SLPC International Sports Law Conference (Naples, 20–21 November 2025)

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I. Introduction

The Naples International Sports Law Conference brought together leading academics, arbitrators, practitioners, and sports-governing-body officials to discuss the most pressing developments shaping global sports regulation. Over two days, the programme addressed the evolving jurisprudence of CAS, the Swiss Federal Tribunal and the CJEU; fundamental reforms in FIFA's regulatory framework; the complex interaction between sports regulations and state law; and the rapidly expanding challenges in areas such as anti-doping, match-fixing, multi-club ownership and the protection of athletes' rights.

This written summary aims to provide a structured, clear and comprehensive account of the key presentations and debates. It is designed to support the dissemination of knowledge within the sports-law community and to facilitate follow-up discussion among scholars and practitioners. The document reflects the substance of each intervention with accuracy while avoiding interpretative commentary, ensuring that every panelist's message is conveyed faithfully.

II. Overview of the Conference

The Conference was organised into three thematic panels, each addressing a distinct regulatory dimension of contemporary sports law.

Panel 1 examined anti-doping from four complementary angles: the evidential and procedural challenges faced by athletes; the adjudicatory structures underpinning the global anti-doping system; the interaction between sporting rules and state law; and the innovations introduced in the 2027 WADA Code. Collectively, the panel highlighted how anti-doping has become an increasingly complex hybrid of scientific, legal and institutional processes — and how transparency, proportionality and procedural rigour remain at the heart of forthcoming reforms.

Panel 2 explored the changing architecture of international football regulation, particularly in the aftermath of landmark CJEU judgments such as *Diarra*[1] and *Seraing*.[2] Speakers analysed the implications of these rulings for contractual stability, compensation, free movement, competition integrity, and multi-club ownership. The discussion demonstrated how EU law, FIFA regulations and CAS jurisprudence now interact more closely than ever before, creating both challenges and opportunities for future regulatory design.

Panel 3 provided an in-depth review of recent jurisprudence of FIFA, CAS and the Swiss Federal Tribunal. The panel addressed the transformation of Article 17 RSTP after *Diarra*; the consolidation of legal certainty in match-fixing cases; the evolving criteria for CAS jurisdiction; the growing tension between the DRC/CAS system and national labour courts; and the SFT's landmark decisions in the *Valieva matter*.[3]

[1] C-650/22

[2] C-600/23

[3] 4A_136/2024 (ATF 151 III 53); 4A_654/2024

III. Panel Summaries

1st Panel: Addressing Doping in Sport: Comprehensive Measures and Procedural Tools for Combatting Abuse

Moderator:

- **Mario Vigna** (Italy) – CAS Arbitrator, Nado Italia

Panelists:

- **Kendrah Potts** (United Kingdom) – Barrister, 4 New Square Chambers, London
- **Jeffrey Benz** (USA / United Kingdom) – CAS Arbitrator
- **Luigi Fumagalli** (Italy) – CAS Arbitrator, Professor (University of Milan)
- **Ulrich G. Haas** (Germany) – CAS Arbitrator, Professor (University of Zurich)

1. Kendrah Potts: Anti-Doping

This presentation examines anti-doping cases from the perspective of athletes and their counsel, focusing on the strategic and evidential challenges players face throughout the process. Anti-doping organizations (ADOs) hold a strong procedural advantage because they control the testing system, which typically produces conclusive laboratory positives. Their investigations also rely on intelligence from other ADOs, governing bodies, whistle-blowers, and substantial-assistance programs that incentivize athletes to provide information.

A central early dilemma for athletes is the obligation to cooperate. While failure to cooperate may lead to disciplinary charges, interviews are often conducted without disclosure of key information—effectively "ambush" settings where players risk giving inconsistent answers. Counsel must therefore push for disclosure, prepare the athlete thoroughly, and secure early forensic downloads of devices to avoid later allegations of deletion or tampering.

Record-keeping by athletes is essential. Accurate logs of supplements and medications, batch numbers, remaining products, and involvement of entourage members can be crucial in establishing the source of contamination. If the source cannot be proven, athletes face severe evidential disadvantages. The burden of proof for an anti-doping rule violation lies with the ADO ("comfortable satisfaction"), but the burden shifts to athletes when establishing source, lack of intent, or degree of fault.

Two recurrent hurdles for athletes are highlighted: (1) the difficulty of proving source, which affects both the starting point of the sanction and the possibility of reduction; and (2) the expansive use—sometimes excessive—of strict liability, particularly attempts to attribute the fault of entourage to the athlete.

The *Sinner case*[4] illustrates these issues. Jannik Sinner tested positive for Clostebol due to inadvertent cross-contamination from a physiotherapist who had used a Trofodermin spray on his own wound. Source was clearly established through interviews, contemporaneous records, and aligned expert evidence. The key legal question became whether the negligence of entourage should be attributed to Sinner and whether he exercised "utmost caution." The

[4] SR/250/2024

tribunal rejected the argument that entourage fault is automatically attributable to the athlete, noting that no such principle exists in the World Anti-Doping Code and that strict liability must be balanced with proportionality. The Code comment excluding "no fault" where a personal physician or trainer administers a prohibited substance was interpreted narrowly and did not apply to inadvertent cross-contamination. Sinner was found to have acted with no fault or negligence; WADA ultimately settled the appeal for a three-month sanction.

The presentation then surveys the broader evidential landscape. In contamination cases, athletes often face the impossible burden of proving both that the substance was present in a product and that it explains the concentration in the sample. These proceedings are extremely costly, requiring numerous experts, and errors in supplement testing or chain-of-custody can result in severe sanctions, as illustrated by the *Halep*[5] and *ITIA v. Moore*[6] (meat contamination) cases. In several recent decisions, failure to identify the precise farm or point of clenbuterol administration proved fatal to the athlete's case.

Overall, the presentation underscores that anti-doping litigation is structurally difficult and financially burdensome for athletes, and that the decisive issue in most cases remains the ability to establish the source of the prohibited substance with convincing scientific support.

2. Jeffrey Benz – Legal & Procedural Frameworks in Anti-Doping

The presentation provides a high-level overview of the anti-doping adjudication landscape from the standpoint of an experienced CAS arbitrator. Although Mr Benz has occasionally acted as counsel, the analysis is rooted primarily in arbitral experience.

