



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **THE ROLE OF INTERNATIONAL ARBITRATION IN SPORTS DISPUTES WITH SPECIAL REFERENCE TO SHARAPOVA VS. INTERNATIONAL TENNIS FEDERATION**

AUTHORED BY - JYOTSANA SINGH & ASMITA SRIVASTAVA

## **Abstract**

International sports arbitration remains a central mechanism for dispute settlement, protection of the interest of all parties, and promotion of the principles of the untainted image of world sports. The case of Sharapova v. International Tennis Federation (ITF) is a case study on the issues of procedural justice, reasonableness, and rationality in arbitration. This paper analyses whether today's framework of sports arbitration adequately accommodates the need for the legal regulation of sports on the one hand and the fair protection of athletes' rights on the other, specifically in doping cases. Employing a case analysis method, the study debates the Sharapova case and reflects on its application to legal and arbitral reasoning advanced by the Court of Arbitration for Sport (CAS). The study shows that, although CAS confirmed ITF anti-doping rules, procedural bias and reasonableness of penalties remain questionable. These elements include unclear arbitral decisions and a lack of procedural rules to guarantee fair treatment of athletes, for example, through access to adequate legal representation and clear standards regarding those decisions. While analysing the Sharapova case, this study underscores problems in international sports arbitration and specific trends for their development, insisting on the necessity of reforms concerning modern tendencies in international sports governance. In line with the above, the study calls for increased procedural protection and clarification of awards as well as the reorientation of the arbitration process in a manner that respects the interests of the athletes to make the system not only fair but also appear to be fair. Finally, the study highlights the problematic combination of the power of regulation and athlete governance, using the Sharapova case to argue for contemplating the future of arbitration in sports. It underscores the need for a new and better arbitration regime that is fair and consistent and, most of all maintains the integrity of the sports and talent hunted internationally.

**Keywords:** Sports arbitration, CAS, anti-doping, athlete rights, procedural fairness, transparency, Sharapova vs. ITF

## I. Introduction

Sports serve as both a field of physical prowess and competition together with legislative and regulatory setups providing insulation for transparency and trustworthiness. The global growth of sports has resulted in disputes including both contractual disagreements and ethical issues about doping. Now in world more disputes in sports are resolved by international arbitration, which from the disputes resolution provide independent specialised expedited processes. The role that sporting disputes resolution of justice with equities and transparency playing through the mappings between sports judicial institutions like CAS reflects this.<sup>1</sup>

Through arbitration sports resolves more than just disputes because it serves as a foundation to protect both sporting integrity and stakeholder rights. Sports arbitration functions through flexible private procedures specifically tailored for sport industry needs.<sup>2</sup> The benefits of sports arbitration are offset by difficulties stemming from weak procedural transparency and potential bias in court decisions and inadequate fairness in given processes.<sup>3</sup> Doping-related cases specifically generate exceptional concerns because they hold the futures and image of athletes in the balance. A dynamic combination of regulatory oversight with athlete governance has created complex legal boundaries that both need strong procedural protections and uniform arbitration reasoning.<sup>4</sup>

The case of Sharapova v. International Tennis Federation (ITF)<sup>5</sup> stands as a landmark example of the challenges in international sports arbitration. The tennis superstar Maria Sharapova got accused of doping after WADA discovered traces of meldonium during testing which fungus it has banned. The initial ITF tribunal handed down a two-year ban to Sharapova but the CAS

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<sup>1</sup> Ananya Bharadwaj, Sports 'Disputes and Arbitration, GIBS L.J., Vol. 2, No. 1, 71, 71–84 (2020), available at <https://gitarattan.edu.in/wp-content/uploads/2020/11/giBS-Law-Journal-2020-Research-Paper-8.pdf>.

<sup>2</sup> Aman Sisodia & Dr. Ekta Gupta, A Contemporary Analysis of Sports Arbitration in India, 4 INDIAN J. INTEGRATED RSCH. L. 2, ISSN: 2583-0538 (Amity Law School, Amity Univ., Noida, U.P.), available at <https://ijirl.com/wp-content/uploads/2024/04/A-CONTEMPORARY-ANALYSIS-OF-SPORTS-ARBITRATION-IN-INDIA.pdf>.

<sup>3</sup> *Supra* note. 1.

<sup>4</sup> Courtney Lotfi, Doping, Athletes, and Arbitration - A Case Study on the Need for Transparency in the System, 2 U. DENV. SPORTS & ENT. L.J. 1 (2006), available at <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1128&context=selj>.

<sup>5</sup> Maria Sharapova v. International Tennis Federation (ITF), Arbitration CAS 2016/A/4643, available at <https://jurisprudence.tas-cas.org/shared%20documents/4643.pdf>.

subsequently reduced the punishment creating major concerns about both procedural fairness and Anti-doping rule adjudication.<sup>6</sup>

The parties raise a number of critical issues in amicus briefs on Sports Arbitration this case relates to. It also emphasises an inherent tension of regulatory agencies' efforts to enforce anti doping measures and athletes' right to have right to a fair and transparent process. Second, it brings attention to the workability flaws of the arbitral proceedings as it features a high limited possibility of access to legal representation, and blurry decisions making.<sup>7</sup> The Sharapova case<sup>8</sup> is the last example of a broader struggle between the right and the interests of individual athletes and the integrity of sports.<sup>9</sup>

This case is important in the sense that it goes beyond a case to reform the arbitration procedure. That means also reevaluating the rules and standards of procedural regulation of the sports arbitration in a way that the proceedings are conducted in a fair, consistent, transparent manner. The case also underscores the changing role of the Court of Arbitration for Sports as a quasi judicial agency safeguarding justice principles in global sports.<sup>10</sup>

The primary objective of this research paper is aim to discuss function of international arbitration in sports cases, in particular, in doping cases and their consequences for procedural fairness and athlete rights. Using the Sharapova v. ITF<sup>11</sup> case as a primary case study, this research attempts to outline key issues and challenges in the implementation of anti doping rules by regulatory bodies and arbitral tribunals towards the objectives of ensuring a fair and consistent environment where athletes are governed by consistent rules and competition is fair. The aim of this thesis is to propose recommendations for modifying the structure and operating principles of international sports arbitration in order to increase transparency, fairness and consistency.

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<sup>6</sup> *Ibid.*

<sup>7</sup> *Supra* note 1.

