct amounting to that infringement.

Furthermore, the Court adds that a national court or tribunal is **required to disapply of its own motion any national legislation or rules of a sports association that would hinder such effective judicial protection as regards individuals**.

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 European Union law or the validity of a European Union 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.

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The [full text, and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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