

## THE REGULATION OF SPORTS DISPUTES (CAS: INTERNATIONAL LEVEL / TCNSA: TUNISIAN NATIONAL LEVEL)

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### Abstract

Today, Sports is social phenomenon that becomes attached with performance and result. So we have to say that sporting success is based on a trilogy of determining factors:

- A multifunctional sports infrastructure.
- Human and financial resources.
- Appropriate legislation.

Given the increasing number of players and contractual relationships in the sports economy, and increased funding issues and the search for some athletic performance are the means of legally or illegally all these new trends tend to increase the number of disputes and to multiply the sources of conflict

In Tunisia, the legal status is under Associative shape and the rule is to promote and there is non-profit sports

**Keywords: Sports-Tunisia-legislation-Performance-Result**

## 1. INTRODUCTION

Tunisian sports legislation is an important tool that was originally the qualitative leap made by sport in Tunisia, particularly in terms of mechanisms to manage the business and sports competitions in order to establish the conditions for better organized, efficient and transparent, in accordance with the noble Olympic values.

The purpose of this legislation is to put the Tunisian sport in tune with developments in the sector in the world. So The Tunisian National Olympic Committee (TNO) has been at the forefront in recent years and was among the first sporting bodies that are attached to modernize legislation in the field of sport in accordance with the regulations of the International Olympic Committee (IOC).

The Tunisian experience in this area is indeed pioneering both at regional and continental and earned him homage and consideration including the IOC and by the President of the Court of Arbitration for Sport (CAS) and the Union of Arab Olympic National Committees (UAONC).

This is the National Committee of Sports Arbitration under the auspices of the Tunisian National Olympic Committee, which now rule by way of arbitration sports disputes. Its jurisdiction is defined by the relationship between sports federations and their members (clubs, athletes, referees, coaches, and medical and para-medical staff), and after exhausting all remedies mentioned in the statutes and regulations said federations.

**Research Problem:** Can - we consider that the creation of the Court of Arbitration for Sport (CAS) at the International level and the creation of the National Committee of Sports Arbitration (NCSA) at the national level meet the new trends of modern sports?

**Research Aim:** Our research is inscribed in the context of an assessment of the impact of the CAS and the NCSA in sports, to give a means of resolving sports problems and disputes fast and also adapted to the specific needs of the global sports community.

### **The International Council of Arbitration for Sport (ICAS)**

The ICAS consists of 20 high-level legal members and must be neutral and independent and operate with objectivity, The ICAS's role is to safeguard the independence of the CAS and estimates of the parties and it ensures the administration and financing of the CAS

### **The Court of Arbitration for Sport (CAS):**

The Court of Arbitration for Sport is an institution independent of any sports organization offering services in order to facilitate the resolution of sports-related disputes through arbitration or mediation by means of procedural rules adapted to the specific needs the sports world.

#### **The procedures to CAS:**

The Ordinary Arbitration or mediation procedure is applicable to disputes arising from contractual relationships.

The Appeals Arbitration procedure is applied to disputes over decisions of sports bodies.

A consultative process that allows certain asks- organizations outside any litigation - an advisory opinion on any legal question TAS on the practice, the development of sport.

#### **Arbitral proceedings:**

The limits of arbitrative disputes submitted to the CAS:

Disputes brought by national laws. litigation brought by federal statutes.

the organization of international sports arbitration:

The permanent arbitration structures Non permanent structure arbitrage

The permanent arbitration structures

#### **The Ordinary Arbitration Division:**

It's a procedure designed to settle the trade disputes that may occur in sport. CAS jurisdiction is recognized only to the extent that there is an arbitration clause in the contract, or if an arbitration agreement may be concluded that the differential has arisen

#### **The Appeals Arbitration Division:**

It is the most used form of arbitration because it involves disputes over disciplinary decisions taken by international federations and other organizations within the Olympic movement, particularly in terms of doping.

#### **The ad hoc Division**

Arbitration procedure that is in place on the occasion of special events such as the Olympics with a mission to finally determine and within 24 hours the disputes arising during the Atlanta Olympic Games.

