



*Fédération
Aéronautique
Internationale*

FAI International Appeals Tribunal Manual

2014 Edition

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Special note: *The use of the words he or his in this document does not imply gender but is used in place of he / she or his / her*

INTRODUCTION

This Manual is issued by the FAI to be used in connection with proceedings undertaken by the International Appeals Tribunal established in accordance with Chapter 9 of the Sporting Code, General Section, as procedural rules and guide-lines for the parties acting in front of the Tribunal and to assist the members of the Tribunal to perform their duties in the conduct of the proceedings.

The following FAI Documents are the reference texts to be taken into consideration and applied by the Tribunal:

- FAI Statutes & By-Laws
- Sporting Code, General Section
- Sporting Code for the specific Air Sport Commission involved
- Relevant Competition Rules
- CASI International Jury Members Handbook and/or any Handbook or Regulations, issued by a specific ASC, concerning the work of an International Jury
- This Manual

INTERNATIONAL APPEALS TRIBUNAL PROCEDURES

Summary

The obligation of the FAI International Appeals Tribunal (“Tribunal”) to work in accordance with the provisions of this Manual, and implicitly the FAI Air Sport General Commission’s (CASI) competence to lay down such guidelines, is provided for in paragraph 9.4.of the Sporting Code General Section. The Tribunal is an FAI panel having delegated authority to deal with and settle disputes concerning decisions relating to a dispute of a sporting nature (Statute 5.2.3.2.5.) that are submitted to FAI by an appellant.

The Tribunal makes its decision based on the appellant’s Notice of Appeal, the record of the case established by the concerned authority, and witness statements.

The appellant shall present his arguments to CASI, in writing, in a Notice of Appeal (Sporting Code, General Section, 9.2). The Notice of Appeal is to be addressed to the FAI Secretary General by the authorized representative of the NAC concerned.

Upon receipt of a Notice of Appeal, CASI must check to ensure that it has been validly filed in accordance with paragraphs 9.2 and 9.3 of the Sporting Code General Section. If CASI decides that the appeal shall proceed, it will establish a Tribunal to address the matter.

The Tribunal is a panel of three members who shall be independent of the parties involved with one member acting as Chairperson. The Chairperson and the two members are appointed by the CASI Bureau based upon a recommendation of the CASI President.

The working language for the Tribunal shall be English. If an appellant or relevant party needs an interpreter, they must arrange for this and inform the Tribunal Chairperson prior to any hearing.

Tribunal organisation and administration

The Tribunal Chairperson shall begin to organize the Tribunal and the appeal hearing as soon as he is appointed. He shall, as soon as possible:

- **Appoint** a secretary to the Tribunal who shall notably be in charge of establishing and maintaining an appeal file including adequate records of the proceedings during the hearing. The hearing records can be in whatever form the Chairperson may direct, for example written minutes (summary) and/or audio or video records.
- **Verify** that the Notice of Appeal also includes:
 - the name, postal and email addresses and phone numbers of the appellant and any representative,

- the postal and email addresses where documents for the appellant should be sent,
- **Ensure** that the Tribunal members are fully briefed and have received all pertinent documentation.
- **Ensure** that the concerned Air Sport Commission President has been duly informed about the appeal.
- **Ensure** that the relevant parties are fully informed and have received all pertinent documentation. **A relevant party is defined** as one having a direct bearing on or connection with the matter at hand, and is
 - the Appellant,
 - the concerned Jury President in case of an issue relating to a dispute of a decision of an International Jury at FAI Sporting Events, or
 - the concerned decision-making authority in case of an issue relating to a dispute of a sporting nature, or
 - in case of absence or unavailability of the concerned Jury President or the concerned decision-making authority, the concerned Air Sport Commission's President, or a person designated and mandated by him.
- **Organise** the proceedings and in particular the hearing and/or order any other measure adequate to prepare the decision (e.g. additional submissions, production of documents, call of witnesses, appointment of experts etc.).

Withdrawal of appeals

The appellant, or a person accepted as acting on their behalf, can withdraw their appeal

- in writing at any time before the hearing, or
- orally at the hearing.

If the withdrawal is made at the appeal hearing, the Tribunal Secretary shall make a note for the records, signed by the appellant, that the appellant has withdrawn the appeal and he shall immediately inform the FAI Secretary General and the relevant parties.

Hearing

A hearing means an oral hearing and all appeal cases shall have a hearing unless

- all relevant parties agree not to have one, and
- the Tribunal considers it can decide the appeal without a hearing.

The Chairperson will call a hearing at which all relevant parties may be present or represented. It shall be by oral argument and it can be in whatever form the Tribunal Chairperson may direct, for example during a physical meeting before the Tribunal, or during an audio-visual or audio conference.

The relevant parties must be given timely notice of the hearing and its location. However their absence from the hearing shall not hold up proceedings. The purpose of the hearing is to establish the facts germane to the appeal and to present documents supporting the facts to be established.

The hearing shall be conducted by the Chairperson who shall issue all appropriate directions to allow an orderly conduct of the hearing.

The Appellant and the relevant parties shall be entitled to present their arguments and conclusions in regard of the appeal.