<sup>8</sup> *Supra* note 5.

<sup>9</sup> Paul J. Greene, An Analysis: Maria Sharapova's Appeal to the Court for Arbitration for Sport, SPORTS LITIGATION ALERT (July 22, 2016), available at <https://sportslitigationalert.com/an-analysis-maria-sharapovas-appeal-to-the-court-for-arbitration-for-sport/>.

<sup>10</sup> Kanishka Pandey, Court of Arbitration for Sports (CAS): An Efficient Mechanism for Resolving Sports Related Disputes, 3 INT'L J. L. 6, 22–25 (Nov. 2017), available at <https://www.lawjournals.org/assets/archives/2017/vol3issue6/2-5-150-758.pdf>.

<sup>11</sup> *Supra* note 5.

A case analysis methodology is adopted for the research which explores the broader impacts of sports arbitration by drawing inferences from the Sharapova case. The study also examines how arbitral decisions, procedural frameworks and legal reasoning support or enhance the strengths of the existing arbitration regime, especially in the areas of dispute resolution by incorporation and through the award and interpretation of arbitral awards. In addition, as part of the findings, it also reviews relevant legal instruments (WADA Code and CAS procedural rules) in order to set the context.

The research's purpose is to contribute to the ongoing discussion in debate on the future of arbitration in sports by way of this analysis. The point is there has to be a balance which protects the integrity of sports, as well as protecting the rights of athletes. The study poses for redress to the gaps and inconsistencies that negotiates in the conventional procedure and recommends the transition of sports arbitration towards an more straightforward and transparent course of action.

Thus, the Sharapova v. ITF case<sup>12</sup> is a microcosm of all the problems and opportunities which international sports arbitration faces. This helps underline the role of procedural fairness, transparency and athlete governance that ensures the integrity of sports. Presented in this research is the gap of understanding these critical issues and developing a fair and consistent regime of arbitration that corresponds to the sport's global dynamic.

## **II. Legal Framework Governing International Sports Arbitration**

One of the core pillars in the arena of sports is the international sports arbitration as it aims to establish fair and pure ecosystem in International Sports. The Court of Arbitration for Sport (CAS) constitutes a specialised institution created in 1983 to handle sports disputes, and is central to this framework. CAS was initially sponsored by the International Olympic Committee (IOC), but was radically reformed quickly through the creation of the International Council of Arbitration for Sport (ICAS) to increase CAS independence and credibility. CAS has been recognized over the years as a legitimate judicial forum, leader in the areas of anti-doping, sports contracts, and governance conflicts. Secondly, CAS decisions which are accepted under New York Convention are enforceable in foreign jurisdictions and thereby amplify its effect globally. For example, the landmark cases brought up by the author are cases

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<sup>12</sup> *Supra* note 5.

like Pechstein v. ISU and Semenya v. IAAF and CAS has emerged to solve disputes and construct international sports law by striking the balance between its legal, ethical and human rights.

#### • **Evolution and Role of the Court of Arbitration for Sport (CAS)**

International sports disputes receive their primary resolution at the preeminent Court of Arbitration for Sport (CAS). The Court of Arbitration for Sports was founded in the year 1983 with the objective of the former President of the International Olympic Committee, Juan Antonio Samaranch.<sup>13</sup> When CAS launched in 1983 it became the specialized forum which handles sports disputes with efficiency and impartiality to protect worldwide sports integrity.<sup>14</sup>

As its first step CAS functioned under International Olympic Committee (IOC) sponsorship creating doubts about its organizational autonomy. During the case of Gundel v. FEI<sup>15</sup> the Swiss Federal Tribunal declared CAS operated as a legitimate judicial arbitration forum yet emphasized it needed to establish more independence from IOC oversight. In 1994 significant reforms introduced the International Council of Arbitration for Sport (ICAS) to manage CAS oversight of finances and administration which strengthened its independence.<sup>16</sup>

#### Role and Functions of the Court of Arbitration for Sports

The independent institution focused on sports law offers dispute resolution through arbitration and mediation to serve the field of sport. The sports resolution institution maintains authority over multiple areas of sporting dispute which includes antidoping rule enforcement along with sports contracts and organizational governance disagreements. The Center for Arbitration of Sports enables parties to find practical dispute solutions at affordable costs while issuing decisions accepted across global jurisdictions.<sup>17</sup>

Throughout its history, CAS has evaluated several defining international sports law cases that modified global sports' regulatory structure. One such case is Pechstein v. International Skating

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<sup>13</sup> Frank Oschütz, Harmonization of Anti-Doping Code Through Arbitration: The Case Law of the Court of Arbitration for Sport, 12 MARQ. SPORTS L. REV. 675 (2002), available at <https://scholarship.law.marquette.edu/sportslaw/vol12/iss2/7>.

<sup>14</sup> Court of Arbitration for Sport, History of the CAS, COURT OF ARBITRATION FOR SPORT, <https://www.tas-cas.org/en/general-information/history-of-the-cas.html>.

<sup>15</sup> GUNDEL v. FEI, CAS 92/A/63, available at <https://www.tas-cas.org>.

<sup>16</sup> *Supra* note 13.

<sup>17</sup> Dimitrios Panagiotopoulos, Court of Arbitration for Sports, 6 JEFFREY S. MOORAD SPORTS L.J. 49 (1999), available at <https://digitalcommons.law.villanova.edu/mslj/vol6/iss1/4>.

Union<sup>18</sup>, German speed skater Claudia Pechstein filed suit against her doping suspension at the International Skating Union. Sports governing bodies' unilateral arbitration contracts faced thorough examination in this case which questioned both their fairness and CAS's independence as a tribunal.<sup>19</sup>

In the sports world Semenya v. IAAF<sup>20</sup>, has become a major case, where a South African athlete Caster Semenya initiated a legal battle against International Association of Athletics Federations regulations which placed testosterone limits on female athletic performance. The case demonstrated how science combined with ethical considerations along with human rights creates complex sports-related questions for CAS to resolve such complicated disputes.<sup>21</sup>

CAS functions under Swiss legal jurisdiction at its Lausanne headquarters based in Switzerland. Decisions at CAS follow procedures outlined in the CAS Code containing mandates for arbitration together with appeals and mediation processes. According to Article II of the New York Convention,<sup>22</sup> CAS awards gain worldwide legal recognition so they become enforceable across borders.