He explains that the anti-doping system is structured around three main actors: the World Anti-Doping Agency (WADA), the national anti-doping organizations, and the International Federations, many of which now delegate results management to the International Testing Agency (ITA). Above them sits the Court of Arbitration for Sport (CAS), functioning as the "Supreme Court of sport" with exclusive appellate jurisdiction over international-level anti-doping cases. CAS's hallmark is the *de novo* standard of review, which allows panels to correct procedural defects of first-instance bodies — whose quality and rigour vary substantially worldwide.

CAS was intentionally placed at the apex of this system to ensure the global harmonisation of anti-doping jurisprudence. Its awards, though not binding precedent in a common-law sense, form a persuasive *lex sportiva* and are enforceable arbitral awards under the New York Convention. While recent European case law (such as *Semenya*[7]) has tested the strength of CAS's role, the overall structure remains intact.

The presentation then turns to the substantive pillars of anti-doping law. Strict liability remains the cornerstone: athletes are responsible for whatever is found in their system, regardless of intent or negligence. This is accompanied by a burden-shifting framework: once an adverse analytical finding exists, responsibility moves to the athlete to establish the source of the substance and the absence of intent. Although the Code provides limited situations where the burden shifts back to the anti-doping organization, these are exceptional. Mr Benz emphasizes

[5] CAS 2023/A/10025 & 10227

[6] CAS 2024/A/10298 & 10589

[7] C. Semenya v. Switzerland, n. 10934/21, ECtHR (11 July, 2023)

that proving intent — or disproving it — is inherently difficult, especially when contamination or third-party error is alleged.

A related and increasingly prominent issue concerns the responsibility for the actions of an athlete's entourage. While the Code does not expressly codify a broad "entourage liability" rule, the practical reality is that the mistakes of coaches, physios, or doctors can have severe consequences for athletes. Mr Benz recalls the moving example of Norwegian cross-country skier Ms Therese Johaug, whose team doctor took full responsibility for providing her with a lip balm containing a prohibited substance — an episode illustrating both the human dimension and the systemic harshness of strict liability.[8]

He notes another structural challenge: athletes often lack proper anti-doping education. In some countries, education programmes are robust and well-documented; in others, especially in parts of the Global South, athletes first encounter the true complexity of the anti-doping regime only once they are accused of a violation. This gap remains unresolved despite decades of opportunity to fix it.

Proportionality also occupies an ambiguous position. Some CAS panels take the view that proportionality is already "built into" the Code, but fairness considerations nevertheless permeate arbitrators' thinking. The *Lawson case*[9] is a vivid example: while the first-instance tribunal felt deep sympathy for an athlete who appeared not to have intentionally doped, it could not grant relief under the Code as written; CAS, on appeal, reached a different conclusion. Mr Benz suggests this outcome was influenced both by the *de novo* standard and by re-crafted arguments on appeal.

Cost disparity is another recurring issue. High-profile athletes such as Simona Halep can marshal extensive expert evidence; others cannot. When one side presents twelve experts and the other can afford only one, panels become acutely aware of the structural imbalance — yet they remain bound by the evidentiary framework of the Code.

WADA's appellate activity is also clarified. It often appeals not because it cares deeply about the individual athlete, but because it must preserve uniformity in jurisprudence. Consistency is the institutional rationale behind many WADA appeals involving relatively minor athletes or marginal sports.

In terms of procedural evolution, Mr Benz observes an increase in successful "no-fault" cases, largely in contamination scenarios. The burden of proof continues to evolve, with panels demanding concrete evidence of the source rather than speculation, yet occasionally acknowledging the practical impossibility of meeting certain evidentiary thresholds. He also highlights the growing role of supplements — exemplified by the *Sinner case*[10] — which can reduce costs and produce more rational outcomes.

The presentation concludes with practical guidance: an athlete's defence must begin before an adverse finding ever arises. Most doping cases do not involve intentional cheating but rather the "knucklehead problem" — failures to follow basic obligations, particularly in relation to supplements and whereabouts. Athletes must research supplements, keep records, retain samples, use certified products, and maintain meticulous documentation. They should hire

[8] CAS 2017/A/5015 & 5110

[9] CAS 2019/A/6313

[10] SR/250/2024

qualified entourage members and ensure they understand anti-doping duties. They should also treat the whereabouts system with utmost seriousness.

3. Luigi Fumagalli: Addressing Doping in Sport

Professor Luigi Fumagalli's presentation explored the growing complexity of institutional and regulatory interactions within the global anti-doping system. He began by emphasising that anti-doping rules exist at the intersection of multiple legal orders: private regulation (the WADA Code), domestic legislation, and international law. As highlighted by the Advocate General in the recent *NADA Austria opinion*,[11] anti-doping norms are inherently hybrid—they derive simultaneously from international commitments, national statutes and privately adopted sporting rules. This multilayered structure makes interpretation indispensable, since coherence must be constructed across overlapping—and at times conflicting—regulatory frameworks.

Professor Fumagalli identified two principal forms of interaction. First, intra-systemic interaction within sport itself, involving coordination among WADA, national anti-doping organisations, and international federations. This includes determining who conducts results management, how case-resolution agreements are validated, and how substantial assistance reductions must be approved jointly by several actors. Internal normative coordination is equally necessary, especially when domestic regulations deviate from the WADA Code. He recalled the CAS jurisprudence rejecting incompatible rules—most famously the "Osaka Rule"—as well as the recurrent issue of ensuring proportionality within sanctions.

Second, he addressed extra-systemic interaction, particularly between the sporting framework and state criminal law. In several jurisdictions (such as Italy) doping is also a criminal offence, creating possible tensions and overlaps between criminal investigations and disciplinary procedures. Evidence gathered in criminal cases may or may not be admissible in disciplinary proceedings; conflicting outcomes between the two systems are possible; and cooperation between public prosecutors and anti-doping authorities can decisively shape disciplinary cases. Professor Fumagalli mapped these divergent models of interaction: conflict, parallelism, divergence, and cooperation.

The most pressing emerging challenge, however, concerns compliance with European data-protection law. Anti-doping processes require the collection and long-term retention of extremely sensitive personal data—medical information, whereabouts details, potentially religious or political indications, and even evidence of prohibited-substance use. All of this raises significant issues under the GDPR. Professor Fumagalli reviewed the latest *NADA Austria opinion*, where the Advocate General questioned the legality of publishing sanctions, noting that health-related data cannot be disclosed without strict necessity, and that "public shaming" of athletes risks breaching the principle of data minimisation. He also highlighted unresolved concerns raised by the European Data Protection Board, especially regarding ten-year retention periods and the validity of athletes' consent—often given under the threat of exclusion and therefore unlikely to meet the GDPR standard of "freely given".