#### **The Tunisian National Committee of Sports Arbitration (TNCSA) :**

Use the Sports Committee specializes in examining appeals against decisions taken by the specialized sports institutions in their relationships with their membership and that after having used all the remedies provided by the provisions and internal regulations of the federation's competence Federal authorities:

**Federal commissions:** These are internal bodies to sports federations, who adjudicate disputes relating to the sport. They are intended as the first stage of settlement of federal litigation

The National Commission of Appeal

The appellate body responsible for "deciding on appeals against decisions of the League and federal commissions." it is competent to judge the second degree appeals against decisions taken by the leagues and federal commissions. The Tunisian National Committee of Sports Arbitration (TNCSA) a more adaptable Sports Arbitration mechanism with the sport reality in Tunisia, referring to the Tunisian journal arbitration rules and principles organizing the international sports arbitration

National Arbitration Committee shall consist of three arbitrators chosen from the members of the list of arbitrators mentioned in Article 50 of the Statute NLOC.

The National Committee of Sports Arbitration has jurisdiction to rule on the powers made against final decisions taken by sports federations or their competent authorities concerning their relationship with their members. And all decisions made by the NCSA, are final and binding.

**Amendments TNCSA:** The amendment of the statute of CNOT meets the need to establish an effective legal framework for sports competitions through the restructuring of the sector and the revision of the legislation according to international standards. the Tunisian experience in the field of sport arbitration has had remarkable success through its contribution to adjudicate disputes between clubs and in several sports.

The TNCSA aims, through these amendments, to consolidate the legal basis of sport in Tunisia.

#### **Hypothesis**

The CAS and the TNCSA can contribute to treat rapid resolution of sports disputes, costly and adapted to the specific needs of the global sports community.

## 2. MATERIAL & METHODS

In this research we use a contained Analysis

CAS has evolved in its structures and stands today as an arbitration institution to guarantee effective access to justice for the athletes of the world in time compatible with the pace of the sports competition schedule. a more adaptable Sports Arbitration mechanism with the sport reality in Tunisia, referring to the Tunisian journal arbitration rules and principles organizing the international sports arbitration, and internal statutes and laws of the various member sports federations in the Committee Tunisian National Olympic.