The Swiss Federal Tribunal performs oversight through limited decision review procedures for both procedural errors and public policy violations made by CAS. The system upholds CAS autonomy yet preserves respect for rigorous organizational standards of legal adequacy.<sup>23</sup>

CAS has evolved since its origins as an original tribunal into a foundation that supports all aspects of international sports governance. Through its fair and swift dispute resolution CAS preserves sports legality which protects the rights of athletes the sport authorities and all other involved stakeholders. Despite facing complaints about fairness procedures and insufficient athlete voice the CAS has introduced diverse reforms and legal approaches to adapt to these challenges.<sup>24</sup>

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<sup>18</sup> Claudia Pechstein & Deutsche Eisschnelllauf Gemeinschaft e.V. (DESG) v. International Skating Union (ISU), CAS 2009/A/1912 & 1913, available at <https://dergipark.org.tr/tr/download/article-file/274362>.

<sup>19</sup> *ibid.*

<sup>20</sup> Mokgadi Caster Semenya v. International Association of Athletics Federations, CAS 2018/O/5794, available at [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Award - redacted - Semenya ASA IAAF.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Award_-_redacted_-_Semenya_ASA_IAAF.pdf).

<sup>21</sup> *ibid.*

<sup>22</sup> Article II of the New York Convention, 1958, The New York Convention: An Overview, UNICTRAL, [https://uncitral.un.org/en/texts/arbitration/conventions/foreign\\_arbitral\\_awards](https://uncitral.un.org/en/texts/arbitration/conventions/foreign_arbitral_awards).

<sup>23</sup> *Supra* note 16.

<sup>24</sup> *Supra* note 16.

Strategic decision-making by CAS as the final Sports arbitration institution guarantees its essential position in advanced international sports law. Through its rulings CAS settles individual disputes and simultaneously shapes the fundamental rules that constitute worldwide sports governance bodies.<sup>25</sup>

### • **Anti-Doping Regulations in International Sports**

The extent to which international sports retains integrity depends on strict enforcement of doping regulations that protect both fair play and athlete well-being. The anti-doping framework has developed through time thanks to crucial cases and legislative measures which finished in its current industry structure.<sup>26</sup>

#### The World Anti-Doping Code

The World Anti-Doping Agency (WADA) created the World Anti-Doping Code (the Code) which functions at its core as the global foundation for anti-doping efforts. The World Anti-Doping Code provides uniformity to sports doping policies worldwide by bringing consistent regulations together with standardized disciplinary systems. Eight crucial International Standards that include basic anti-doping elements, such as athlete testing procedures, Lab requirements, and medical exclusion authorization, work in tandem with the World Anti-Doping Code.<sup>27</sup>

#### Notable Doping Scandals<sup>28</sup>

In the history of sports, doping scandals have been prevalent and these high-profile scandals have highlighted the challenges in maintaining clean competition:

1. Lance Armstrong: In 2012 the United States Anti-Doping Agency revoked Lance Armstrong's seven Tour de France titles because he used performance-enhancing drugs. Armstrong's situation proved that doping operations involve complex structures while demonstrating why thorough oversight matters.<sup>29</sup>

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<sup>25</sup> *Supra* note 16.

<sup>26</sup> Frank Oschütz, Harmonization of Anti-Doping Code Through Arbitration: The Case Law of the Court of Arbitration for Sport, 12 MARQ. SPORTS L. REV. 675 (2002), available at <https://scholarship.law.marquette.edu/sportslaw/vol12/iss2/7>.

<sup>27</sup> Georgetown Law Library, Olympics and International Sports Law Research Guide: Anti-Doping, GEORGETOWN LAW LIBRARY GUIDES, <https://guides.ll.georgetown.edu/lawolympics/antidoping>.

<sup>28</sup> *Supra* note 4.

<sup>29</sup> Armstrong's Doping Downfall, ETHICS UNWRAPPED, available at <https://ethicsunwrapped.utexas.edu/video/armstrongs-doping-downfall>.

2. Marion Jones: At the 2000 Sydney Olympics the American sprinter received jail time for lying to officials about her banned substance use which resulted in losing all five of her Olympic medals.<sup>30</sup>
3. Russian Doping Scandal: The Russian athletics federation received a suspension from state-sponsored doping that happened in 2015. The investigation exposed extensive use of forbidden substances along with sample manipulation that triggered extensive consequences which drove Russian sporting organizations to introduce major policy adjustments.<sup>31</sup>

Signatories enforce anti-doping regulations through both international agreements and national laws. The Code remains the primary international framework by which signatories must execute its provisions within their national legal terrain. The responsibility for enforcing anti-doping rules lies with National anti-doping organizations (NADOs)<sup>32</sup> who perform testing and manage results while acting under these rules throughout their domestic territories.

Through its regulatory power under the Code the United States Anti-Doping Agency<sup>33</sup> conducts testing and case adjudication activities. The United Kingdom Anti-Doping (UKAD)<sup>34</sup> agency follows the Code to implement anti-doping regulations which maintain British athlete adherence to these rules.

An essential framework of anti-doping rules in international sports helps protect both athlete safety and maintains competitive equity. The World Anti-Doping Code<sup>35</sup> maintains a unified format yet requires persistent enforcement of its rules together with proactive adaptations toward new doping problems. Initial expressions regarding doping controversies confirm that modern substance abuse control tools show progress but showcase clear holes in their current methods for performance-enhancing drugs discipline. Worldwide sports integrity demands

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<sup>30</sup> Michael S. Schmidt, Jones Admits Using Steroids and Enters Guilty Plea, N.Y. TIMES (Jan. 12, 2008), available at <https://www.nytimes.com/2008/01/12/sports/othersports/11cnd-jones.html>.

<sup>31</sup> Court of Arbitration for Sport Sanctions Kamila Valieva with Four-Year Suspension for Anti-Doping Rule Violation, OLYMPICS.COM (Oct. 2023), available at <https://www.olympics.com/en/news/court-arbitration-sport-kamila-valieva-four-year-suspension-anti-doping-rule-violation>.

<sup>32</sup> World Anti-Doping Agency, National Anti-Doping Organizations (NADOs), available at <https://www.wada-ama.org/en/anti-doping-partners/national-anti-doping-organizations-nados>.