Professor Fumagalli concluded by reminding the audience that sports governing bodies are not autonomous islands. While anti-doping has historically operated within a self-contained

[11] C-474/24, para 1.

regulatory sphere, it now faces unavoidable interaction with broader legal norms, particularly fundamental rights protections. The future, he argued, requires a more open and cooperative approach to integrating sport's regulatory needs with the general legal system's guarantees.

4. Ulrich G. Haas: Anti-Doping: the 2027 WADA Code

The presentation surveys the main innovations of the 2027 World Anti-Doping Code, which, unlike earlier revisions driven by scandals (Armstrong, Russia), does not have a single overarching theme but instead refines and "tunes" the existing system. Professor Haas focuses on four main areas: the sanctioning architecture, contamination and "source" issues, results-management mechanics (whereabouts and provisional suspensions), and new transparency and status rules.

On sanctions, the Code keeps the familiar structure (case resolution agreements, "otherwise applicable" sanction, fault-related reductions, then non-fault-related reductions) but makes it more flexible and athlete-friendly in some respects. Early admission is strengthened: a new rule will allow a flat 25% reduction of the sanction across all ADRVs[12] (not only four-year cases), incentivising early resolution and saving time and costs. Substances of abuse are treated more flexibly: if use is unrelated to performance, out-of-competition use leads to a flat two-month ban, while in-competition use gives panels a 6-to-24-month range, a broader discretion than today. A new "late TUE"[13] / filing-failure concept allows a flat two-month sanction where the athlete would essentially have qualified for a TUE but failed to apply in time. For non-specified substances, the Code tries to codify what CAS has called the "narrowest of corridors": if the athlete can prove source, it becomes easier to move from four to two years and then seek further reductions; even without proving how the substance entered the body, there is now explicit language allowing a reduction where the pattern of use is clearly incompatible with intentional doping. Fault-related reductions are also updated by moving from "contaminated product" to "contaminated source", expressly covering scenarios like *Sinner*[14] (skin-to-skin or non-product transfer) and allowing sanctions between a reprimand and two years.

Procedurally, several gaps are addressed. For whereabouts, a new rule clarifies which ADO[15] is responsible for prosecuting three strikes when they come from different bodies: in principle, the ADO that ordered the last missed test, or, if the last strike is a filing failure, the ADO with whom the athlete files whereabouts. ADOs can agree to reallocate a case, and WADA can decide if they do not. Mandatory provisional suspensions are harmonised: at the moment an ADRV is notified, the ADO must decide whether to impose a provisional suspension. If it does not, WADA and other appeal-entitled parties can immediately go to CAS; if it does, the athlete can request lifting, and either side can then appeal to CAS. This more complex structure is meant to ensure both harmonisation (everyone must decide at the same procedural point) and equality of arms (both "sides" can contest the presence or absence of a provisional suspension before CAS).

Finally, two structural innovations respond directly to recent controversies. First, in response

[12] Anti-Doping Rule Violations

[13] Therapeutic Use Exemption

[14] SR/250/2024

[15] Anti-doping organization

to the Chinese swimmer cases, the Code will require any ADO that wants to stop a case at the AAF[16] stage (e.g. because it believes it is contamination) to obtain an independent expert report first. The ADO may follow or disregard the expert's recommendation, but it may not quietly close a file without that external review; failure to do so will be a serious compliance breach. This is intended to create transparency and reassure the community that non-prosecutions are technically justified, not "cover-ups". Second, Article 10.14 on status during ineligibility and provisional suspension is significantly expanded: in principle, a suspended athlete may not compete in any event within the sporting family, may not move into a professional league as a workaround, may not switch roles to Athlete Support Personnel, may not serve as an officer, director or senior executive, and may not receive compensation from a signatory—amounting to a broad exclusion from the organised sports ecosystem. The Code now also clarifies the key exception: under an employment contract (e.g. a club contract), an athlete may still be paid for services that do not breach the restrictions (e.g. non-sporting or non-competitive tasks). Overall, the 2027 Code seeks more nuance, transparency and procedural clarity rather than a revolution of the anti-doping system.

2nd Panel: Beyond the Field: International Reforms in Football and the Impact of International and National Courts Rulings

Moderator:

- **Jacopo Tognon** (Italy) – CAS Arbitrator, Professor (University of Padua)

Panelists:

- **Frans de Weger** (Netherlands) – Chairman (Dispute Resolution Chamber, FIFA Football Tribunal)
- **Jorge Esteban Ibarrola** (Switzerland) – Founding Partner (Libra Law, Lausanne)
- **Agustin Montes de Oca** (Switzerland) – Team Lead (Legal & Compliance Division, FIFA)
- **Massimo Coccia** (Italy) – CAS Arbitrator, Professor (University of Rome Sapienza)
- **Stefano Bastianon** (Italy) – CAS Arbitrator, Professor (University of Bergamo)

1. Frans de Weger: The Diarra Case – The Past, the Present and the Future

The presentation examines the impact of the *Diarra judgment*[17] of the Court of Justice of the European Union (CJEU) on FIFA's transfer regulations and, more specifically, on the future jurisprudence of the FIFA Dispute Resolution Chamber (DRC).
Mr Weger begins by recalling how the case was portrayed in European media as a potential "new Bosman" with predictions of a collapse of transfer fees. However, empirical data from recent transfer windows show the opposite: transfer volumes and fees continue to rise globally. The central question therefore becomes how the *Diarra judgment* should be understood in practice, and what consequences it truly has for the regulatory system.

[16] Adverse Analytical Finding
[17] C-650/22

The background of the case is revisited: the underlying DRC and CAS decisions (before the matter reached Belgian courts and later the CJEU) were, in Mr Weger's view, reasonable. The player's multiple unauthorized absences provided just cause for termination, and compensation was calculated at roughly €11 million—far below the €80 million residual value. Neither joint liability nor sporting sanctions were applied.

The CJEU judgment, however, took a very strong position on four provisions of the old RSTP[18] framework:

1. Article 9 (ITC issuance),
2. Article 17(1) (compensation),
3. Article 17(2) (automatic joint liability of the new club), and
4. Article 17(4) (automatic sporting sanctions in the protected period).

