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Master's Thesis

**The Importance of Arbitration in Sports - Practical and
Theoretical Issues**

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Annotation

Based on the topicality of the topic, the main examples of sports arbitration will be reviewed in the master thesis. The main objective is to analyze the role of arbitration in the resolution of disputes related to sports and to investigate the effectiveness of sports arbitration in maintaining fairness and integrity. The work roughly consists of six main chapters. The first chapter will review the importance of arbitration in sports. One of the chapters will be about the evolution of sports refereeing. It investigates how governing bodies, players, and sports organisations have responded to this alternative dispute-resolution method and looks at pivotal cases that have influenced the landscape of arbitration in sports. The chapter also emphasizes how international arbitration is having a bigger impact on how international sports conflicts are settled.

The last chapter of the paper will deal with future challenges. The emphasis in this final chapter changes to probable future trends and difficulties for sports arbitrators. It looks at new topics including the use of technology in arbitration, how major world events affect sports dispute settlement, and how arbitration's function in resolving ethical concerns in the sports sector is developing.

To explore the topic, we need a simple question that sounds like this: To what extent does the use of arbitration in sports contribute to the efficiency and fairness of dispute resolution, considering the specific needs and characteristics of the sports industry?

Key words: Arbitration, Independence, Judge, Arbitral, Impartiality and Neutrality

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INTRODUCTION

Dispute resolution in any field is considered to be the most important issue. Special commissions are created for this so that the main issues are fully determined and resolved. The decision in this procedure is absolutely final and binds the parties, which makes it unique. In contrast to court processes, arbitration hearings are private and secret. Additionally, an arbitrator, not a court, renders the judgement. Generally, arbitration proceedings are less formal, and there are no restrictions on who can represent a party to the arbitration. Arbitration is a flexible process that can be faster and less expensive than litigation, depending on what procedures the parties agree to. In addition, the parties have limited rights to appeal the arbitration award. Internationally, an arbitral award has the advantage of being enforceable under the New York Convention. „The Court of Arbitration for Sport (CAS) was established with the goal of removing international sports disputes from national courts and providing a highly specialized forum where those disputes could be heard and decided quickly and inexpensively according to a flexible procedure.” (Reilly, 2012) Alternative dispute resolution tools are important elements of the formal justice system. Greater development and use of dispute resolution institutions such as arbitration will significantly reduce the flow of court cases that have been pending for years for review and decision. The development of the said institution will contribute to faster and much less expensive execution of contracts. The arbitration regulations define the procedural issues of dispute review and resolution, as well as arbitration costs, and the content of the model arbitration agreement, which is a recommendation for the parties who agree to submit the dispute to this arbitration if they disagree.

The aim of the master thesis is to analyze sport arbitration and we need to review its main aspects. For all this, it is necessary to review the disputes known in sports arbitration and the results of their resolution. This work examines sports arbitration with the goal of illuminating its diverse role, practical workings, and wider ramifications for the sports business. We establish the educational foundation required for everybody, from sports enthusiasts to legal experts, to understand the special dynamics and procedures involved in the resolution of conflicts within the sports sphere by clarifying the notion. It is critical to investigate the benefits and drawbacks of sports arbitrage. The master thesis article gives insights into why sports organisations, players, and stakeholders choose arbitration over traditional litigation by analysing its efficiency, expertise-driven choices, and the value of secrecy. On the other hand, over time, the games increasingly represent an arena of competition between national teams and not the athletes themselves. Nationalist

and aggressive moods often erupt in stadiums. States are also not against using the Olympic Games to influence the politics of this or that country. Today, there is a growing trend of commercialization of sports. In the process of commercialization, there was a redistribution of power in the relevant governance structures. The influence of transnational corporations and mass media has increased. Corporations promote large-scale sports competitions in various countries. For example, China would not be able to hold large tournaments without large state corporations. However, the involvement of corporations can also have a negative impact. The broadcasting of sports events by the world and local mass media amounts to colossal sums. Proponents of the boycott, including members of the International Olympic Committee, argue that boycotting the competitions draws public attention to the situation in troubled countries, where human rights are violated and international law is not followed. Proponents of the boycott consider it inadmissible to mix sports and politics and question the effectiveness of the boycott. They point out that the ideologisation and politicization of sports competitions do not allow athletes to meet worthy opponents, to gain the coveted victory and recognition at the world level. The dispute between these two approaches continues today.

Research question is: To what extent does the use of arbitration in sports contribute to the efficiency and fairness of dispute resolution, considering the specific needs and characteristics of the sports industry?

To untangle the complex and dynamic realm of sports arbitration. Understanding the landscape of sports arbitration is the first step. This includes defining the concept, separating it from traditional litigation, and demonstrating its applicability in the context of the sports sector. This job is critical for readers who want to understand the subtleties that distinguish arbitration in the fast-paced world of sports. Dissecting the operational mechanics of sports arbitration is a critical undertaking. This entails a thorough examination of processes and procedures, from the appointment of arbitrators through the enforcement of verdicts. By gaining clarity on these operational variables, the research aims to provide readers with a comprehensive understanding of how conflicts are methodically addressed and resolved in the sports industry.

The originality of the paper lies in the fact that it investigates what sports disputes and the field of law can have in common. Since research involves both case-based reasoning, it is also supported by facts. For example, what period of development is sports arbitration currently in and as a result of which it has come so far. The uniqueness of employment in sports arbitration comes with its own set of obstacles. The paper is also

influenced by the diverse and evolving sports landscape of arbitration. The master thesis offers directions on how to balance two completely different fields, law and sports. Arbitrators must have an unusual combination of legal skill and in-depth understanding of the specific sport. The originality of the paper is determined by the fact that not only the significance of sports arbitration is discussed directly for sports, but also for political and social spheres.

For the work to have a complete look at the processes of the arbitration court and the decisions made by the judges, In the process of study, it is necessary to describe the decisions that are made in specific countries and, at the same time, in the international court. It should be studied what the importance of arbitration depends on. Along with this, it should be said in advance that the cost of arbitration significantly depends on the number of arbitrators, the approach of the arbitral tribunal, and how the parties conduct the arbitration. In addition, the location of the arbitration and its duration greatly affect the cost.

PART I. THEORETICAL BACKGROUND OF THE SPORTS ARBITRATION

CHAPTER 1. INTRODUCTION TO SPORTS ARBITRATION

Due to the flexibility of arbitration, arbitration can proceed more quickly than a trial. Limiting the parties' ability to appeal an arbitration award can shorten the length of a dispute by months or years. However, unlike a court of, an arbitral tribunal does not have the right to make a default judgment and is obliged to conduct an arbitral hearing. The arbitrator will not arbitrate the claim if there are no arbitration agreement about that. In addition, the parties to the arbitration agreement may make additional reservations about the arbitration rules. „The most obvious and perhaps the most important differentiating feature of sports arbitration is its speed. The legal maxim that ‘justice delayed is justice denied’ could not be more apposite than when discussing the resolution of sports disputes“ (Rigozzi & McAuliffe, 2013). The complexity and nuance of conflicts that arise within the sports business have increased along with the globalisation of the sector.