### Presentation of cases before the CAS since its creation:

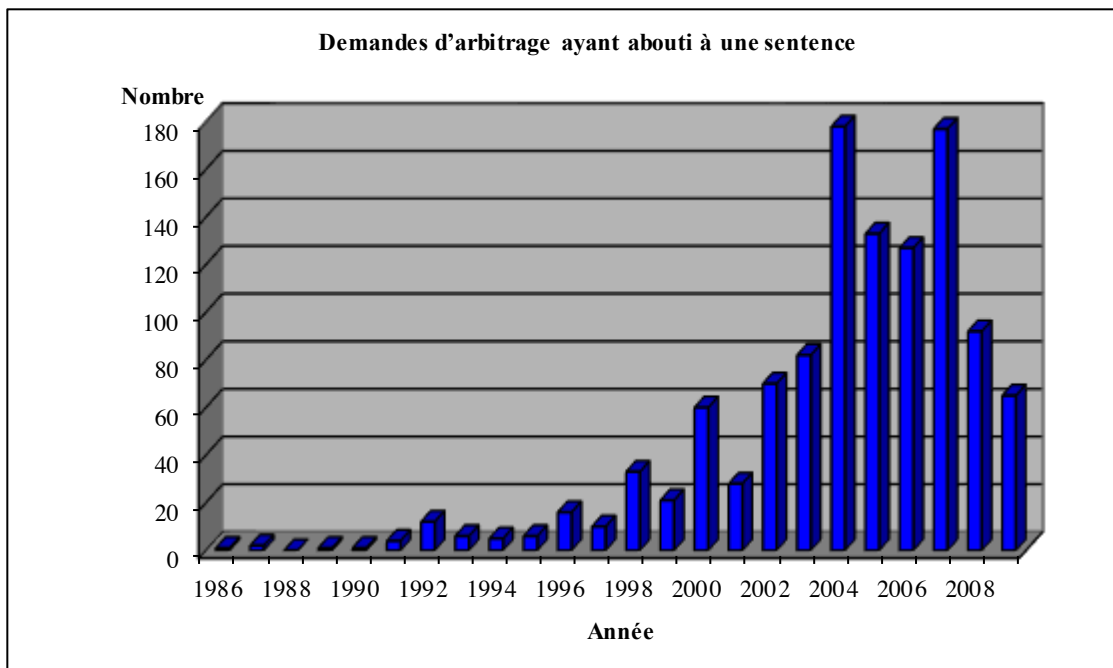
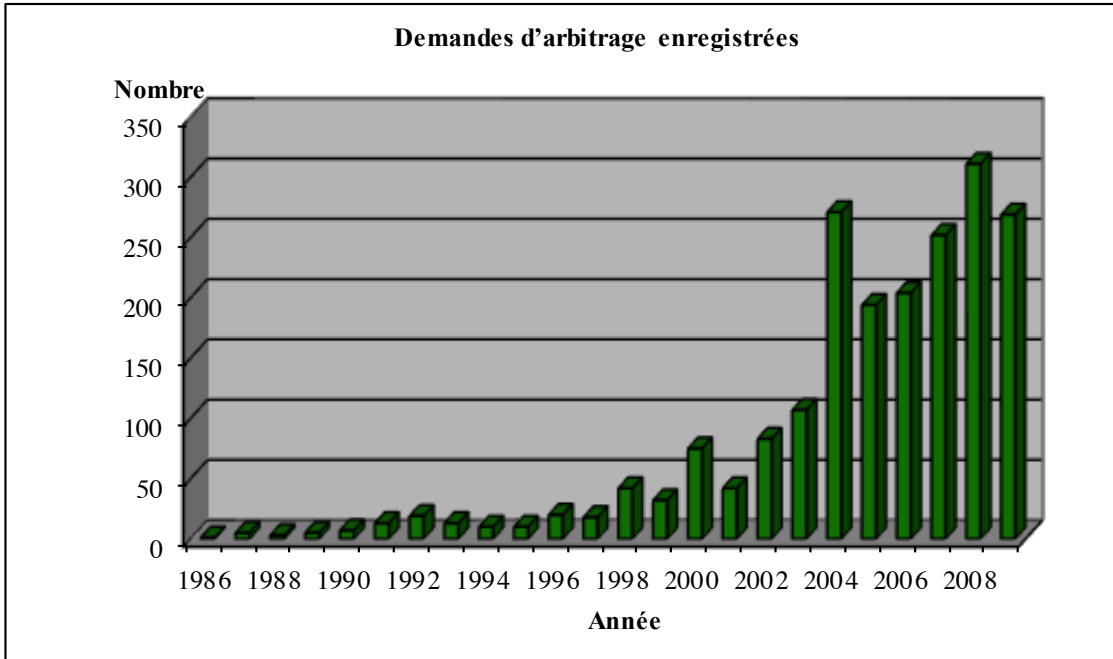
**Table listing the cases submitted to the CAS since its inception. The year refers to the date of registration requests only and not that of the publication awards or advisory opinion.**

<i>Year</i>	<i>Applications arbitration recorded</i>	<i>Requests for advice advisory recorded</i>	<i>Total</i>	<i>Arbitration requests leading to a sentence</i>	<i>Requests for advice with consultative resulted in an opinion</i>	<i>Total</i>
1986	1	1	2	1	1	2
1987	5	3	8	2	1	3
1988	3	9	12	0	1	1
1989	5	4	9	1	0	1
1990	7	6	13	1	0	1
1991	13	5	18	4	1	5
1992	19	6	25	12	0	12
1993	13	14	27	6	1	7
1994	10	7	17	5	1	6
1995	10	3	13	6	2	8
1996	20	1	21	16	0	16
1997	18	2	20	10	0	10
1998	42	3	45	33	2	35
1999	32	1	33	21	1	22
2000	75	1	76	60	1	61
2001	42	0	42	28	0	28
2002	83	3	86	70	3	73
2003	107	2	109	82	1	83
2004	271	0	271	178	0	178
2005	194	4	198	133	3	136
2006	204	0	204	127	0	127
2007	252	0	252	177	0	177