According to the Court, the combined effect of these rules imposed highly unpredictable and potentially enormous financial risks on new clubs, dissuaded them from signing players who had terminated a contract, and thus restricted the players' freedom of movement under EU law.

The presentation explains that three of the four criticized provisions could be relatively easily remedied: ITCs[19] must now be issued automatically; joint liability and sporting sanctions are no longer automatic but require proof of inducement. The true complexity lies in Article 17(1) and the calculation of compensation. FIFA responded with a new interim regulatory framework (IRF) introducing the positive interest principle, which aims to compensate the claiming party by restoring the position it would have been in absent the breach.

Mr Weger emphasizes that while the positive interest principle is legitimate, its application must be transparent and foreseeable to comply with the CJEU's concerns. Several traditional compensation components are now clearly forbidden, including:

- the non-amortised transfer fee, because it is negotiated solely between clubs;
- future remuneration, which is unrelated to the terminated employment contract;
- the vague notion of specificity of sport as an autonomous head of damages.

Other elements—such as residual value, replacement cost, and loss of opportunity—may still be relevant but require far more rigorous justification and proof. Replacement cost in particular faces difficulties because a causal link between the terminated relationship and the replacement signing is often weak or speculative.

National law will now play a greater role in compensation analysis, but its application may not always benefit players. In some jurisdictions, damages could exceed residual value. The interplay between different national systems and the international RSTP framework will therefore require careful navigation to maintain consistency.

Mr Weger expects an increase in contractual instruments such as liquidated damages clauses, buy-out clauses, and choice-of-law clauses—similar to the post-Bosman evolution. Ultimately, the decisive factor will be how the DRC interprets and applies the positive interest standard in future cases, and how CAS decisions align with that line of jurisprudence. Consistency is essential given the CJEU's emphasis on foreseeability.

The presentation concludes by noting that regulatory negotiations are ongoing and the legal landscape remains in flux. Much will depend on how FIFA, the DRC, and CAS develop a

[18] Regulations on the Status and Transfer of Players

[19] International Transfer Certificates

coherent and predictable compensation regime that balances contractual stability with players' freedom of movement.

2. Jorge Esteban Ibarrola: The Aftermath of the Diarra Precedent: Possible Solutions Outside FIFA Regulations

Mr Ibarrola provides a structured analysis of the Court of Justice of the European Union's (CJEU) *Diarra decision*[20] and its implications for FIFA's revised regulatory framework governing contractual stability, compensation, and transfers. The core question addressed is how FIFA's new rules align with the requirements set by the CJEU and how the traditionally used CAS jurisprudence can help fill the gaps left by the removal of the old objective criteria of Article 17.

The Court of Justice held that several long-standing FIFA rules—particularly those concerning compensation and the automatic joint liability of the new club—were incompatible with EU law because they relied on vague, imprecise, discretionary criteria that produced unpredictable and disproportionate financial consequences. Notions such as "specificity of sport," which had been developed through CAS case law but never clearly defined in FIFA regulations, were deemed too indeterminate. Additionally, several criteria historically used to calculate compensation were unrelated to the actual employment relationship between player and club, which is the only permissible basis for assessing damages under EU law. The Court also found automatic sanctions and the refusal or delaying of ITCs[21] to be unlawful restrictions on free movement.

To comply with this ruling, FIFA had to remove automatic mechanisms: the ITC can no longer be withheld in case of disputes; joint liability of the new club and sporting sanctions now require proof of inducement; and the objective criteria of Article 17 were deleted. The only remaining standard for compensation is the general principle of positive interest, which requires restoring the injured party to the position it would have occupied had the contract been performed. The challenge is that this principle—though legitimate—provides no concrete parameters and must now be filled through jurisprudence.

"Just cause" remains permissible and has been clearly defined in the revised regulations in terms consistent with long-standing CAS jurisprudence. Liquidated damages clauses are still allowed, and national law continues to play a role. Residual value remains an acceptable basis for compensation. However, the CJEU decision excludes several elements from future compensation, most notably costs unrelated to the employment relationship (such as non-amortized transfer fees between clubs) and future remuneration under a contract the player has not yet entered into.

Against this background, Mr Ibarrola turns to the historical CAS cases to identify which elements remain legally viable. The *Webster case*[22] is surprisingly close to the CJEU approach: residual value was used as the primary basis; specificity of sport operated only as a narrow correction; and several now-forbidden elements—such as training costs or transfer market

[20] C-650/22

[21] International Transfer Certificates

[22] CAS 2007/A/1298, 1299 & 1300

valuations—were excluded. Later CAS cases, including the ones influenced by *Matuzalem*,[23] expanded compensation significantly, but many of the factors previously used (such as market value indicators, salary differences, or non-amortized fees) would no longer be compatible with EU law unless tied directly to the employment relationship and to provable damage.

Swiss law continues to play an important role in filling the gaps—particularly Article 42(2) CO[24] (allowing arbitrators to estimate damages when exact proof is impossible) and the provisions in Articles 337c–d CO, which CAS panels have historically applied to determine upper compensation limits. These tools remain valid under *Diarra* because the CJEU did not object to national law; it objected specifically to the FIFA criteria.

Certain heads of damage may still survive, including replacement cost, but only if the club can prove both actual expenditure and a clear causal link to the breach. The concept of loss of opportunity may also theoretically be invoked under Swiss law, though it remains extremely difficult to prove. Signing-on fees that form part of the player's remuneration could be factored in, but transfer offers or values unconnected to the employment relationship are unlikely to be accepted.

The analysis concludes that many elements traditionally relied upon by CAS remain available and lawful, as long as they are directly linked to the employment relationship and satisfy the EU law requirements of predictability, objectivity, and proportionality. Mr Ibarrola emphasizes that the real challenge lies ahead: developing a coherent and consistent line of jurisprudence under the positive-interest standard that respects the boundaries set by the CJEU while maintaining contractual stability in football.

3. Agustin Montes de Oca: Multi-Club Ownership. Imminent Global Regulation?

Mr Montes de Oca examined the rapidly expanding phenomenon of multi-club ownership (MCO) and its growing regulatory importance, particularly in light of recent CAS jurisprudence and the 2025 FIFA Club World Cup. Although MCO emerged primarily as a European issue through UEFA competitions, it has now become a global structural feature of the football industry, with more than 300 clubs worldwide belonging to multi-club networks.