A focused and organised approach distinguishes sports arbitration. Typically, a panel of impartial arbitrators with knowledge of sports law and thorough familiarity with the relevant sport would hear disputes. This ensures that decisions are taken by those who have an in-depth comprehension of the unique challenges and intricacies of the sporting environment. Traditional litigation may be a drawn-out and time-consuming procedure that frequently leads to protracted legal fights that interfere with sports organisations' and athletes' careers' regular operations. Sports arbitration, on the other hand, offers a more simplified and accelerated resolution procedure, enabling speedier judgements and a quicker return to normalcy within the athletic community.

In contrast, Ad Hoc Arbitration is the second type of arbitrage. „Ad hoc arbitrations are solely arranged between the arbitrators and the parties. The parties may choose to adopt a ready-made set of arbitration rules (such as the UNCITRAL Rules of Arbitration) (The Hong Kong International Arbitration Centre, 2019)“ Unlike permanent arbitrations, ad hoc arbitrations are less popular, since the quality of arbitration proceedings organized by permanent arbitrations is much higher than ad hoc arbitrations, which is due to the fact that permanent arbitrations are staffed by arbitrators who work permanently in the field and, therefore, have a lot of experience. The creation of ad hoc arbitration is related to one specific dispute, after which the institution ceases to function. Whereas, ad hoc arbitration is created for one specific dispute. The participants of the arbitration procedure try to adapt

as much as possible to the specifics of the dispute, therefore, it is possible for the parties to draw up such rules that, instead of facilitating, will, on the contrary, make it difficult to end the dispute by agreement. That is why entrepreneurs prefer to apply to existing permanent arbitration institutions.

Due to the above-mentioned advantages of arbitration, many individuals and legal entities prefer to entrust their private legal disputes to arbitration. Therefore, at such a time, the services of a high-level lawyer are necessary so that the risk of making a mistake during the arbitration proceedings is minimized. Sports arbitration relies heavily on consistency in decision-making and secrecy. Precedents and defined procedural standards help to ensure consistency in decisions, which promotes faith in the arbitration process. Furthermore, the confidentiality of arbitration hearings allows parties to resolve disputes away from public observation, preserving sensitive information and reputations. “The most common misconception is that independence and impartiality are distinct but closely related concepts. Under the influence of positive state law, independence is usually associated with certain institutional guarantees or safeguards that allow adjudicators to be free of external pressures when making their decisions” (Papayannis, 2016). Sports arbitration relies heavily on consistency in decision-making and secrecy. Precedents and defined procedural standards help to ensure consistency in decisions, which promotes faith in the arbitration process. Furthermore, the confidentiality of arbitration hearings allows parties to resolve disputes away from public observation, preserving sensitive information and reputations.

Sports arbitration is extremely important to a wide range of stakeholders in the sports business. “Athletes, sports teams, regulatory organisations, and sponsors all benefit from a conflict resolution procedure adapted to their specific issues” (Murphy & Sumpiputtanadacha, 2023). Enforceable arbitration rulings create a feeling of finality and clarity, helping stakeholders confidently traverse the complicated legal terrain of sports. The importance of sports arbitration is increasing day by day due to its current issue. In addition to the fact that fairness must be observed in all areas of law, an important context in this matter is the transparency of sports arbitration. As the sports environment evolves, the function of sports arbitration is critical in ensuring that conflicts are resolved quickly, equitably, and with the specialised understanding that the sports industry requires.

1.1 Historical Foundations of Sports Arbitration

Sports arbitration, a specialised system for resolving conflicts in the athletic sphere, has a long history that parallels the emergence of the sports sector itself. Sports arbitration may be traced back to the earliest days of organised sports tournaments. Disputes originating from athletic events were settled in ancient Greece, where the Olympic Games started, through the adjudication of respected members of the society. These early examples created the framework for the notion that neutral third parties may play a role in resolving disputes in the context of sports. “The profound influence that Greek ideas had about such arbitration on our own world view of diplomacy, and especially on modern legal thinking, makes this a very important study” (Trundle, 2016).

Now we need to move from ancient times to modern times and review sports arbitration as a new challenge for law. As organised sports became more popular, governing organisations began to develop rules and regulations to standardise events. With this standardisation arose the requirement for an organised method for resolving disagreements. Sports organisations began to add arbitration clauses into their constitutions in the late nineteenth century, notably in the context of amateur athletics, to resolve conflicts emerging from disagreements over rules, eligibility, and competitions. „The founding of the Court of Arbitration for Sport (CAS) was a watershed moment in the modern age of sports arbitration. CAS is located in Lausanne, Switzerland, and was founded in 1984 in response to the increasing complexity of international sports conflicts“ (Aceris Law LLC, 2021). Its establishment was a watershed moment, establishing a specialised and impartial platform for international sports-related conflict resolution. It was one of the defining moments for sports arbitration, and we can safely say that the era of fair sports began after this. Of course, the organization initially had a lot of flaws and was looked down upon because of that, but over time it was able to gain the trust of the public. Sceptics thought that sport was not the domain of law and was an entirely different matter. However, it has been proven that the existence of a third party is necessary for the resolution of disputes, this gradually streamlines the processes and allows the sport to become more acceptable.

The historical foundations of sports arbitration have been strengthened by major cases that created legal precedents and altered the landscape of sports dispute resolution. These cases frequently included high-profile athletes, sensitive topics such as doping charges, and challenges to sports regulatory organisations' judgements. The decisions of these judgements helped to refine and enhance sports arbitration standards. “At its inception, the CAS combined judicial and executive functions under a single institution. It

was entirely funded by the IOC, which also held the proxy to change CAS statutes, and it and the IOC President were given significant power to appoint CAS members” (McLaren, 2023). The effect of national laws and legal systems is also entwined with the historical history of sports arbitration. On certain occasions, sporting conflicts were settled within the customary legal structures of the countries concerned. Recognising the need for a specialised and expedited procedure, many sports organisations and players turned to arbitration to benefit from the experience of experts with a thorough grasp of both sports law and the specific sport at hand.

The development of sports arbitration has not been without difficulties. Sports are always changing, and this includes the complexity of disagreements. The historical underpinnings serve as a framework for discussing current issues including the usage of technology, jurisdictional issues, and the balance of players' rights. The development of sports arbitration continues to address these issues by modifying its procedures to meet the demands of the dynamic sports environment.