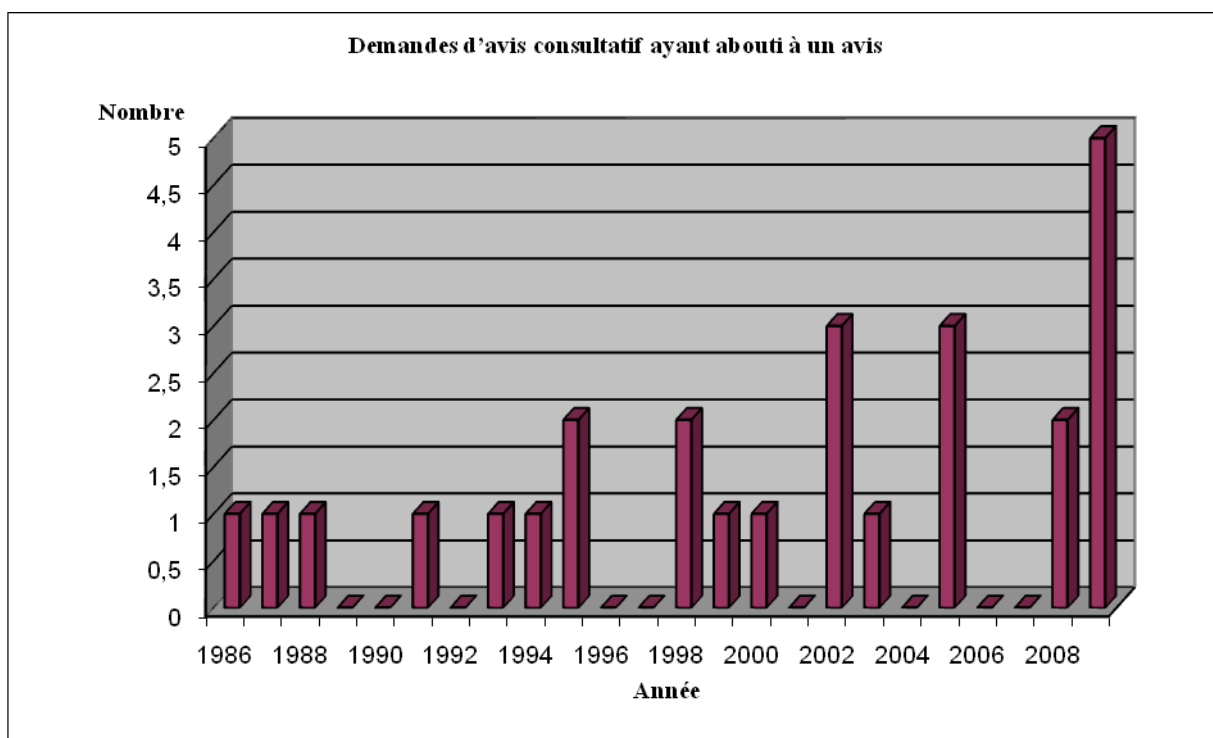
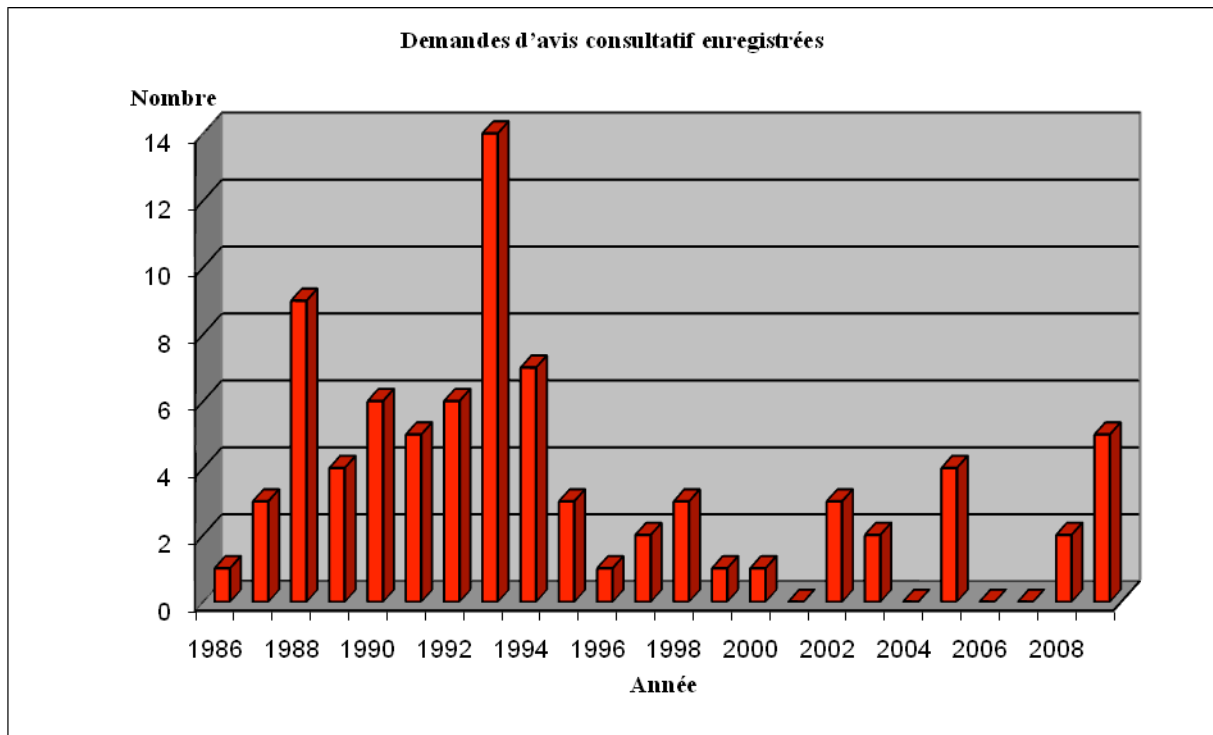
2008	311	2	313	92	2	94
2009	269	5	274	65	5	70
<b>Total</b>	<b>2006</b>	<b>82</b>	<b>2088</b>	<b>1244</b>	<b>26</b>	<b>1270</b>