A central theme of the presentation was the protection of sporting integrity, which must remain the guiding principle of any regulatory framework governing MCO. FIFA and UEFA rules do not prohibit multi-club ownership outright; instead, they restrict it in situations where control or decisive influence over more than one club could compromise the fairness of competitions. Article 20 of the FIFA Statutes and Article 10 of the Club World Cup Regulations reflect this by banning common control whenever it jeopardizes integrity.

The concept of "decisive influence"—first elaborated by UEFA in 2017 and later refined in a 2024 circular—encompasses four objective indicators:

1. shareholding structures,
2. financial control or leverage,
3. governance links (e.g., overlapping directors), and
4. repeated transfer activity between affiliated clubs.

These indicators help determine whether two clubs operate independently or form part of the

[23] CAS 2008/A/1519 & 1520

[24] Swiss Code of Obligations

same ownership structure.
The most recent and influential case discussed was *León v. Pachuca*,[25] the first significant MCO case in the context of the expanded FIFA Club World Cup. Both Mexican clubs qualified on sporting merit, but because they are owned by the same group, FIFA determined that only one could participate. CAS confirmed FIFA's decision, stressing that the independence of clubs must already exist at the moment of qualification and cannot be created retroactively through last-minute restructuring. The attempted "trust" mechanism designed to separate control was deemed insufficient and not comparable to the earlier Manchester City–Girona structure that UEFA had approved.
The case highlights several structural challenges for global football regulators:

- ensuring competition integrity across interconnected club networks,
- safeguarding training compensation and solidarity payments within and across MCO groups,
- preventing the manipulation of player registration and transfer rules through internal transfers, and
- avoiding circumvention of loan regulations via intra-group player movement.

Mr Montes de Oca concluded that, although MCO is now an entrenched feature of the football economy, its regulation faces decisive tests in the coming years. The legal community will play a crucial role in shaping frameworks that preserve competitive fairness while allowing legitimate ownership models to function.

4. Massimo Coccia: The EU Court of Justice's Judgement on the RFC Seraing Case: Much Ado About Little?

The presentation examined the *Seraing case*[26] and the recent judgment of the Court of Justice of the European Union (CJEU), focusing on its implications for sports arbitration and the regulatory autonomy of international sports federations.
Professor Coccia first highlighted the striking contrast between the efficiency of the sports-justice system (FIFA → CAS → Swiss Federal Tribunal: ~3 years) and the slowness of ordinary courts (Belgian courts → CJEU: 10+ years with no final outcome). This, he argued, remains a key advantage of arbitration for stakeholders in sport.
He then addressed widespread misunderstandings surrounding the judgment. While the opening line caused alarm by appearing to question the *res judicata* effect of CAS awards, the ECJ's reasoning is far more nuanced. The ruling clarifies that CAS awards can indeed be set aside or denied recognition only when they conflict with EU public policy, and only when those matters have effects within the EU and have not been subject to effective judicial review. Crucially, the judgment does not address (let alone question) the independence of CAS.
A central message of the presentation is that the decision contains no true innovation. Instead, it adopts a didactic tone, summarizing well-established principles of international arbitration:

- EU competition law and the four fundamental freedoms form part of EU public policy;
- Member State courts must ensure these principles are respected when recognizing or

[25] TAS 2025/A/11314; TAS 2025/A/11315; TAS 2025/A/11316
[26] C-600/23

enforcing foreign arbitral awards;

- review of arbitration can be limited and does not require reassessment of facts; courts may rely on the factual findings of the arbitral tribunal while evaluating the legal classification.

Importantly, the CJEU expressly acknowledges that CAS arbitration is justified and legitimate, given the need for uniform dispute resolution and consistent application of sporting rules. The judgment does not require CAS to move its seat inside the EU. The "seat" remains a legal—not physical—concept.

In Professor Coccia's view, the real impact of the judgment is on sports governing bodies, not on CAS. Federations—often monopolistic and acting as gatekeepers of their sport—cannot rely on their Swiss domicile or private-law status to escape scrutiny under EU competition law when their rules affect the EU internal market. The judgment reinforces that their regulatory power must always comply with EU public-policy constraints.

Finally, he observed that while the public-policy exception under the New York Convention is traditionally interpreted narrowly, some ambiguity remains about how far national courts may go when applying EU public policy after this ruling. Nevertheless, he concluded that CAS arbitration itself is not under threat; rather, sports organizations must ensure full compliance with EU competition law to avoid similar challenges in the future.

5. Stefano Bastianon: Sports Arbitration and Judicial Review after Semenya v. Switzerland – ECtHR Grand Chamber 10 July 2025

Professor Stefano Bastianon analyzed the Grand Chamber judgment in *Semenya v. Switzerland*,[27] a landmark ruling that reshapes the relationship between sports arbitration, state oversight, and fundamental human rights. The presentation focused not on the substantive fairness of World Athletics' DSD Regulations, but on the procedural obligations of Switzerland as the host state of CAS arbitration.

The Grand Chamber confirmed that CAS arbitration remains compatible with the European Convention on Human Rights (ECHR), even when effectively mandatory. However, where an arbitral award concerns issues with significant human-rights implications—such as physical integrity, privacy, and discrimination—states must ensure a "particularly rigorous judicial review." The Swiss Federal Tribunal, in Semenya's case, applied only a minimal, abstract public-policy review and failed to examine whether the CAS award rested on sound scientific evidence, whether the rules were potentially arbitrary, or what their real-life consequences were for the athlete. As a result, Switzerland violated Article 6 ECHR.

Importantly, the Grand Chamber did not rule on the legality or discriminatory nature of the DSD Regulations[28] themselves. Instead, it found that Switzerland failed to provide Semenya with the level of judicial protection required when an athlete is bound to mandatory arbitration and the dispute involves sensitive issues of bodily integrity, medical treatment, and the disclosure of intimate personal data.

The judgment reinforces a key principle: arbitration in sport is acceptable, but the state must

[27] C. Semenya v. Switzerland, n. 10934/21, ECtHR (11 July, 2023)

[28] World Athletics Eligibility Regulations for the Female Classification (Athletes with Differences of Sex Development)

guarantee effective judicial oversight, especially when fundamental rights are at stake. The decision may influence future challenges to sports regulations and will likely prompt Switzerland—and potentially other jurisdictions—to reconsider the depth of review applied to CAS awards involving human-rights questions. It underscores the need for a science-based, rights-compliant framework for eligibility rules affecting athletes with differences of sex development.