CHAPTER 2. THE EVOLUTION OF SPORTS ARBITRATION

There are certainly reasons for the establishment of sports arbitration. Its formation and further development can be linked to several periods. In addition, not only several countries play a role in its development, but also specific people. This is a fact that cannot be attributed to only one court. Like almost everything in this world, it has undergone great change. The development of sports arbitration can have several phases, which certainly play a big role in its formation. Sports arbitration should not be seen as a body that resolves sports disputes. His popularity is increasing day by day, depending on his ability to make fair decisions in sports disputes. Although there is no such kind of professional sport where there is no referee, in sports arbitration still occupies a special role. The referee should not be the sole judge whose decision will be final during the game or tournament, as sports associations or athletes should always be able to defend their rights at higher levels of law. Appealing this or that decision in society always increases credibility. That is why we should not talk about sports arbitration as a waste of money and nothing else. On the contrary, the more opportunities sports arbitration will have, the more properly it will function.

Global processes also affected the Court of Arbitration for Sport. It is formed over time not as a private institution but as an international institution. All this is good in its way because if its results are considered internationally, in this case, the credibility will be higher. Due to this kind of court, people must trust each decision. The necessity for a standardized and harmonized approach to dispute resolution became evident as the sports business grew more globally integrated. International sports federations and associations saw that a unified framework was necessary to resolve cross-border conflicts. To make sure that parties agree to settle disagreements through arbitration rather than traditional litigation, this led to the creation of rules for sports arbitration. The development of sports arbitration has also been impacted by technological breakthroughs. To settle issues about match-fixing, doping, and other technical aspects of sports, it is now customary to utilize video analysis, data interpretation, and other technological techniques. Technology not only helps with evidence gathering and presentation, but it also makes the arbitration process go more quickly and smoothly. „The Court of Arbitration for Sport is the authoritative institution for the settlement of international sports disputes. Its procedural rules have been revised many times and have become increasingly mature and perfect“ (Xiang, 2022). Notwithstanding its achievements, sports arbitration still has issues with independence, openness, and handling the growing complexity of sports-related conflicts. To promote

peaceful settlements, alternative conflict resolution processes like mediation may be progressively included in sports arbitration in the future. As a result of reasoning, we find that its function and load underwent evolution over time. In this process, not only several international organizations should be involved, but all countries in the world, because sport is an issue that affects the whole world. Its issue is important not only for specific people but also for its participants and viewers.

2.1 Refereeing and Sports Arbitration

For the master thesis, it is necessary to touch on such a subject, without which no sports direction exists. This is refereeing in sports. Every sport in the world needs a fair third party that is not biased towards any team or individual. A sports referee plays such a role. Of course, over time its function has changed and improved. There is also an assumption that sports arbitration was created precisely because there was an additional need to appeal the referee's decision since his decision is final only during the competition itself. In addition to this issue, the referee can be biased, which creates huge problems for all sports. Precisely in order to minimize the referee's bias, it is necessary to check it with a superior punishment mechanism. Sports refereeing is an essential and ever-changing component of sports, functioning as the keeper of the rules and the spirit of fair play. The job of sports officials has evolved significantly over time, affected by technological improvements, alterations in cultural standards, and the increasing complexity of games.

Referees were frequently volunteers or players who had a thorough awareness of the game's regulations in the early days of organised sports. Their choices were frequently biased and based on their own judgements. This method offered advantages, but it was prone to biases and human mistakes. “Despite their importance, referees are an often overlooked part of professional football. Referees are an integral part of the global game and are required for fixtures to take place and competitions to occur” (Webb, 2022). Professional referees were developed in response to the requirement for uniformity and objectivity in officiating. Groups and regulatory authorities started to find, educate, and assign referees who were committed only to officiating. Modern sports officiating was made possible by the increased knowledge and objectivity that professional referees brought to sporting events. One important advancement in the development of sports officiating was the standardisation of regulations across different sports. “To guarantee that referees could apply the same rules throughout contests, clear and consistent rulebooks

were crucial” (Avugos, et al., 2021). As a result, there was less uncertainty and better refereeing choices.

As for modern advances in this matter, Technology's introduction into sports officiating has revolutionized the sport. The precision of rulings has significantly increased with goal-line technology, instantaneous communication between referees, and video replays. For instance, the use of video-assisted referees (VAR) in football has reduced offside, handball, and foul errors by enabling replays of key times during games. Technology integration has improved refereeing's accuracy and transparency at the same time. It is also said that for a good game, it is not enough for the players to play well, an experienced and fair referee is also needed. The officiating of sports has also been impacted by societal developments. There has been a movement for diversity in officiating due to increased awareness of concerns like prejudice and unjust treatment. More women, minorities, and individuals from a variety of backgrounds are now represented among referees, which contributes to a wider viewpoint being considered when making decisions.

Sports officiating has advanced, yet disputes and difficulties still exist. Technology has been accused of slowing down gameplay and removing spontaneity from decision-making, even though it reduces errors. Referee decisions are also subject to intensive scrutiny from the media and spectators, which puts a great deal of pressure on the officials. Looking ahead, sports refereeing is likely to continue evolving. But it's still crucial to preserve the human aspect in sports refereeing, which includes making judgement calls and appreciating the "spirit" of the game. The changes in society and the sports world are reflected in the evolution of sports officiating. Sports officiating has advanced significantly from the arbitrary interpretations of the past to the technology-assisted accuracy of the present. The referee's position is essential to maintaining fair play, enforcing the rules, and maintaining the integrity of sports as they evolve to meet new problems and possibilities. The future of sports officiating will depend on how well tradition and innovation are combined.

2.2 Types of Sports Disputes

Sports conflicts are diverse, and it is important for fans, teams, regulatory organizations, and individuals to understand this. To better define the topic, we need to review several models of sports faces, which will introduce us to its general essence. One of its types is a contractual dispute. Contractual agreements between players, coaches, and

teams are at the centre of these conflicts. Salary conflicts, contract violations, and arguments with performance-related provisions are examples of issues. There are many such disputes in sports law. Like any other sector, professional sports depend on attracting and keeping talented people in order to succeed commercially. Professional athletes work under the same legal conditions as regular employees. While each employee's "work" is distinct, the legal rights and obligations that arise between an employer and an employee in sports are governed by standard employment law regulations. "True contracts of employment are referred to as contracts of service or service agreements. In sports, the contract signed by the sports professional is frequently a consultancy agreement or a contract for the provision of services that does not establish an employee/employer relationship. Any suspected or potential breach of contract can lead to a dispute. All it takes is one party to believe another has broken the agreement to cause a dispute" (Carson, 2023). For instance, professional football teams may legitimately want to safeguard the significant investment they make in signing new players. In order to control how the sport is conducted, sports organizations may also need to set some restrictions. It is advisable to obtain guidance on the enforceability of any such clause.

