

Johan Lindholm

The Court of Arbitration for Sport and Its Jurisprudence

An Empirical Inquiry into Lex Sportiva



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Preface

If I had to write one of those snappy back cover blurbs for this book, I might go with “a book written by a law geek for other law geeks”. I first encountered and began conducting empirical studies of large sets of legal materials about six years ago. Ever since I began working on my doctoral thesis, I have had one foot in constitutional law and particularly the constitutional law of the European Union. Researching EU law inevitably involves sifting through a substantial number of decisions by the Court of Justice, searching for patterns and meaning that are sometimes rather obscure. It has therefore been very exciting to discover, together with my friend and colleague Mattias Derlén, that methods commonly used in other research fields provide great assistance when exploring the proverbial haystack. Through this process, I have become a great believer in the promise of exploring legal questions and legal assertions using real-world data, an approach to legal research that is frequently referred to as empirical legal studies.¹

Since my other foot is firmly placed in the field of sports law, I naturally began to consider how this field might benefit from empirical legal studies and the Court of Arbitration for Sport (CAS) was an obvious candidate. CAS is a central actor in international sports and in the development of international sports law, and the institution has therefore attracted much attention by lawyers and non-lawyers alike.² Also, the data necessary to conduct such studies is available as it is relatively easy to get access to at least a significant portion of CAS’s decisions. I therefore started collecting CAS decisions wherever I could find them in 2014 and, with the help of my research assistants Ellen Dalsryd and Johan Olsson (thank you guys!), began extracting information from the decisions and compiling a dataset. With indispensable economic backing by the Swedish Research Council for Sport and the School of Sport Science at Umeå University (thank you for believing in this project!), I began analysing this dataset seeking to empirically explore questions and

¹ This is a quite broad field of research that includes a rich variety of research interests and approaches.

² As evidenced by the fact that when I have told people at parties that I am writing a book about CAS, many have actually been interested!

claims about CAS posed by sports stakeholders and sports lawyers and to replicate previous empirical studies of arbitration institutions for CAS. I would estimate that somewhere between 10,000 and 15,000 lines of code went into conducting what you now have in front of you. I want to thank the people at T.M.C. Asser, particularly Antoine, Ben, and Frank, for giving me this great opportunity to study CAS and to experiment with methods that are not part of the legal researcher's standard toolbox.

I imagine that the main audience for this book are sports lawyers. In my experience, sports lawyers are very interested in CAS and its jurisprudence but generally neither familiar with nor particularly interested in such things as statistics, network analysis or machine-learning-assisted text analysis. I have therefore sought to strike a balance where I try as far as possible to concentrate the main text on legal questions and legal implications. That has, however, not always been possible, and I thank in advance for the reader's patience if I at times geek out. However, I am hoping that this book may also provide something to readers that are interested in empirical legal studies, arbitration law and transnational law.

Having conducted and presented empirical legal studies for some time, I have received different types of responses and I expect the same will be true for this study. This book is not intended to provide and does not provide answers to all questions relating to CAS, nor will it provide the final answers to the questions that it seeks to answer just because it is based on empirical evidence. I hope that this book can inspire and assist further research into CAS and its jurisprudence.

Paris, France
July 2018

Johan Lindholm

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