**Presentation of cases before the CAS since its creation:**

This Table listing the cases submitted to the CAS since its inception. The year refers to the date of registration requests only .



These graphs show that the number of arbitration claims recorded increased sharply from 1998 due to the recognition of the jurisdiction of the CAS.



These graphs show that the number of requests for advisory opinions fell sharply from 1995 due to the entry into force of Sports-related Arbitration Code posing stricter criteria on access the advisory procedure.

### The cases submitted to the Tunisian National Sports Arbitration Committee

#### Since March 2007 to May 2010:

In Tunisia the total number of records until May 2010 we have 69 accomplished disputes separates like this : □ Football: 34 □ Handball: 07 □ Basketball: 05 □ Volley -Ball: 04 □ Fencing: 04

□ Boxing: 03 □ Taekwondo 01 □ Table Tennis: 02 □ Gymnastics: 02 □ Karate: 01 □ Judo: 02 □ Weightlifting: 02 □ Rugby: 02 □

### 3. DISCUSSION:

Our analysis shows not only the increase in cases before the CAS and at CNAS but also the competence of these bodies for the resolution of these cases which can offer a means of resolving sports disputes adapted to the specific needs of sports community so our assumption is valid

### 4. CONCLUSION:

The purpose of this legislation is to put the Tunisian sport in tune with developments in the sector in the world.

The Tunisian National Olympic Committee (TNOC) has been at the forefront in recent years and was among the first sporting bodies that are attached to modernize legislation in the field of sport in accordance with the regulations of the International Olympic Committee (IOC).

The Tunisian experience in this area is indeed pioneering both at regional and continental and earned him homage and consideration including the IOC and by the President of the Court of Arbitration for Sport (CAS) and the Union of Arab Olympic National Committees (ANOCA).

Faced with the steady increase in the dispute between practitioners and their federations, what other system would combine all advantages that an arbitral tribunal, free legal constraints, speeds, immediate execution.

This is the National Committee of Sports Arbitration under the auspices of the Tunisian National Olympic Committee, which now rule by way of arbitration sports disputes. Its jurisdiction is defined by the relationship between sports federations and their members (clubs, athletes, referees, coaches, and medical and para-medical staff), and after exhausting all remedies mentioned in the statutes and regulations said federations.

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