Disciplinary issues are the next dispute that results from players breaking the rules and behaviour guidelines of a certain sport. Discipline-related issues might include claims of doping, unsportsmanlike behaviour, or ethical transgressions. Fair play is a fundamental idea in sports, emphasizing that competitions should be handled in a reasonable and unbiased manner. Disciplinary proceedings play a critical role in sustaining this concept by addressing activities that depart from the rules and regulations governing a certain sport. Cheating, unsportsmanlike behaviour, or the use of forbidden drugs to obtain an unfair advantage are all examples of violations. „Doping cases undermine the legitimacy of athletic performance, casting doubt on the "arena heroes" mediated successes. Certain sports appear to have transcended human bounds these days, and occasionally even legal ones. This tendency may be explained by the following factors: financial interests, pressure to do better, media coverage of sporting events, and, last but not least, human nature“ (Vlad, 2018). Doping and the use of performance-enhancing chemicals are two of the most common disciplinary issues in modern sports. Doping not only gives athletes an unfair edge, but it also jeopardizes their health and well-being. Anti-doping procedures that are backed up by disciplinary sanctions are critical in fighting this threat and guaranteeing a fair playing field for all athletes. A strong disciplinary system provides due process and equal treatment for all parties concerned. Athletes and other stakeholders accused of

breaking the rules have the right to state their claims, provide evidence, and be heard fairly and impartially. Due process protects against arbitrary decision-making and increases the legitimacy of disciplinary decisions.

Disciplinary issues in sports frequently cross national boundaries, especially in the age of international championships. Setting worldwide norms and consistently enforcing disciplinary procedures help harmonize sports legislation. This global approach is critical for upholding the universal ideals of fair play and ethical behaviour across a wide range of athletic settings.

There is another important issue, like disputes over rule interpretation. Sports are built on rules, which provide a foundation for fair play and a level playing field. However, the application of these criteria is not always straightforward. Officials may confront instances when the execution of a rule involves subjective judgment in the heat of the moment, leading to arguments that echo across the sports community. Sports officials, whether referees, umpires, or judges, are frequently at the focus of rule interpretation conflicts. Many sports have an inherent amount of subjectivity due to their fast-paced nature and split-second choices. Officials must strike a balance between the necessity for severe rule enforcement and a grasp of the environment in which these laws are implemented. „Disputes over rule interpretation can have profound implications for athletes and teams. A single controversial call or misinterpretation of a rule can sway the outcome of a game, a championship, or even an athlete's career. The emotional and financial stakes involved amplify the significance of these disputes“ (Nafziger, 2004). Many sports have created processes for review and appeal in response to the issues provided by conflicts over rule interpretation.

PART II. LEGAL FRAMEWORK OF SPORTS ARBITRATION

This time it is important to directly address the legal framework of sports arbitration and consider the consequences that may arise if there is any misconduct in sports. The ever-increasing complexities and controversies that arise in the world of sports have necessitated the development of a specific way of conflict resolution. The importance of sports arbitration can be highlighted in various issues. Sports arbitration is a subset of alternative dispute resolution (ADR) that is designed to resolve conflicts in the setting of sports. It is critical to the integrity of sports by offering a fair and unbiased conflict resolution procedure. We have a corpus of international sports legislation called *lex-Sportiva* in the modern period. It is a worldwide, international, and stateless phenomenon. „The Court of Arbitration for Sport was established in Lausanne (Switzerland) to address the evolving needs of the athletes and other stakeholders within the sporting community. It is recognized as the Supreme sports resolution authority for the sports world. In the last 35 years, CAS has emerged as a significant institution in international sports, and as an example of the need for unification of private international law“ (Rawat, 2021).

One issue preventing CAS from reaching conclusions on these crimes is the difficulty parties have in gathering sufficient evidence. This logic was not applied in a recent high-profile corruption case, despite the fact that some CAS panels have explicitly stated that the panel should take into account the fact that corruption is, by definition, concealed and that those involved will seek to avoid evidence of their improper conduct. Without question, contract law is the basis upon which "Sports Law" has been built, and it is crucial in the vast majority of circumstances in which sport and the law are entwined. A contract is always at work somewhere, whether a sport is performed at an elite or less competitive level.

As a result, the execution of awards obtained via sports arbitration differs from that obtained through commercial or financial arbitration. A number of international sports organizations are based in Switzerland. Lausanne, Switzerland serves as the home base for the International Olympic Committee (IOC), the International Council of Arbitration for Sport (ICAS), and the Court of Arbitration for Sport (CAS). Switzerland has emerged as the global center for Sports Arbitration adjudication due to the presence of such notable sports organizations and authorities. When closely studied, Swiss law is remarkably adaptable, giving prospective litigants considerable control and freedom throughout the whole conflict resolution procedure.

Sports law includes a variety of agreements that eventually preserve contract law concepts and their significance in the interpretation and application of agreement terms. One of the most famous cases is the case of Allen Baxter. „In the case of Alain Baxter v. IOC, a British skier was disqualified from the Alpine Skiing Slalom even though he tested positive for a prohibited substance under the Olympic Movement Anti-Doping Code during the Salt Lake City Olympics. Appellant had chronic nasal congestion and relied on a non-prescription Vicks Vapour Inhaler to relieve his symptoms“ (Adwani Law, 2022). The transparency of the processes is another key element of arbitrations before the CAS. When it comes to disclosing their verdicts, CAS is considerably more transparent than other kinds of arbitration. CAS arbitrators are prohibited from sharing any information with a third party due to a duty of secrecy, even though their procedures are quite public. The arbitrator's appointment might be revoked if they don't carry out this duty. Aside from the arbitrator's responsibilities, the requirements for award publication vary depending on whether the procedures are initiated in the Ordinary or Appeals Division. The ordinary proceedings are confidential and cannot be disclosed by any stakeholders to a non-concerned party without prior permission from CAS and an agreement between the parties to publicly disclose the award. In contrast, the Appeals division operates very differently and adheres to the opposite principles. Awards made by the Appeals division are typically made public for the benefit of the general public, unless the parties agree otherwise. Arbitration decisions that conflict with national legal frameworks may give rise to questions about jurisdiction and how arbitral awards should be carried out. Sports arbitration decisions frequently involve concerns of law, fact, and the interpretation of athletic laws. The standard of review and the scope of court control might differ, creating confusion in the implementation of arbitration results.