<sup>33</sup> United Kingdom Government, UK Anti-Doping, available at <https://www.gov.uk/government/organisations/uk-anti-doping>.

<sup>34</sup> U.S. Anti-Doping Agency (USADA), ITA.SPORT, <https://ita.sport/partner/u-s-anti-doping-agency-usada/>.

<sup>35</sup> World Anti-Doping Agency, World Anti-Doping Code 2021, available at [https://www.wada-ama.org/sites/default/files/resources/files/2021\\_wada\\_code.pdf](https://www.wada-ama.org/sites/default/files/resources/files/2021_wada_code.pdf).

continuous work to improve regulations and test methods as well as equitable enforcement of standards.<sup>36</sup>

### • Key Procedural Norms in Sports Arbitration

All sports arbitration cases operate under statutory law exceeded by past court cases and established legal precedents to deliver both fairness and speed in handling disputes. The formulation protects both sports integrity alongside athlete rights along with the rights of all sporting stakeholders.

#### Statutory Provisions

At the heart of sports arbitration stands the Code of Sports-related Arbitration (CAS Code)<sup>37</sup> that powers disputes before the Court of Arbitration for Sport (CAS). The CAS Code applies its procedural rules through Article R27<sup>38</sup> for all disputes submitted to CAS under contracts which include arbitration provisions or fundamental sports regulations and sustainable agreements later created by the parties. The provision defines CAS jurisdiction by which disputes can be resolved through this institution.

If parties fail to pick an applicable law Article R45<sup>39</sup> from the CAS Code establishes Swiss law as the governing authority for CAS procedures. The choice of Swiss law as default creates unified legal processes because CAS operates from Switzerland.

Sports arbitration jurisprudence develops primarily from judicial decisions which resolve essential matters about jurisdiction along with procedural standards while protecting athlete rights.

In *Mutu and Pechstein v. The European Court of Human Rights*<sup>40</sup> in Switzerland investigated if sports arbitration agreements with compulsory participation violated the right to a fair

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<sup>36</sup> Shaun Star, *The Quest for Harmonisation in Anti-Doping: An Indian Perspective*, 23 INT. SPORTS L.J. 44, 44–63 (2022), <https://doi.org/10.1007/s40318-022-00220-7>.

<sup>37</sup> Code of Sports-related Arbitration (2023), available at [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Code\\_2023\\_EN.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Code_2023_EN.pdf).

<sup>38</sup> Court of Arbitration for Sport Code, art. R27 (2023), available at [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Code\\_2023\\_EN.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Code_2023_EN.pdf).

<sup>39</sup> Court of Arbitration for Sport Code, art. R45 (2023), available at [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Code\\_2023\\_EN.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Code_2023_EN.pdf).

<sup>40</sup> *Mutu and Pechstein v. Switzerland*, Apps. No. 40575/10 and 67474/10, Eur. Ct. H.R. (2018).

hearing defined by Article 6(1) of the European Convention on Human Rights.<sup>41</sup> Sports contracts contain arbitration clauses yet the court recognized that athletes may suffer infringements to their rights because of mandatory consent failures and undisclosed arbitration hearings. The case demonstrated why important changes are required to establish procedural fairness within sports arbitration systems.

Hartlepool United FC & Ors v. The FA<sup>42</sup> represents another important authority case. This matter before the FA established that English Court of Appeal evaluated how football association rules enforce arbitration agreements. Judicial review accepted arbitration clause enforcement because voluntary sports participants agree to follow governing rules at commencement. The legal decision confirmed the essential role which arbitration plays as part of sport-related dispute resolution systems.

The legal arbitration system known as *lex sportiva* developed because of many similar cases that established fundamental principles discovered through sports arbitration components and precedents. The developing legal system strikes a equilibrium between sport-specific factors and broader moral standards of justice along with fairness.<sup>43</sup>

Sports arbitration combines official laws alongside judicial decisions and historical case rulings into a solid framework which effectively resolves conflicts appropriately. Ongoing analysis with consistent adaptation of this framework must occur to address new sports arbitration challenges and sustain the sector's integrity.<sup>44</sup>

From a tribunal with little autonomy, CAS has evolved into a cornerstone of international sports 'governance and, in part, responsible for the safeguarding of the integrity of sports. Its independence, rule by administrative procedures and performance to global legal standards make it the unchallenged sports disputes arbiter. But there remain challenges – bias and need for reform, especially from an athlete-centric angle – to be overcome for CAS, and it adapts

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<sup>41</sup> European Convention on Human Rights, art. 6(1), available at <https://fra.europa.eu/en/law-reference/european-convention-human-rights-article-6>.

<sup>42</sup> The FA v. Hartlepool United FC, Russ Green, Stephen Chandler, and David Buncall, FA Disciplinary Hearing, July 4, 2018, available at <https://www.thefa.com/-/media/files/thefaportal/governance-docs/discipline-cases/2018/the-fa-v-hartlepool-united-fc-russ-green-stephen-chandler-and-david-buncall-4-july-2018.ashx>.

<sup>43</sup> Foster, The Influence of European Law on the Development of International Sports Law, 3 EUR. SPORTS L.J. 2, available at <http://go.warwick.ac.uk/eslj/issues/volume3/number2/foster/>.

<sup>44</sup> *Supra* note 1.

accordingly through strategic decisions and legal innovation. Just as importantly, the anti doping framework, championed by the World Anti Doping Code, has vital role to play to promote fair play and protect athlete safety. Rise of sports arbitration to which statutory provisions, judicial precedents and ethical standards need to respond to and maintain its legitimacy as sports arbitration develops. Together they guarantee sports an equal, fair and just future.

### **III. Case Analysis: Sharapova vs. International Tennis Federation**

#### **a. Background of the Dispute**

In the landmark case of Maria Sharapova Vs. The International Tennis Federation (hereinafter referred as ITF), there was an intersection between international arbitration and in professional sports dealing specifically with ITF's Anti-doping regulations. Before delving into the intricacies of this case, the arbitral proceeding and rulings. Before we try to understand the background of this very case, we must first set the stage of the case.

This dispute arose from a positive test for a prohibited substance as part of a routine sample test of a sports player, which led to an arbitration process that scrutinized both procedural and substantive aspects of the case.