3rd Panel: Review of the Recent FIFA / CAS / SFT Jurisprudence

Moderator:

- **Giovanni Maria Fares** (Switzerland) – Executive Director (Gymnastics Ethics Foundation)

Panelists:

- **Roy Vermeer** (Netherlands) – Founding Partner (Vermeer Law)
- **Giulio Palermo** (Switzerland) – CAS Arbitrator
- **Michele Bernasconi** (Switzerland) – Partner (Baer & Karrer), CAS Arbitrator, Professor (University of Lucerne)
- **Despina Mavromati** (Switzerland) – Founding Partner (Sportlegis), CAS Arbitrator
- **Antonio Rigozzi** (Switzerland) – Partner (Lévy Kaufmann-Kohler), Professor (University of Geneva)

1. Roy Vermeer: Latest Jurisprudence on Art. 17 FIFA RSTP

This presentation examined how the legal landscape surrounding Article 17 of the FIFA RSTP[29] has evolved after the *Diarra ruling*[30] of the Court of Justice of the European Union (CJEU), focusing not on theoretical implications but on what has happened in actual jurisprudence since the judgment. Building on earlier analyses—Frans de Weger's overview of *Diarra* and Jorge Esteban Ibarrola's historical outline of CAS doctrine—the presentation completed the picture by reviewing:

- the first FIFA DRC decision rendered under the new regulatory framework, and
- two post-Diarra CAS awards that indicate how adjudicatory bodies may apply the new standards moving forward.

The CJEU judgment in *Diarra* fundamentally reshaped Article 17: it criticised virtually every traditional factor used to calculate compensation for breach of contract, including the vague "specificity of sport," the relevance of a player's new contract, and the reliance on non-amortised transfer fees—elements the Court considered disproportionate, unpredictable, and unrelated to the player's employment relationship. The only criteria the Court clearly left intact were the terms of the player's original employment contract, the timing of the termination, and the (so far largely theoretical) role of national law. Automatic joint liability and automatic sporting sanctions were deemed incompatible with EU law.

[29] Regulations on the Status and Transfer of Players
[30] C-650/22

Two CAS cases decided after *Diarra* provide first hints of future practice. In the *Sheriff/Subotica case*,[31] CAS upheld joint liability, holding *Diarra* inapplicable because the matter involved a Moldovan club, a Ghanaian player, and a Serbian team—raising the possibility of a dual system (EU vs. non-EU), though such a split remains controversial. Notably, CAS relied on salary comparisons across multiple contracts and non-amortised transfer fees—criteria now impermissible in the EU context. In the *Normann case*,[32] involving a Norwegian player leaving Russia, the CAS panel reopened evidence after *Diarra* but ultimately concluded that EU/EEA law did not apply to this Russia–Saudi Arabia dispute. The panel therefore maintained the traditional joint-liability approach, though its reasoning leaves open important questions about the reach of EU law toward EEA athletes.

The first DRC decision under the new interim FIFA rules shows a clear shift: clubs must now substantiate every element of alleged damage. In a case involving overlapping contracts, the club claimed flight costs, association registration fees, replacement-player expenses, image-rights income and "specificity of sport." Almost all were rejected due to lack of proof or ineligibility; the only accepted damage was the simple residual value of the contract (€13,500). Sporting sanctions were rejected, and joint liability was not imposed—not because of *Diarra*, but because inducement was not proven. This makes clear that joint liability is no longer automatic and now requires concrete evidentiary basis.

Overall, post-Diarra jurisprudence suggests that compensation claims may become much harder for clubs to substantiate. However, termination will not necessarily become easier for players—primarily because uncertainty, risk, and the potential magnitude of claims continue to deter unilateral breaches. In practice, the transfer system may remain stable precisely because of this uncertainty. Future disputes will likely involve more case-by-case assessment, greater reliance on national law, and increased attempts by clubs to rely on replacement-cost theory. Meanwhile, extremely high release clauses are expected to proliferate as clubs seek contractual certainty in an increasingly unpredictable environment.

For players, proving inducement becomes more difficult; for clubs, securing joint liability becomes far less reliable; and for lawyers, the legal and evidentiary complexity of these disputes will only deepen.

2. Giulio Palermo: The Evolution of CAS Case Law on Match-Fixing

The presentation outlined how two decades of CAS jurisprudence — complemented more recently by the entry into force of the Macolin Convention — have brought growing legal certainty to a previously fragmented regulatory field. Under this framework, match-fixing is understood as any active or passive conduct aimed at improperly influencing the course or outcome of a sporting competition, with the 'benefit' not needing to be monetary. The Macolin Convention also expressly recognises ancillary offences such as the misuse of inside information and the failure to report fixing attempts.

One of the earliest challenges was the absence of explicit rules. CAS resolved this in 2010 by deriving an implicit duty to report from overarching principles of loyalty and integrity. Later decisions refined this duty, confirming that it does not apply where reporting would endanger

[31] CAS 2023/A/9954

[32] CAS 2024/A/10280

an individual's or their family's safety. CAS jurisprudence has also confirmed that successful execution is not required for liability, no financial gain is necessary, and even incentives offered to induce a team merely to "perform normally" amount to match-fixing. A recent extension includes manipulating betting markets, though its classification as match-fixing remains conceptually controversial.

Regarding subjects of liability, CAS clarified that players, referees, coaches, officials and clubs may all commit match-fixing. Clubs face strict liability, meaning sanctions apply even without identifying the individual perpetrator. In sports such as tennis, vicarious liability has emerged, allowing sanctions based on misconduct by individuals close to the athlete.

The burden of proof always lies with the governing body. While some CAS panels have inferred presumptions from circumstantial evidence, this remains unsettled. The standard of proof is generally "comfortable satisfaction" unless regulations specify otherwise, and the Swiss Federal Tribunal has confirmed that civil-law standards apply even for lifetime bans.

Both disciplinary and administrative proceedings have been used—UEFA, for example, employs administrative mechanisms to exclude clubs from competitions on the basis of indirect involvement. CAS has upheld these structures, confirming that strict liability may apply even without identifying specific fixers.