Should the Tribunal Chairperson, after consultation with the relevant parties, decide that a physical meeting of the Tribunal is not required, the relevant parties will be invited to present any additional information or witness statements they deem necessary, within a specific time limit set by the Tribunal. Such additional material, together with the appeal brief and witness statements shall be deemed to be the complete basis for the Tribunal's summary (see "Facts" below)

Tribunal member not available

There may be occasions where not all of the Tribunal members may be available. Where the hearing is otherwise able to go ahead, as all other parties who are intending to be present are present, the hearing will proceed if the Chairperson is present and not more than one Tribunal member is absent.

Observers

Representatives of Interested parties (i.e. the relevant concerned Air Sport Commission, CASI, FAI Secretariat) may be admitted as observers at the Tribunal hearings at the Tribunal Chairperson's discretion. They shall have no right to speak unless called as witnesses.

Witnesses

The relevant parties shall have the right to call witnesses. The parties shall notify the Tribunal in advance of the witnesses they intent to call and indicate on which pertinent points the witnesses will testify. The parties are responsible for the appearance of their designated witnesses. Subject to the Chairperson's discretion, the absence of a witness (or that fact that he does not otherwise participate thereto) shall not prevent the conduct of the hearing.

The parties shall be entitled to bring an interpreter to the extent needed. They shall inform the Tribunal in advance. The absence of the interpreter shall not prevent the conduct of the hearing.

The Tribunal shall also have the right to call witnesses at its own discretion.

Production of documents at hearings

The Tribunal shall have no obligation to present to the appellant sensitive or confidential material, such as documents that could reveal the identity of a person subject to a cheating allegation or under legal investigation. However, the Tribunal shall, within

these constraints, disclose to the appellant all documents used by the Tribunal to establish the facts.

Hearing adjourned

If the hearing is adjourned, the Tribunal will notify all relevant parties to the appeal and retain the original appeal file for the later hearing date. The reasons for adjournment must be studied carefully, and the Tribunal must take any action needed for the further hearing date.

Facts

Once the hearing has been completed the Tribunal will make a written summary of all the facts presented. This summary must then be presented to the relevant parties for review. In case of a physical Tribunal meeting the relevant parties may immediately object, if they so wish, to the facts as presented and suggest corrections. In case of any other form of meeting, the relevant parties may object to the facts and suggest corrections in writing to the Tribunal Chairperson within one week of the summary being presented. The facts as presented and eventually corrected, signed by the Tribunal Chairperson, shall be deemed to be complete and correct, and shall be the document on which the deliberations and decisions will be based.

Deliberation

The Tribunal will then deliberate “in private” and consider the agreed-upon facts. This deliberation will take place in a time frame and in a manner established by the Tribunal Chairperson, who shall not unduly restrict the right of any Tribunal member to ask further questions of the parties involved but will ensure a timely resolution of the matter.

The Tribunal members shall keep the deliberations strictly confidential.

Decision

After due deliberation the Tribunal will deliver a decision on the appeal. In reaching its decision, the Tribunal will consider its power, as set out below.

It is not necessary for a decision to be unanimous but no statement to that effect may be made by any member of the Tribunal if it is not.

Decisions made by the Tribunal are given in summary form in writing, with a publication date, and must be signed by the Chairperson on behalf of the Tribunal. The Tribunal may also decide to give a decision orally immediately after deliberation during the Tribunal meeting. However this does not remove the requirement for the Tribunal to provide the decision in writing.

Power of the Tribunal

The Tribunal may set aside any decision or action against which an appeal is lodged and, according to the circumstances, may reduce or increase any penalty that had been assessed.

The Tribunal does not, however, have the power to order a competition to be run again nor may it assign any score or performance to a competitor or team that was not actually achieved or performed by that competitor or team during the course of the event.

It has the right to alter the final standings of an international sporting event, and to reclaim medals or withdraw the title of champion. It may also re-award medals and titles. In giving judgement on an appeal, the Tribunal shall also make a decision on the question of the refund of the appeal deposit and the apportionment of the costs of the appeal

Finality of Tribunal decisions

Decisions of the Tribunal shall become final and binding if they are not appealed before the Court of Arbitration for Sport (CAS) in Lausanne in accordance with the provisions of the Code of Sports-related Arbitration. The appeal shall be filed within 21 days of the communication of the written decision.

Implementation of the Tribunal's decision

A Tribunal's final decision shall become immediately enforceable and be put into effect as soon as possible by the FAI Secretary General and all constituent parts of FAI (NACs, ASCs etc). All relevant parties shall be immediately notified.

Publication

The FAI Secretary General, in conjunction with the CASI President, will ensure that the Tribunal decision is published where appropriate at the same time as the decision is being put into effect

Expenses

Subject to the order to be issued by the Tribunal in regard of the deposit, any expenses incurred by the Appellant and/or the relevant parties, including costs linked with legal counsels, translators, interpreters and witnesses they call, shall be borne by the parties and are not subject to any reimbursement or any compensation.

The members of the Tribunal shall be indemnified for their justified and properly documented expenses directly by FAI.

Closing of the proceedings

The issuance of the decision closes the proceedings before the Tribunal.

The Chairperson shall inform the CASI Chairperson and forward the complete appeal file to the FAI Secretary General.