The parties of this dispute were, Maria Sharapova, who is a celebrated professional tennis player of Russian nationality and a US – resident, since 1994 has been a prominent figure on the Women's tennis Association (WTA) since 2001. She is a celebrated elite player that has won all four grand slam tournaments and earned a silver medal in women's singles at the 2012 Summer Olympic games in London.

The other party to this dispute would be the International Tennis Federation, that is the international governing body for the sport of tennis. It is recognized by the International Olympic Committee (IOC). The organization's mandate includes protecting the integrity of the sport along with supporting and ensuring the well-being of the athletes.

ITF is a signatory of the World Anti-Doping Code (WADC), established by the World Anti-Doping Agency (WADA) and has implemented the Tennis Anti-Doping Programme (TADP) to enforce Anti-doping regulations in the sport.

### **The Dispute:**

- During Australian Open (2016), Sharapova took two routine control test (Jan 26<sup>th</sup>, 2016 and Feb 2<sup>nd</sup>, 2016) which was tested positive for meldonium, a substance that was included in the WADA's list of prohibited substance from Jan 1<sup>st</sup>, 2016.
- Meldonium was recently classifying as a metabolic modulator and was detected in her samples at concentrated levels.
- She was later notified by the ITF of the Adverse Analytical Finding (AAF) in her sample, which constituted as a violation of Anti-Doping Rules (ADRV) under Article 2.1 of the TADP.
- She proceeded to waive her right to have her B sample also analyse and also admitted to the ADRV through her counsel
- She attributed her use to a medical prescription for health conditions she had been managing for over decade.
- Her assertions states that her use for the substance was unintentional and didn't aim to gain any sort of unfair advantage.
- She also claimed to unaware about the recent addition to the WADA list.
- In March Sharapova publicly acknowledge the violation during her press conference.
- As per Article 8.1.1. of TADP, the case was referred to an independent tribunal.
- On June 6<sup>th</sup>, 2016 Tribunal concluded Sharapova was at fault for failing to verify the compliance of her continued use of Meldonium, even though use was unintentional.
- There was an imposition of two-year ban (ineligibility) effective from Jan 26<sup>th</sup>, 2016. Along with automatic disqualification from the Australian Open Results and forfeiture of any related ranking point and prize money.
- The ruling basically deemed her as the "Sole author of her misfortune."

### **b. Overview of ITF's Anti-Doping Rules:**

International Tennis Federation is the custodian of the sport's global integrity and as an effort to work the against doping practices in the sport, they in compliance with the World Anti-Doping Code implemented their mandate through Tennis Anti-Doping Programme (TADP).

The TADP's main objective is to deter any attempts of doping to gain unfair advantage by the athletes and to ensure there is a level playing field for every player. Doping not only hinders the integrity of the sport but also causes effects on the health of the player, TADP also aims to safeguard the health of the athletes.

The programme includes clear provisions anti-doping rule violation, appeals mechanism and is committed to be transparent and accountable while enforcing any sanctions. TADP is a testament of ITFs dedication to preserve the spirit of fair competition and integrity of the sport.

International Tennis Integrity Agency (ITIA) is responsible for the execution of TADP. This agency works in collaboration with multiple tennis organizations like Associations of Tennis Professionals (ATP), Women's Tennis Association (WTA) etc. They oversee all aspects of the programme, they ensure that TADP is conducted in a fair and effective manner while maintaining the spirit of the sport. They conduct tests, take actions on behalf of International Tennis Federations.

### **Core Component of the Tennis Anti-Doping Programme (TADP):**

#### **1. Anti-Doping Rule Violations:**

Doping is defined as the occurrence of any of the below given situation:

- i. Presence of Prohibited Substance/Metabolites/Markers in a Player's Sample, regardless of intent.
- ii. Use or Attempted usage of substance listed on the WADA Prohibited List, whether it's during the competition or otherwise.
- iii. Evading or refusing to provide sample collection by the player
- iv. Interference with testing or result management
- v. Possession of prohibited substances without any valid justifications and trafficking of the such substances as well.

Any situations were any or all of these occurrences take place will fall under the category of breach/violations of rules, these categories are aimed at addressing direct and indirect violations to cover a broad spectrum of potential misconducts.

#### **2. Result Management:**

Once a potential ADRV is identified, ITIA works promptly in informing the player of the allegations along with their rights. The athlete receives a formal notification of ADRV, along with evidence of the violation. This notification is also invitation to present defense against the violation. Athletes are also provisionally suspended until adjudication have taken place to ensure of the integrity of the ongoing competitions.

Disputes are heard by an independent tribunal constituted under TADP. The tribunal analyzes the evidence, observes arguments and on the basis of these they provided a reasoned decision that is fair and just.

### 3. Appeal Mechanism:

TADP provides for an appeals process, with the intention of ensuing procedural fairness along with providing opportunity to the player to challenge a decision that they believe might be unfair or based on the incorrect evidence. Athletes can challenge early decisions through an appeal to an independent tribunal, which would be an internal appeal.

But if the dissatisfaction still persists with the tribunal rulings, matters can be escalated to Court of Arbitration for Sport (CAS). This court is considered the final authority over any sports dispute internationally. CAS offers athletes a fair opportunity to disputes findings and sanctions.

### 4. Sanctions for ADRVs:

Sanctions are imposed if a violation is proved in the tribunal. These are sanctions are tailored on case-to-case basis, based on severity and nature of the violations. Some common Sanctions include:

- Forfeiture of titles, prize money and ranking points from the competition in which the violation took place.
- Depending on intent, negligence and prior violations. Athletes might face bans ranging from months to years.
- Sanctions can be reduced, if the player demonstrates lack of intent or fault.

### 5. Therapeutic Use Exemptions (TUEs):

TADP does allow athletes with authentic and legitimate medical need to apply for TUEs. These exemptions must be pre-approved by the ITIA. In case of emergency, the approval can be taken retroactively. This concept was implemented to ensure that medical treatments are not hindered by the Anti-doping mission.

### 6. Education and Awareness:

ITF also aims at educating the athletes and raising awareness against the practice of doping. Workshops, online seminars and resource are put together to aid athletes in understanding their responsibilities, the risks and the consequences.