Because sporting bodies lack the investigative powers of state authorities, CAS allows—under controlled conditions—the use of irregularly obtained evidence and anonymous witnesses. Their admission requires a strict balancing of sporting-integrity interests against due-process rights, and in practice many anonymous testimonies are excluded for insufficient justification.

Circumstantial evidence, particularly betting patterns, plays a central role. However, CAS consistently holds that betting data alone is insufficient to establish match-fixing. It must be supported by additional elements such as implausible sporting behaviour, financial links, or bookmaker interventions.

Finally, CAS conducts a full *de novo* review of both merits and sanctions. While governing bodies argue that sanctions should only be reduced when "grossly disproportionate," some panels consider Rule 57[33] to give broader discretion. Sanctions typically include long-term suspensions or lifetime bans, but CAS generally avoids combining life bans with heavy fines, as doing so would destroy an athlete's economic livelihood.

3. Michele Bernasconi: Appealable Decision & CAS Jurisdiction

The presentation addressed one of the most recurring procedural questions in international sports arbitration: what constitutes an appealable decision before the Court of Arbitration for Sport (CAS). Although the concept may seem straightforward under Article 47 of the CAS Code[34]—which requires (i) jurisdiction based on the statutes or agreement of the parties, (ii) exhaustion of internal remedies, and (iii) the existence of a "decision"—practical application often reveals significant complexity.

Mr Bernasconi highlighted that an appealable decision does not depend on the form of the communication but on its substance: it must contain a ruling that affects the legal position of its

[33] Code of Sports-related Arbitration, Rule 57 ("Scope of Panel's Review – Hearing")

[34] Code of Sports-related Arbitration, Rule 47 ("Appeal")

addressee. Even informal communications such as letters, emails or faxes may constitute decisions if they express a clear intent to determine rights or obligations. An illustrative early case involved a FIFA fax whose seemingly innocuous wording nonetheless contained implicit refusals that amounted to a reviewable decision.

A related issue concerns silence by a sports governing body. The jurisprudence confirms that only a genuine refusal to act—an "implicit or explicit denial of justice"—may qualify as an appealable decision. Mere administrative delay, especially without reminders or follow-up requests, is insufficient. CAS has repeatedly held that the applicant bears the burden of showing that the inaction clearly exceeded any reasonable timeframe and amounted to a refusal to decide.

With regard to the FIFA Football Tribunal, the presentation underscored two clear situations in which appeals are admissible: when the Tribunal decides a case on the merits, and when it rejects jurisdiction with no further internal recourse available. Both scenarios directly and definitively affect the legal position of the parties, thereby meeting the CAS threshold for appealability.

Mr Bernasconi also commented on drafting deficiencies in jurisdiction clauses, noting that poorly formulated clauses frequently lead to unnecessary disputes over competence—disputes that could often be avoided with precise drafting. A light-hearted anecdote illustrated that even automated tools may detect jurisdictional problems that human drafters overlook.

The presentation concluded with a reflection inspired by Nanni Moretti's *Palombella Rossa*: "Those who speak badly, think badly, and live badly"—extended humorously to legal practice as: "those who draft badly, think badly." The message underscored the central theme of the talk: the importance of clarity, precision, and intentionality in legal communications, particularly when they may determine whether CAS has jurisdiction to hear an appeal.

4. Despina Mavromati: FIFA DRC & CAS vs National Labour Courts in Football

This presentation examines the jurisdiction of the FIFA Dispute Resolution Chamber (DRC) and the Court of Arbitration for Sport (CAS) through the lens of three recent judgments of the Swiss Federal Supreme Court (SFT). The analysis focuses in particular on the interpretation of Article 22 of the FIFA RSTP and the recurring Hungarian "clause 49," which assigns jurisdiction to state courts for labour disputes.

The first SFT case[35] dealt with a dispute involving an employment contract and a related image-rights agreement. Although the appellant later argued that FIFA lacked jurisdiction over the image-rights claim, the SFT held that the argument was inadmissible because jurisdiction had not been contested during CAS proceedings. The judgment reaffirmed that the SFT may only review the jurisdiction of the arbitral tribunal (CAS) under Article 190(2)(b) PILA,[36] and only if the objection was properly raised before CAS.

The second case[37] involved a Hungarian employment contract governed by clause 49. CAS found it had no jurisdiction because the clause granted exclusive competence to Hungarian state courts for labour disputes. The SFT confirmed this interpretation, holding that Article 22 RSTP

[35] 4A_12/2025

[36] Swiss Private International Law Act

[37] 4A_64/2025

grants a default but non-exclusive jurisdiction to FIFA. Parties remain free to opt out and submit their disputes to state courts, and such an opt-out is fully valid. The SFT also clarified that CAS's jurisdiction under Article 22 is purely derivative: CAS cannot assume jurisdiction if FIFA itself lacked jurisdiction from the outset.

The third and most significant case[38] again concerned a Hungarian clause 49 contract. In this instance, both the FIFA DRC and CAS had asserted jurisdiction. Meanwhile, a Hungarian labour court had also issued a judgment in the same matter. The SFT set aside the CAS award, concluding that clause 49 unambiguously conferred exclusive state-court jurisdiction and that CAS had erred in interpreting the clause. The SFT reiterated several principles: waivers of state-court jurisdiction must be unequivocal; opting out in favour of courts is always valid, even in international disputes; and CAS's jurisdiction cannot extend where FIFA's jurisdiction was wrongly assumed.

Across all three judgments, consistent interpretative guidelines emerge. Clause 49 must be read strictly, and its reference to state judicial authorities excludes arbitration unless the parties express a clear and explicit waiver. The distinction between national and international disputes is irrelevant where state-court jurisdiction is chosen. Bargaining imbalance or the standard-form nature of the clause does not undermine its validity. Furthermore, jurisdictional objections must be raised during CAS proceedings; failure to do so constitutes tacit acceptance and bars later challenges before the SFT.

The presentation concludes that, in the wake of these decisions, the practical pathway for contesting FIFA DRC jurisdiction before the Swiss Supreme Court has become more predictable but also more constrained. Parties must act promptly at the CAS stage, and CAS's derivative jurisdiction means that FIFA's original jurisdictional errors can only be corrected indirectly, through the review of CAS's own legal assessment.