CHAPTER 3. ROLE OF INTERNATIONAL AND NATIONAL SPORTS ORGANIZATIONS

International and national sports organizations play an essential role in sports arbitration because they provide the framework and infrastructure for conflict resolution. It is necessary to begin the conversation with international sports organizations. International

sports organizations such as the International Olympic Committee (IOC), the International Paralympic Committee (IPC), and international federations for various sports all play a significant role in defining and administering the global framework of sports arbitration. International sports organizations frequently establish their own arbitration bodies or join existing bodies such as the Court of Arbitration for Sport (CAS). They establish rules, methods, and regulations for resolving sports-related disputes, ensuring that arbitration meets the needs of their particular sports. These organizations play an important role in promoting arbitration as a method of conflict settlement. They urge players, teams, and other stakeholders to use arbitration rather than traditional litigation to protect the sport's integrity. Arbitration is now available on a worldwide basis thanks to international sports organizations. Athletes and organizations from several nations can use a neutral dispute resolution forum to avoid disputes from growing into international confrontations. „They make certain that arbitration rulings are recognized and enforced by their member organizations and the athletic community as a whole, so safeguarding the authority of sports arbitration verdicts“ (Findlay, 2018).

In addition to the fact that the Court of Arbitration for Sport extends its jurisdiction throughout the world, it is necessary to review the national sports organizations in different countries. They have an impact on ongoing disputes in sports law. If any disagreement is not resolved at the local level first, then it will not be possible to resolve it at the international level either. National sports organizations, such as national Olympic committees and domestic sports federations, play an important role in sports arbitration, particularly at the grassroots and local levels. „National sports organizations often establish their arbitration bodies or affiliate with regional or national arbitration institutions to cater to the unique needs of sports disputes within their respective jurisdictions“ (Nafziger, 2004). They aim to ensure athletes have access to arbitration systems and may aid athletes in resolving problems, such as selection, eligibility, and contract conflicts. National sports organizations are responsible for ensuring that athletic procedures at the national level are fair and transparent. Arbitration is used to protect the values of fair play, equal competition, and sport integrity. National sports organizations nurture and support local talent, and they employ arbitration to address disputes between athletes, clubs, and regional associations to safeguard the future of their sport. While international and national sports organizations play important roles in sports arbitration, they are not immune to criticism and concerns.

Concerns frequently arise concerning sports organizations' impartiality, particularly when they have a strong stake in the outcomes of conflicts. This may call into question the

fairness of the arbitration procedure. Due to budgetary and administrative constraints, smaller national sports organizations may struggle to establish efficient arbitration systems, resulting in inequities in access to justice. Conflicts can arise when arbitration rulings contradict national laws or regulations, necessitating careful coordination and national acceptance of arbitration results. Transparency and accountability within sports organizations, particularly at the international level, continue to be an issue, which can influence on the credibility of their arbitration processes. For conflicts in the sports industry to be resolved in an efficient manner, national and international sports organizations play crucial roles in sports arbitration. They support fair play, transparency, and international harmonization within the sports world by providing the framework, regulations, and procedures that enable sports arbitration. However, in order to preserve the integrity of the sports arbitration system, issues with independence, resource distribution, regulatory conflicts, and accountability must be resolved. For sports arbitration to effectively serve the interests of athletes, teams, and the larger sports community, these organizations' coordination and cooperation are essential.

3.1 Advantages and Disadvantages of Arbitration in sports

Although there is much debate about the importance of sports arbitration, it is important to note that this issue also has its advantages and disadvantages. Perhaps one of the most advantageous aspects is that the rules of arbitration are determined by the parties involved in the process. If there is no agreement between the parties on the procedure for arbitration, then the dispute will be considered by arbitration according to the procedure established by law. Arbitration The consideration of a dispute shall commence on the date of receipt by the arbitral respondent of the notice of referral of this dispute to arbitration, Unless otherwise agreed upon by the parties. Unless otherwise provided by this law or the agreement of the parties, the written notice shall be delivered to the parties within a reasonable time. This gives the party an advantage not to waste time. We all probably know very well that time is one of the most important factors in sports, because even one day lost can cause great damage to the athlete's physical condition. Obviously, when comparing courts and arbitrations, we face many problems in different literatures. Some believe that the advantage of arbitration is particularly clear. Its advantage is also that in the arbitration process the parties are strictly equal at all stages of the proceedings. However, such negative evaluations of the court should not be interpreted as if the arbitration is perfect and meets all the demands that consumers make of their chosen arbitration and arbitrators.

Considerable difficulties are associated with, for example, arbitration of disputes involving more than two parties. Or, the fact that an arbitral tribunal, unlike a court, has much less effective means of enforcement. Unless a particular jurisdiction provides A party will have to wait until the final decision to challenge the decision in court. „The concept of confidentiality is perhaps the most important concept of mediation that distinguishes it from other forms of dispute resolution. In two specific ways, the entire mediation process is strictly confidential. As expected, there is a very good reason behind confidentiality and its strictness; it is that one of the inherent goals of mediation is to give the parties a little more comfort about their ability to talk creatively, discuss options, be free to give birth and disclose ideas that they would otherwise hesitate to do“ (Manarakis, 2010).

On the negative side, we can also consider that it may not be possible to harmonize the arbitral award or the laws with the arbitral sports courts of this or that country due to the fact that it may conflict with some national law. Arbitration differs from a court in that it is confidential and closed. The decision is made by the arbitrator and there is no limit as to who will be the representative of the party to the arbitration. Although the arbitration process is faster, more flexible and less expensive, the parties have limited rights to appeal the arbitration decision. Because arbitration is a voluntary process, the arbitrator has no authority to hear a dispute unless the parties have agreed to arbitrate and the arbitration agreement's requirements have not been met. The arbitration agreement serves as the foundation for the arbitration's jurisdiction. The arbitrator shall not arbitrate the claim in the absence of an arbitration agreement. Furthermore, the arbitration agreement's parties may make additional reservations about the arbitration rules. It is also necessary to consider that despite these negative aspects, we should not think that everything will not be solved. In order to realize the above aspirations, it is necessary to declare a broad consensus regardless of everything, and the states should agree on broad alliances.

3.2 Legal aspects of sports transfer in sport law

As one of the main problems, we can define unclear decisions and injustice during transfers of athletes. After the transfer, depending on the specifics of the labor relationship, it is necessary for the parties to agree on important issues, for example, it is possible to conclude a contract for a specified period of time. But the question is whether it is generally permissible to conclude a contract with a specific term in sports law. „According to German legislation, it is necessary to check the existence of the preconditions defined by the German Part-Time and Fixed-Term Employment Contracts Act, in particular by Article 14 of this Act“ (Kerrest, 2017). According to the first part of the mentioned legal norm, the

basis for concluding a fixed-term employment contract must be a factual circumstance that will make this type of contract legally justifiable and relevant. The structure of the mentioned article strictly defines this list. It is necessary to mention that immediately after the countdown to the new year, there is great interest in how football clubs will use the current transfer window, whether they will reach an agreement with the desired athlete on the signing of a labor contract. It is interesting which legal aspects to consider when transferring a player. Of course, there are players who remain loyal to their football club throughout their careers, but the majority of athletes aim to avoid becoming attached to a football club as much as possible. The team and the team leadership try to associate themselves with the athlete's future as long as possible and keep it for a long time. In any case, we are dealing with the duration of the contract and the essential conditions of the labor contract, which should be relevant and acceptable in the transfer of the player.