### **c. Examination of Independent Arbitral Ruling and CAS (Court of Arbitration for Sport) Ruling**

The section critically analyzes inconsistencies present in both the Tribunal Ruling by ITF and the subsequent ruling by the Court of Arbitration for Sports. These inconsistencies raise concerns about procedural fairness and reasonableness of the process. Through this analysis we aim to highlight how decisions reflect on the standards of the justice upheld the principles, transparency and consistency.

#### **Analysis of Tribunal Ruling:**

The independent tribunal imposed a two-year ban on Ms. Sharapova on account of Anti-Doping violation, due to the substance use of Meldonium. Her two-year ban was a reduction from the maximum four years due to lack of evidence against intent to cheat.

The court ruled, “The contravention of the anti-doping rules was not intentional as Ms. Sharapova did not appreciate that Mildronate contained a substance prohibited from 1 January 2016. However, she does bear sole responsibility for the contravention, and very significant fault, in failing to take any steps to check whether the continued use of this medicine was permissible. If she had not concealed her use of Mildronate from the anti-doping authorities, members of her own support team and the doctors whom she consulted, but had sought advice, then the contravention would have been avoided. She is the sole author of her own misfortune.”<sup>45</sup>

Tribunal’s findings can be condensed into the below given points

- i. The tribunal acknowledged that there was significant fault by Sharapova for the violation. She failed to update compliance checks after 2013 despite the fact that she was using mildronate for over a decade especially her decision of self-administering the drug without consulting medical professional and she also kept her team out of loop of her usage, these decisions were viewed as major lapse in her judgement.
- ii. Her reasoning for non-disclosure was “untenable” as per the tribunal. Her non-disclosure was considered to be deliberate and it demonstrated an intent to conceal consumption.

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<sup>45</sup> THE INTERNATIONAL TENNIS FEDERATION v. MARIA SHARAPOVA

- iii. The tribunal also rejected claim of ITF that her conduct consisted an intentional violation under TADP article 10.2.1(a), since she was not aware of the new addition to the Prohibited List, January 2016.
- iv. Tribunal did emphasize that she failed in her obligations to exercise ‘utmost caution’ to prevent violation.
- v. Tribunal rejected Sharapova’s defense of no significant fault since there was failure to conduct annual checks on the prohibited list; her reliance on unqualified agent and her decision to keep her mildronate use undisclosed to her team and medical professionals were serious breaches of duty.

Although the tribunal did showcase a robust and diligent approach while evaluating the evidence and rejected evidence that was deemed unreliable or inconsistent testimony. The tribunal went in depth of every evidence and scrutinize them is a positive development in the trend. But the ruling also highlighted some discrepancies in the rules and its applications.

ITF might have met its obligations by a bare minimum standard and fulfilled their duty, the tribunal failed to condemn them for the passive methods of communications and push for active measures, such as direct notifications becoming a necessity, particularly with the widespread use of Meldonium in Eastern Europe.

Even though tribunal rejected the allegation of intentional violation, hinging on the fact that Sharapova was unaware of Meldonium inclusion in the prohibited list. By attributing her violation to negligence rather than intent, the tribunal arguably failed to address whether this neglect would constitute a reckless disregard which would fall under the definition of intentional conduct.

Sharapova’s defense relied heavily on her delegation of anti-doping responsibilities to manager, Eisenbud who also admitted that there was lack of training and expertise. Tribunal rightfully criticized this delegation as inadequate, but the systematic flaws in Sharapova’s compliance framework wasn’t questioned further. This sort of leniency sets a precedent where athletes can avoid harsher penalties by attributing violations to flawed delegation rather than taking personal responsibility for it.

Tribunal did conclude that there was deliberate concealment of her usage, however this was treated as mere aggravating factor rather than as evidence of intent which could undermine the deterrent effect of sanctions.

Sharapova was unable to show any medical justification for her continued use of the substance, even after 2013. Despite this, tribunal believed it was necessary for help, even though she had no medical advice towards to it. This inconsistency weakens the tribunal's reasoning and raises concerns about the standard of evidence necessary to substantiate such claims.

While tribunal did impose of a two-year suspension which upheld the strict liability framework, however their reasoning fell short of establishing precedent for handling similar cases. The inconsistent treatment of evidence, delegation of compliance being treated as a mitigating factor and insufficient scrutiny of intent has highlighted some procedural flaws that warrants critical attention.

#### **CAS Ruling:**

Sharapova appealed her decision at the apex court of Sports Arbitration, which is Court of Arbitration for Sport as was her right. CAS reviewed the tribunal's decision through a de novo process, which led o reduction in her two-year ban to 15 months. The panel deemed her violation was a result of negligence rather than intentional conduct, her fault was considered significant but not enough to warrant the original sanction. CAS's key findings are summarized below:

- i. The panel did recognize Sharapova's failure to exercise her duty of 'utmost caution' ensuring her compliance with anti-doping rules. Her reliance on her unqualified agent was criticized.
- ii. Despite this, the panel reduced her sanction, concluding her fault was at a moderate level and met with the criteria for 'No Significant Fault' under 10.5.2 of the TADP.
- iii. Her two-year ban was considered excessive, considering mitigating factors.
- iv. Her negligence in failing to check her compliance, was deemed to be a serious lapse in judgement.
- v. Significant weight on Sharapova's clean record, long term medical use of Mildronate and her claims of unawareness regarding the new addition to Prohibited List was relied on.

The de nova framework risks undermining the procedural certainty of prior tribunal rulings, as it allows for a complete re-litigation of issues without looking at the earlier findings of the tribunal<sup>46</sup>. While this approach ensures procedural fairness, but in the present case it raise a few concerns. The panel was so focused on her unawareness of meldonium's prohibition, that they sidestepped on acknowledging her failure to monitor compliance amounted to reckless disregard, which could have been treated as intentional conduct.

CAS placed the weightage on her clean record and ITF's communication failure, which should have absolved her of her duty of utmost caution. Along with this, the panel also did not look in depth at the concealment of Mildronate use.

The ruling such as this one has the potential to undermine the personal responsibility of an athlete, since he/she is responsible for what they ingest. The decision that once the compliance work is delegated to someone else, the athlete is no longer responsible for the failings of the person is very astonishing. Sharapova's agent's failure to fulfill his duty of appreciating her usage shouldn't absolve her anti-dropping violation.