5. Antonio Rigozzi: Recent SFT Jurisprudence: The Valieva Case

The presentation examined two key judgments[39] of the Swiss Federal Supreme Court (SFT) concerning the Kamila Valieva doping saga, one of the most complex and far-reaching cases in recent sports jurisprudence. Professor Rigozzi focused on the dual nature of the proceedings: a traditional application to set aside a CAS award, and a subsequent request for revision—an extraordinary remedy available under Swiss law. Both attempts ultimately failed, but the reasoning of the Court provides significant insights into forced arbitration, arbitrability, standards of review, and the viability of revision proceedings in sports disputes.

The first part concerned Valieva's challenge of the CAS award under Article 190(2)(b) and (e) of the Swiss Private International Law Act (PILA), alleging lack of jurisdiction and violation of public policy. Valieva argued that she had never consented to arbitration because the applicable anti-doping rules derived from Russian state legislation rather than sporting regulations. The SFT dismissed this argument, reaffirming that forced arbitration—whether imposed by federations or by national law—is valid under Swiss law and compatible with the European Convention on Human Rights. Crucially, the Court relied on Valieva's own

[38] 4A_92/2025

[39] 4A_136/2024 (ATF 151 III 53); 4A_654/2024

submissions in the 2022 Beijing CAS Ad Hoc proceedings, where she explicitly argued that the CAS Appeals Division should have jurisdiction. This earlier procedural position prevented her from later claiming lack of jurisdiction. A second jurisdictional argument, suggesting that state-based anti-doping rules are non-arbitrable, was also rejected as both unfounded and raised too late.

Valieva further contended that the four-year ban imposed on her at age 15 violated substantive public policy. The SFT emphasized the extremely narrow scope of public-policy review and held that sanctions may only be overturned if manifestly unjust or shockingly disproportionate. Although even the CAS panel had expressed doubts about the proportionality of a four-year sanction for a minor, the Court concluded that the WADA Code had been correctly applied and that the status of "protected person" affects procedure but not the sanctioning regime. The Court also reasoned—controversially—that automatic leniency for minors might incentivise doping. Accordingly, the annulment effort was dismissed.

The second decision addressed Valieva's request for revision, an exceptional mechanism available when new, decisive facts or evidence emerge after an award becomes final. The trigger for the request was an Associated Press report revealing an internal WADA email suggesting that a former laboratory director had prepared an expert report allegedly favourable to Valieva—yet no such report appeared in the arbitration record. The SFT first questioned whether this could even be considered "evidence," noting that an unsubmitted document exists only abstractly and that parties are free to withhold documents even against production orders. The Court held that this, on its own, cannot justify reopening a concluded proceeding. Moreover, even assuming the expert report existed and had been concealed, the Court concluded that it would not have changed the outcome, rendering it insufficient for revision. The Court noted the irony that WADA considered the report "very favourable," yet still deemed it inconclusive, and observed that CAS—despite usually commenting—chose to remain silent.

In conclusion, both decisions reaffirm the SFT's highly restrictive approach to overturning CAS awards, whether through annulment or revision. Despite the sympathetic circumstances of a 15-year-old athlete caught in a dysfunctional system, neither procedural avenue succeeded. Professor Rigozzi closed on a personal note, emphasising that Valieva was, above all, a victim of a win-at-all-costs culture, and recalling the fairness of the provisional-suspension decision rendered during the Beijing Games—one of the few moments in the case that arguably protected the athlete rather than the system.

IV. Key Takeaways of the Conference

1. Anti-doping law is entering a period of refinement rather than revolution.
The 2027 WADA Code introduces targeted reforms: clearer source-related rules, more proportionate sanctioning ranges, improved results-management mechanisms, and increased transparency. Yet the foundational principles — strict liability, burden-shifting and *de novo* review — remain firmly intact.

2. The *Diarra judgment* is reshaping global football regulation far beyond the EU.
Compensation for breach of contract must now be objectively linked to the employment relationship; automatic joint liability and automatic sanctions are no longer permissible; and predictability and proportionality have become decisive legal tests. Clubs will increasingly rely on liquidated damages clauses, while adjudicators must develop a coherent jurisprudence under the positive-interest standard.

3. Multi-club ownership requires clearer global frameworks.
Integrity remains the core concern. CAS jurisprudence confirms that independence must exist at the moment of qualification and cannot be manufactured *ex post*. FIFA and UEFA face growing pressure to harmonise standards for control, governance links, and intra-group transfers.

4. Sports arbitration remains legitimate, but judicial oversight is tightening.
Semenya reaffirmed the compatibility of CAS with the ECHR while requiring deeper state review in cases affecting fundamental rights. *Seraing* clarified, without innovating, the limits of public-policy review and the responsibilities of sports federations when their rules affect the EU internal market.

5. The Swiss Federal Tribunal is applying stricter scrutiny to jurisdictional issues.
The recent Hungarian "clause 49" rulings reaffirm that opting out in favour of state courts is always valid, and CAS lacks jurisdiction where FIFA lacked jurisdiction *ab initio*. Parties must raise objections promptly during CAS proceedings.

6. Match-fixing jurisprudence has matured into a stable and predictable framework.
CAS has clarified definitions, duties to report, standards of proof, the admissibility of irregular evidence, and proportionality benchmarks. Integrity remains the decisive value guiding sanctions.

7. The *Valieva decisions* highlight the limits of both annulment and revision.
Forced arbitration remains valid; public-policy review is extremely narrow; and revision requires genuinely new, decisive evidence — a threshold not met even in a high-profile case. The decisions nevertheless expose structural tensions between athlete protection and system integrity.

V. Concluding Remarks

The Naples International Sports Law Conference underscored the accelerating pace at which sports law is evolving across multiple regulatory spheres. From EU law to CAS jurisprudence, from anti-doping reforms to emerging issues like multi-club ownership, the field increasingly demands interdisciplinary expertise and close coordination between legislators, federations, courts and practitioners.

What emerged most clearly is the need for consistency, transparency and legal certainty. Whether addressing doping, transfers, eligibility, match-fixing or contractual disputes, the sports-law community continues to refine a global regulatory order that must remain both predictable and adaptable. Conferences such as this one play a crucial role in shaping that process: they provide a forum for rigorous debate, comparative analysis and collective reflection.

This summary is offered in that spirit — as a contribution to the ongoing dialogue within the international sports-law community and as a resource for scholars and practitioners seeking to navigate the rapidly developing *lex sportiva*.