The positive side of a long-term employment contract for the team is that the team leadership can implement their plan safely for many years without any unforeseen events, which in a way creates a safe, smooth environment for progression. The team, as an employer, can keep the leading players for as long as possible, and when transferring the player before the contract expires, it has the full right to demand a ransom. „For the athlete, a contract of this structure is similarly an advantage and creates a guarantee of security, since the player does not have to think too much and constantly search for a new team. In addition, it is worth noting the negative side of a long-term employment contract for an athlete“ (Gill, 2011). For example, if a player considers the team as a simple "stopping station" in order to get used to the club championship of the respective country, develop his own abilities and achieve the ultimate goal - to move to a better team as quickly as possible.

The Court of Arbitration for Sport must balance the politics of sports transfers and its legal side. Although each individual athlete and team may have their own attorney, it is important to involve a party that specializes in sports law. For example, the human rights court or any other legal field will find it difficult to review sports in this or that context, because they will be more focused on its legal aspects than on the sports one. The main problem of the sports dispute is that the issue of buying and selling sportsmen is viewed from the point of view of pure management. Transfers in sports must be regulated using sports arbitration, because athletes and teams should not be victims of doing business. Sports arbitration has more opportunities to review the

international perspective of sports transfer and thus decide this or that dispute. For example, if a particular team accuses an athlete of violating the rules of transfer, he will use local laws and evaluate the decision accordingly, although this will be wrong because the judge will not know the real essence of the sports transfer, what the team or the athlete gains and loses from it, and why. A lot of mistakes are made during the transfer, which creates injustice. We cannot bypass the discussion of sports transfers without discussing the Court of Arbitration for Sport, because if one athlete transfers to another country, this should balance the situation more. Leaving the country is difficult for any athlete, that's why the new country and team should create the desired conditions for him. If we look at the history of sports arbitration, the discussion of sports transfers is relevant, but only for teams that have more resources, and this should not be the case, and even low-budget teams should have their rights protected in the court of sports arbitration.

It is clear that the labor relationship, with its specificity, also contains subordinate features, but it is a completely private legal relationship, and the origin of obligations between the parties is based on the principle of freedom of contract. „The parties establish labor relations at the expense of freedom of will, which includes pre-contractual relations (for example, in sports, a medical examination by a player before signing a contract) and the labor relations themselves. Accordingly, labor contractual relations in sports correspond to the modern approaches that are aimed at perfecting labor relations“ (Tkalych, 2020). Of course, it will not be possible to violate the imperative norms, which are defined for the proper functioning of labor relations. Also, the parties can agree on such different terms that do not conflict with the law. It should be noted that the labor legislation is aimed at protecting the employee, since he is the weak side precisely because of the above-mentioned subordinate characteristics. Obviously, in sports labor relations, it is the athlete who appears as the weak side, as he is under the control of the employer, he is ensured as much as possible so that the law is directed in his favor.

A short-term employment contract is quite acceptable for an athlete, since in this case the employer cannot specify the ransom amount in the contract. “Athletes who leave their teams as free agents are in high demand in the transfer market, as it allows a new football club to make a new signing without paying a ransom. In particular, the recruitment of top players increases the chances of progression in terms of sports conditions for both

the athlete and the team, as well as financial benefits, as athletes are given the opportunity to negotiate and achieve better contract terms with the new team” (Kerrest, 2017). In sports, it is especially difficult to predict at what pace an athlete will develop, how he will develop individually as a successful athlete. It is around this issue that the type of contract mentioned may prove to have a downside, as consistent playing time is paramount to progression. Of course, frequent, long-term tardiness is considered to be an obstacle to this. In addition, it is important to emphasize the decisions of the coach, how often he uses the athlete in his playing scheme. For example, in the case of systematic idleness, lack of playing time, a player loses his importance for his own football club as well as for other teams and is no longer an object of interest.

In order for the athlete to be protected from the disadvantages that will affect the long-term employment contract in sports, there is a corresponding provision, the use of which adds a significant positive side to this type of contract. In particular, through the provision of leaving the club and moving to a new team, the parties firmly determine the ransom amount, which the future, new club is obliged to pay. Therefore, the athlete is allowed to leave the club if his new team pays this ransom. However, it is enough for the new club and the athlete to agree on the transfer, the current team has no right to interfere in this matter. In the event that there is no team that pays a ransom for the transfer, the contract with the management of the existing team usually continues. It is also necessary to note that the contract extension clause is good for the case, if the athlete himself is firmly determined to link his career to one specific team for a long time. In this case, he can negotiate with the club to reach an agreement on the automatic extension of the employment contract when he reaches a certain number of meetings in which he has participated. However, this provision is associated with a certain risk. For example, if the player is injured, he will not be allowed to participate in the matches, and the coach's decisions may also add to this, and the athlete will not be able to accumulate the mandatory number of matches for the extension of the contract, and on this basis, he faces the danger that the team will no longer extend the contract.

It is worth noting that the contract between the team and the athlete is carried out in accordance with the law, based on the principle of freely concluding the contract. The parties themselves agree on the duration and important provisions of the contract at the expense of showing their free will. But the most favorable type of contract for an athlete is a long-term labor contract with an indication of the ransom amount. In this way, the player maximizes the guarantee that he will be employed for a long time according to his abilities,

while the clause on leaving the club removes the attachment to one particular club and allows for career advancement.

PART III. THE COURT OF ARBITRATION FOR SPORT (CAS)

Now it is important to move directly to defining the role of the arbitral tribunal in sports arbitration. One important organization that is vital to the sports industry is the Court of Arbitration for Sport (CAS). CAS was founded in 1983 and is an impartial organization tasked with using arbitration and mediation to settle conflicts in the sports industry. Upholding the values of justice, fairness, and integrity in the sports industry is made possible in large part by its presence and efficacy. The increasing demand for a specialized body to resolve disputes pertaining to sports led to the establishment of the Court of Arbitration for Sport. The International Olympic Committee (IOC) founded it, and its headquarters are in Lausanne, Switzerland. CAS has developed and broadened its responsibilities throughout time, turning into the global authority on sports-related disputes. It functions within the auspices of the Swiss legal system, and several nations recognize and uphold its rulings. CAS is a global organization that functions through a decentralized structure with several sections and offices.