The case of Al Nahyan, was heavily relied on in the present case. However, both the cases were fundamentally different, Al Nahyan dealt with a horse that was tested positive for a prohibited substance, his rider was questioned and his level of fault was determined. In this case, the rider could not have conducted a full-time supervision, while Sharapova was meant to be responsible for what she what she ingests<sup>47</sup>.

CAS stated that, "a player who delegates his/her anti-doping responsibilities to another is at fault if he/she chooses an unqualified person as her delegate, if he/she fails to instruct him properly or set out clear procedures he/she must follow in carrying out his task, and/or if he/she fails to exercise supervision and control over him/her in the carrying out of the task."

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<sup>46</sup> An analysis: Maria Sharapova's appeal to the Court for Arbitration for Sport (no date) Sports Litigation Alert. Available at: <https://sportslitigationalert.com/an-analysis-maria-sharapovas-appeal-to-the-court-for-arbitration-for-sport/>.

<sup>47</sup> The maria sharapova decision – a double fault? (no date) The Maria Sharapova Decision - A Double Fault? | The Maria Sharapova Decision – a Double Fault? Available at: <https://sites-dacb.vuturvevx.com/94/3883/october-2016/the-maria-sharapova-decision---a-double-fault-.asp?sid=d6a545fb-4b52-46d0-983a-50c324f15615#> (Accessed: 28 January 2025).

Three factors were set to decide upon an athlete's level of fault in entrusting the anti-doping compliance responsibilities, requiring which the athlete must:

- Select a suitably qualified person.
- Give adequate instructions and clearly outline procedures.
- Exercise supervision and control over the delegate's acts.

The CAS determined that Sharapova selected a qualified individual in her agent, Max Eisenbud, but concluded that she did not satisfy the other conditions. Within the Code, No Significant Fault or Negligence is described as the degree of fault that is found not to be substantive to the offense.

However, Sharapova's long list of inadequacies, including her reliance on an ill-prepared agent, failure to observe compliance checks, and failure to declare her drug in the compliance forms, highlights deeper questions over whether it would be possible to consider her fault as minor. In reducing her sanction to 15 months, the CAS decision appears to create a loophole: athletes may get lighter verdicts by blaming failures on their part to qualified support personnel, even if the latter fail to do their jobs.

To conclude, while both rulings upheld the strict liability principal, however they also unveiled some significant inconsistencies and procedural shortcomings in addressing the nuances of the case. Tribunal failed to establish a precedent, by acknowledging her negligence yet treating deliberate concealment as an aggravating factor rather than as a evidence of intent. It did put emphasis on her lack of monitoring compliance which set a stern warning for public, but it also brought up gaps in procedural fairness regarding communication from the ITF.

On the other hand, the CAS ruling sets a concerning precedent, as it creates a potential that allows athlete to escape sanctions as long as they delegates have met a minimal threshold of qualification. Such loophole opens a can of worms and undermines the concept of strict liability, which must hold the athlete responsible for what they ingest.

The analysis in the case, highlights the need for greater emphasis to be put on the athlete and their conscience, clear standards for assessing delegation and stronger enforcement mechanisms to deter future violation.

#### **IV. Procedural Fairness and Reasonableness in Sports Arbitration**

The case of Sharapova serves a pivotal example of the challenges in balancing procedural fairness and reasonableness within sports arbitration. Using this case as a lens, this chapter delves into broader concerns in sports arbitration such as effectiveness of the de nova, role of mitigating factors and the athlete accountability standards. By comparing the current case with other ruling given by the Court of Sports Arbitration, such as Mutu & Pechstein v. Switzerland<sup>48</sup> and USADA v. Montgomery<sup>49</sup>, this chapter aims at evaluating procedural practices by CAS critically and also explore reforms that may enhance the ideals of fairness and reasonable in sports arbitration.

##### **a. Procedural Bias and Transparency in CAS**

As per the ideals of CAS, procedural fairness requires impartiality and transparency. However, it was noticed by critics that some specific high-profile cases have revealed potential biases in CAS rulings. In the case of Mutu & Pechstein v. Switzerland, the European Court of Human Rights analyzed CAS's procedure violated the Article 6 of the European convention on Human Rights. ECHR did maintained that CAS was Independent and Impartial, it however discovered that there procedural flaws due to lack of public hearing. The decision by ECHR emphasized significant of transparent process of law, especially when reputation and finance is at stakes<sup>50</sup>.

This was also similar to the Sharapova case, where question regards the transparency of CAS was raised including ITF's communication regarding the inclusion of meldonium in the prohibited list.

Even though CAS did end up reducing her sentence, but the reliance on the mitigating factors did highlight inconsistencies in how procedural fairness was applied.

Transparency issues are not simply limited to public hearing, but also extend to handling evidence. This was highlighted USADA v. Montgomery, the reliance for the case was taken non-analytical positives evidence not derived from direct testing<sup>51</sup>. This raised concerns about admissibility and transparency of evidence in doping cases.

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<sup>48</sup> Mutu and Pechstein v. Switzerland, Apps. No. 40575/10 and 67474/10, Eur. Ct. H.R. (2018).

<sup>49</sup> CAS 2004/0/645 USADA v/T. Montgomery

<sup>50</sup> Shepwedd.com. Available at: <https://shepwedd.com/knowledge/sports-arbitration-handly-guide-7-cases-challenges-jurisdiction> (Accessed: 28 January 2025).

<sup>51</sup> Paul J. Greene, USADA v. Montgomery: Paving a New Path to Conviction in Olympic Doping Cases, 59 Me.

CAS has shown transparency issues that clarity as in the case of Sharapova, where CAS was unable to lack clarity in addressing her failure to disclose her substance use on the doping control forms, which they did deem to be a deliberate act of concealment. However, this was just treated as a mitigating factor.

Public hearing was missing in the case of Sharapova. Public hearing not only bring clarity and transparency in the process of justice but also puts greater accountability on the panel and the parties. Along with that it also instills the trust in the process by ensuring decisions are open to public scrutiny.

## **b. Suggested Reforms for Enhancement of Procedural Fairness**

### Enhancement of Communications to Athlete

One of the main issues of the Sharapova case was the lack of proper notification given to Sharapova. To address this, Anti-doping organization must set active notification system about the significant regulations update or changes, so that athletes are always informed of their obligations.

### Mandate Public Hearing to increase Transparency

Public hearing should be mandated especially with major high profiles cases to raise transparency and accountability. This is aimed at removing the biases and ruling should be open to public scrutiny if required.

