

# **Enforceability of CAS awards in Greece - a short survey**

## **Introductory remarks**

Applications to recognize and enforce CAS awards are not part of Greek court's daily order business. About ten years ago, the first decision of a Greek court was published, which accepted an application to declare a decision of the Court of Arbitration for Sports (CAS) enforceable. For this ruling, see [here](#) (in English), and [here](#) (in Spanish). Two recent decisions are added to this short list of judgments, where the corresponding decisions of the above sports arbitration body were again declared enforceable

(Piraeus Court of first instance, decision published on 28. July 2021, and Thessaloniki Court of first instance, decision published on 26. April 2022, both unreported).

## **A summary of the new decisions**

The first decision concerned a company of sport? management located in France, who initiated CAS proceedings against a football team in Greece due to non-payment of agreed fees for the transfer of a football player. The CAS granted the application and ordered the payment of 45.000 Euros and 16.391 CHF for the costs of the arbitral proceedings (case number 2018/O/5850).

The second decision concerned two accredited sports managers from Argentina against an Argentinian football player who terminated unilaterally the agreement, hence, he failed to abide by the conditions of the contract signed with the managers. They initiated arbitration proceedings before the CAS, which ordered the payment of 1 million Euros and 49.585,80 CHF for the costs of the arbitral proceedings (case number 2014/O/3726). The player appealed unsuccessfully before the Swiss Supreme Court (no reference available in the text of the decision).

## Main findings

From the assessment of the aforementioned decisions, it is possible to draw the following conclusions:

- **NYC: The ruler of the game.** The application of the New York Convention regarding requests to recognize CAS awards is undisputable and common to all Greek decisions.
- **National rules of Civil procedure.** From the combination of Articles 3 and 4 NYC, and those of the Greek Code of Civil Procedure (Book on voluntary jurisdiction), it is clearly concluded that the true meaning of Articles 3 and 4 of the above convention is that, the one who requests the declaration of enforceability of a foreign arbitral award, is required to present the relevant decision and the arbitration agreement, either in original or in an official copy, as well as an official translation into the Greek language, *during the hearing* of his application, and without being obliged to file these documents at the court, when submitting the relevant application.

This because, to the eyes of Greek judges, Article 4 NYC, referring to a presentation “at the time of the application”, does not determine the procedural ‘moment’ (stage) when the documents of the arbitration agreement and the arbitral decision must be submitted to the court. It simply determines the burden of proof and the party borne with it. The procedural method and the time of presentation of the documents referred to in Article 4 § 1 NYC are still regulated by the procedural law of the trial judge, in the case at hand the Greek Code of Civil Procedure.

- **Field of application of CAS.** On the grounds of the decisions rendered by Greek courts, it has been confirmed that the CAS has jurisdiction over the following disputes:
  - Application for arbitration by an athlete against the team in which he plays;
  - Application for arbitration by the sports manager of athletes and/or

coaches against the sports club.

- Application for arbitration by the sports manager against the athlete.
  
- **Enforceability in the country of origin not a pre-requisite.** Contrary to finality, it is not necessary to meet the condition of enforceability of the arbitral award in the state of origin, i.e., Switzerland.
  
- **Enforceability of CAS Costs.** The 'order' awarding arbitration costs, following the CAS award, must also be declared enforceable, according to Rule R.64.4 CAS Procedural Rules. The matter is noteworthy, as the above 'order' is issued after the award by the CAS Secretariat, not by the arbitration Panel that ruled on the dispute, and without the participation of the parties. However, it should be underlined that the letter from the CAS Secretariat merely specifies the amount of the arbitration costs awarded by the Panel; hence, it is considered as belonging to the award's operative part. In addition, the act of awarding costs is notified to the parties in accordance with CAS rules.
  
- **Irreconcilable judgments.** It is not necessary to furnish a certificate of non-irreconcilability with a decision, by following the domestic model of article 903 § 5 and 323 nr. 4 Greek Code of Civil Procedure. According to the judgment of the Greek court, it is not permissible to transfuse a condition regulated by domestic arbitration law into the context of the New York Convention.
  
- **No revision on the merits.** Finally, although not directly stated in the text of the NYC, a revision of the foreign arbitral award by the Greek court is prohibited, the latter being unanimously accepted and labelled as the principle of non-examination on the merits.