The CAS Arbitration Division handles doping-related issues, eligibility challenges, transfer disputes, and disciplinary procedures. Experts in sports law and knowledgeable about the policies and procedures of different sports organizations make up the panels of CAS arbitration. “In order to safeguard the rights of athletes and other stakeholders, the CAS Appeals Arbitration Division hears appeals against rulings issued by sports regulatory authorities and organizations” (Goh & Anderson, 2021). CAS offers mediation as an alternate method of resolving disputes. It attempts to encourage communication and facilitate more economical and cordial means of arriving at mutually acceptable resolutions.

Also, CAS performs several vital roles in the sports industry, including many examples. Sports disputes are addressed fairly and quickly thanks to the Sports Arbitration Service (CAS). Ensuring the integrity of tournaments and safeguarding the rights of athletes and athletic organizations is vital. By deciding cases involving doping, match-fixing, and other types of cheating, it plays a crucial part in preserving fair competition and the integrity of sports. Athletes can use the Competition Arbitration Service (CAS) to safeguard their rights and interests, particularly in relation to matters like as eligibility, contract disputes, and national team selection. Its rulings establish legal precedents and offer guidance on the interpretation and application of laws and regulations in different sports. In the future, this helps avert arguments and confrontations. Sportsmanship and sports ethics are upheld by CAS, which makes sure that contests are handled fairly and with integrity. CAS is a crucial

body in the global sports scene because of its worldwide jurisdiction, which enables it to decide issues involving athletes and organizations from all over the world.

The Court of Arbitration for Sport (CAS) is an essential institution that upholds justice, fairness, and honesty. Its composition, purposes, and importance highlight how essential it is to settling conflicts and maintaining the values of fair play. Players, sports organizations, and sports fans all around the world are impacted by CAS, which also helps to safeguard the rights of players and improves sports overall. Its survival and efficacy are critical to preserving the essence and values of sports on a worldwide basis. The majority of recent cases that the CAS reviewed as of 2004 included doping or transfer issues in professional association football.

CHAPTER 4. OVERVIEW OF CAS

In order to better understand the role and purpose of the Court of Arbitration for Sport, it is necessary to review the cases it has heard and see why its existence is important for both sports and the field of law. When discussing the International Sports Court, we should not miss its function around the world. Although its popularity may not be that great, it is necessary to talk about the fact that for people involved in sports, it is the first opportunity to protect the law. CAS is well-known for its autonomy and neutrality. It is not affiliated with any sports organization, and its panel of arbitrators consists of legal experts and professionals with in-depth knowledge of sports-related issues. On limited grounds, such as procedural irregularities or violations of public policy, CAS decisions can sometimes be appealed to a higher tribunal, such as the Swiss Federal Tribunal. The process begins with the Court of Arbitration for Sport ruling that female athletes with excessive testosterone cannot participate in sports tournaments because it violates the rule of equal competition and violates the rights of other athletes.

An arbitration agreement is a contract in which the parties agree to submit to arbitration any and all disputes that arise or may arise out of any contractual or other legal relationship between them. Arbitration is a contract law institution whose sole purpose is to resolve disputes between parties through an arbitration agreement. The legal nature of the arbitration agreement implies that state court jurisdiction is excluded. An arbitration agreement may be incorporated into the contract as an arbitration clause or as a separate agreement. The arbitration agreement must be in writing. Based on the content of the mentioned norm, a dispute arising from a private relationship based on the equality of

persons can be considered by the arbitration agreed upon by the parties when concluding the arbitration agreement. In the agreement, the parties must specify the specific arbitrator that will be authorized to hear and decide the dispute in the future. The content of the agreement to refer the dispute to arbitration must include the expression of the parties' true will to consider a specific civil dispute by a specific arbitration. When the parties agree to have a dispute resolved by arbitration rather than a court, they are expressing their consent to have their dispute resolved by arbitration, that is, by way of arbitration that differs from the way civil cases are heard in common composition of the courts.

In order to see the legal angle of the topic, it is necessary to consider one of the cases based on the relationship between sports arbitration and a famous athlete. „Following several judgments in the field of sports, the European Court of Human Rights (ECtHR) issued a significant judgment in *Caster Semenya v. Switzerland* on July 11, 2023. Caster Semenya, an intersex female professional athlete, is the applicant in this landmark decision. Because of her naturally elevated testosterone levels, she was barred from competing in female athletic events. The Court of Arbitration for Sport (CAS) ruled that she had violated World Athletics' (formerly known as the International Association of Athletics Federations, IAAF) Differences of Sex Development (DSD) Regulations. As a result, she was barred from competing in female athletic events for the rest of her life“ (Shinohara, 2023). The athlete was successful because of his physical data, and in most cases he was even the winner of the tournaments. Everyone is interested in the fact of how and why he was able to do this. In addition to the perfection of her physical and psychological data, the majority of experts claimed that there must have been some other criteria, as a result of which the physical data of the female athlete in some cases even equaled the data of her colleague Katsenbi, not to mention the fact that her stature was much higher than that of those participating in sports competitions. Women's build as well. Out of forty-two chefs, he finished second only once and third only once. He took the first place in forty out of forty-two competitions. His physical data was undoubtedly excellent, because it is simply impossible to win so many competitions with almost one hundred percent accuracy. For some athletes, this can only be a dream.

The court case contains personal information about Mokgadi Caster Semenya. In it we read about his place of birth, sports achievements, career progress and so on. All of this is personal information about the athlete that allows us to determine how successful he was in his career. In May 2019, the Court of Arbitration for Sport rejected Semenya's challenge, paving the way for the new rules to go into effect. Despite agreeing with Semenya that the

rules were discriminatory, the CAS concluded that the discrimination was a necessary, reasonable, and proportionate means of achieving the IAAF's goal of preserving the integrity of female athletics. The said process continued for several years and both sides fought to prove their truth, on the one hand, the athlete who had biological problems, and on the other hand, the entire sports federation, including the Olympic Committee.

And now we have to talk about the last decision. „In today's Chamber judgment¹ in the case of Semenya v. Switzerland (application no. 10934/21) the European Court of Human Rights held, by a majority (4 votes to 3), that there had been: a violation of Article 14 (prohibition of discrimination) taken together with Article 8 (right to respect for private life) of the European Convention on Human Rights, and a violation of Article 13 (right to an effective remedy) in relation to Article 14 taken together with Article 8 of the Convention. In a 4-3 decision in July 2023, the court ruled in her favor, finding that the competition rules had discriminated against her and violated her human rights. The decision, however, did not overturn the rules themselves, and World Athletics stated that they would "remain in place." in March 2023, requiring affected individuals to lower their testosterone levels below a 2.5 nmol/L threshold for at least 24 months before competing“ (European Court of Human Rights, 2023).