### Oversight of Delegation Practices

Some solid and clear guidelines for evaluating delegations, it necessary for athletes to have consistent and reliable guidelines to follow and not have loopholes to misuse, due to the lack of the guidelines.

### Refinement of De Novo Framework

The de novo process should be refined with the aim to create a balance between procedural fairness and the need for finality with tribunal decisions. Detailed justifications by the Panel of CAS, when diverge from the tribunal's decisions must also be in practice to not only ensure justice reaches all but also to set good precedent in arbitration outcomes.

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L. Rev. 149 (2007).  
Available at: <https://digitalcommons.maine.law.maine.edu/mlr/vol59/iss1/7>

Lower tribunals findings should be taken in considerations when CAS gives its rulings.

## Conclusion

It can be safe to conclude that fairness and reasonableness are fundamental tenets of justice in sports arbitration which involve reputational, career and monetary damages. The case of Maria Sharapova puts into the spotlight the level of difficulty the Court of Arbitration for Sport (CAS) is continually put under in deciding matters in public interest vis-a-vis issues of neutrality and uniformity in the determination of appeals in all cases. From challenges of bias to exclusionary diplomacy, for instance, confidential hearings, lack of messaging on banned substances, and evidential deprivation, the Sharapova case illustrates the forays and shortcomings which make a case for changes within the constitutional set of CAS.

Sharapova's case is strained even more when critically assessing other cases like Mutu & Pechstein v Switzerland, USADA v Montgomery, as it shows the incomplete nature of the case in regards to transparency and the lack of procedural discipline. These pose a call for action in regard to the need for public hearings, proper communication and more importantly, the enforcement of procedural standard operating procedures in matters of sports arbitration.

With these worries, reforms proposed are aimed at improving the flow of information so that athletes are kept up to date with the changes in policy, and a standards to be maintained uniformly in cases of anti-doping regulations.

## V. Suggestions & Recommendations

The Sharapova v. ITF case study discussed the wider framework of international sports arbitration, which deserves immediate attention and reform.

Below are some key suggestions and recommendations to enhance the system of sports arbitration:

1. In any definitive arbitration system, procedural fairness is the cornerstone. To correct risks of procedural bias, CAS and other arbitral bodies have to adopt consistent and transparent procedural rules. These rules should be clear time lines, sufficient notice of hearings, and right to fairly represent athletes. One tangible example is providing athletes access to

- sound, competent legal assistance along the entire course of the arbitration process, thereby substantially bolstering the perceptibility of the arbitration as being on the level of fairness.
2. A lacuna in arbitral decisions 'clarity of rationale has been a distinguishing feature of the Sharapova case, and one of the major criticisms. Arbitral tribunals should attempt to improve the transparency of investments by providing detailed and reasoned awards that explain the basis for decisions, including how evidence and arguments were weighed. The publication of such awards will even help to develop the jurisprudence in sports arbitration to be consistent.
  3. While the current anti-doping framework is essential on the prevention of cheating in sports, significant progress needs to be made to adopt a stronger line in cases where it just doesn't fit. The heavy penalties in Sharapova's case might seem inappropriate. However, a more nuanced response to the violations related to doping would result in a fairer outcome, and that would be invasion of intent, the nature of the substance and the circumstances of its use. Another alternative would be to have a tiered penalty or a penalty that will be accordingly severe depending on the severity of the violation.
  4. As one of the rare proceedings in which athletes can be professionally represented without charging huge legal retainers, but which require that they be versed in legal processes, athletes often bear the short end of the sword in arbitration. Creating an ombudsman or independent body to represent and support athletes during disputes in their end of a relationship with the governing body could jump-start the equalisation. One might be able to provide the kind of legal advice, funding for representation, or help in figuring out what to do considering an arbitration process.
  5. Sports arbitration should not be exclusive for well funded parties. Whether it's CAS or other similar bodies, they must see to it that their services are available to, and accessible, for all athletes, whatever their financial status might be. In relation to this they could take such steps as fee waivers, subsidised legal aid and simplified procedures for such cases where they are less complex.
  6. It should be noted that arbitration is not always the best way in which to address disputes, particularly where there is a dispute over sensitive issues, or there are links between the parties who are not ended. In some sports disputes, mediation, as a less adversarial, more collaborative process, might well provide an alternative. That could encourage the use of mediation as well as arbitration to achieve more agreeable and more acceptable mutual results.

7. It is no secret that arbitrators are an important aspect of the quality of arbitration, as they are the ones to decide on such matters. Much depends on the arbitrators' expertise and impartiality. However, introduction of regular training and certification programs should be necessary to make sure arbitrators are familiar with the minute differences regarding the laws of sport, anti doping rules and procedural fairness. A better process would be a diverse, and qualified pool of arbitrators.
8. In the absence of reform, CAS is now their best hope of leading by example. Such measures as periodic review of procedural rules, creation of an independent oversight committee and dialogue with stakeholders (i.e. athletes, sports federations and legal experts), could help to improve the conduct of its adjudicatory role as a transparent and fair body.

## **VI. Conclusion**

As the sector of international in sports disputes, international arbitration plays an essential function in keeping global sports fair and legitimate. However, as the analysis of the Sharapova v. Significant gaps and challenges remain in the framework, as ITF case shows. As the credibility of the system rests on the fairness of the arbitral decisions, the lack of procedural fairness, transparency, and proportionality in arbitral decisions leads to shaky credibility and little or no trust of stakeholders.

This study highlights the importance of a well-balanced position, which support the interests of regulators and athletes' rights, and welfare. Anti-doping regulations are necessary to protect the integrity of sports but enforcement of these must be tempered with fairness and it must be reasonable. Sure, the Sharapova case is an lesson that the process of sports governance has become so complex, the arbitration process must adapt.

The challenge of the future for sports arbitration is to be able to adjust to the evolution of the world of sport. This study identified challenges in the arbitral process, and those challenges, if addressed, could lead arbitral institutions to a system that is not only efficient and effective, but also just and inclusive. Such a system would guarantee fairness, protect the rights of athletes, and guarantee the continuing integrity of international sport. In the end, arbitration succeeds if it finds its equilibrium between the interests of regulation and athlete governance in order to achieve a fair and transparent environment for all participants.