It can be said that Caster Semenya was acquitted by the court decision. It was natural, because the athlete himself cannot be guilty of having a higher than normal level of testosterone. With medical intervention and drug treatment, it was possible to solve the mentioned problem, however, the athlete would not have a guarantee that he would be able to participate in sports tournaments again. It is unnecessary to talk about victory and holding old positions. Forced medical intervention was already a violation of Caster Semenya's rights. The athlete did not want to be treated with artificial intervention. In this process, it is important that the position of both parties is satisfied. The Court of Sports Arbitration, together with the International Court of Human Rights, issued a conclusion that partly satisfied the interest of both parties.

However, in this case we can see the inaction of the International Court of Arbitration for Sport, because it could not make a decision independently and the case was brought to the Court of Human Rights. This may have happened because it was not just about the interaction of sports laws. The athlete's health condition was also involved in this process. However, it is undoubtedly a good thing that the parties made mutually appropriate decisions and the process did not harm either Caster Semenya's physical or psychological condition, and at the same time guaranteed to protect his further professional activities. It

should also be noted that allowing intersex female athletes to compete in professional female competitions can pose significant challenges for other female athletes who lack such physical advantages.

4.1 When Sports Arbitration doesn't work

Although the trial discussed in the previous chapter more or less protected the athlete's rights and got drunk on his victory, it is necessary to consider how inactive the court of sports arbitration is when the case concerns a more difficult category. However, for the sake of fairness, it should also be noted that this part of the discussion of the case is relatively old, and it is from this period that the reconstruction of sports arbitration begins. The International Court of Human Rights dominates the discussion of the topic, although the issue is relevant because of its obvious implications for the Court of Arbitration for Sport. The Grand Chamber of the European Court of Human Rights rejected/dismissed the complaint in the famous case - German figure skater Claudia Pechstein (Claudia Pechstein is a five-time Olympic champion who, in total, won medals in 9 different disciplines and is considered the best athlete of Germany) against Switzerland and left in force the third chamber's decision of October 2 decision.

It all started at the „2009 World Speed Skating Championships when a German athlete was found to have high levels of reticulocytes. As a result, the International Skating Union (ISU) suspended him from sports competitions for two years due to doping, which became the basis for the athlete not being able to participate in the 2010 Winter Olympic Games held in Vancouver. This ban was upheld by the Court of International Sports in Lausanne (CAS) and the Swiss Federal Courts (BGer)“ (Rigozzi, 2018). This resulted in an unprecedented legal battle launched by the athlete himself against the International Skating Union (ISU) and the International Court of Sports. The main demand was the issue of non-implementation and inadmissibility of the right to have a truly independent arbitration court. According to Pechstein's explanation, the impartiality of the arbitration court was questionable, since the institution is financed by sports federations. Although Pechstein's innocence was still in doubt (it can be said that the recalcitrant increased due to a hereditary blood cell abnormality, and the 46-year-old athlete did not receive doping), the German Olympic Sports Confederation (DOSB) upheld the ISU's decision to suspend the athlete from competitions for 2 years in order to qualify He considered it unjustified and insufficient, and he himself officially apologized to the German sportswoman. And Pechstein continued his legal battle against the International Swimming Union and

demanded compensation for damages resulting from the ISU's decision before both the International Court of Sports and the Swiss Federal Courts. He then appealed on the grounds that the CAS court, which had recognized him as an athlete, did not have jurisdiction over his case and requested that the German courts be deemed competent.

She confirmed his position by the fact that CAS judges were appointed by a committee consisting of leading officials from various sports associations, while he said the process of selecting judges lacked public transparency. In addition, he was forced to accept an arbitration agreement. Claudia Pechstein's lawsuit first failed at the Munich District Court, but was followed by some interim success at the Munich Court of Appeal, but in the end the Karlsruhe Supreme Court concluded that the arbitration agreement with the ISU had been reached voluntarily, clarifying the competence of the International Court of Sports in Lausanne and its independence. Undoubtedly it was known.

As previously stated, Claudia Pechstein's dispute with the Swiss courts (which involves international arbitration of the same sport) was continued in the European Court of Human Rights following the decision of the Karlsruhe Supreme Court. Furthermore, while the International Court of Human Rights (Third Chamber) acknowledged to some extent the monopoly of sports unions during the arbitration, it categorically rejected non-objectivity in this specific case. However, at the same time, the Strasbourg Court considered that the right to a fair trial had been violated, „since Pechstein was not given the opportunity for a public trial and oral hearing, thereby violating an important principle of the European Convention on Human Rights. As a result, CAS was ordered to pay Pechstein EUR 8,000 in compensation“ (Freeburn, 2021).

Finally, the Grand Chamber of the International Court of Human Rights confirmed the decision of the Third Chamber, emphasizing that the right to a fair trial cannot be violated by an arbitral tribunal when it comes to independent, impartial courts. At the same time, he considered Pechstein's argument about the absence of other alternative means of dispute resolution as insufficient grounds, thereby emphasizing not only the impartiality and difficulty of international sports arbitration, but also its ability to ensure the enforcement of the procedural guarantees of the European Convention on Human Rights. As the Olympic movement grew in popularity and international influence, two trends were observed. On the one hand, sportsmen's meetings contributed to the expansion of contacts and friendships. During the Cold War, sports competitions were considered a guarantee of maintaining peace and cooperation between peoples despite international tensions.

4.2 Criticisms and Controversies of CAS

Although the court of sports arbitration has many advantages, it is necessary to talk about its critical aspects, without which there is no international or national court. Experts criticize the Court of Arbitration for Sport because it may not be highly professional. Both sports referees and professional judges are employed in this type of court. Given how big a court decision can be, it needs to be reviewed by people who are directly involved in the legal field. These types of lawsuits in some ways create the possibility of a second chance, because if the athlete wins the case, he will be vindicated. However, in practice we come across such cases when the decision was made incorrectly and the athlete suffered from it. For any person who is involved in the field of sports, it can be very important to take a break from the sport even for a month, because it can cause a lot of damage to his physical data and abilities. A major disadvantage of the Court of Arbitration for Sport may be related to disputes related to sex and gender. Due to the fact that similar issues do not apply to sports, it already reaches the prerogative of the International Court of Human Rights. Such content decisions may be discriminatory. Based on this general opinion, the discussion of topics like sports courts should be improved.

The discussion of sports matters can also have a political nature. At the international level, the recognition of people involved in sports and their appearance is very important. „In sports, the fine line between 'political' and 'non-political' expression is critical because certain expressions may result in disciplinary sanctions or, in the case of Colin Kaepernick, a person's employment being terminated. The rhetoric of politics-free sport and political neutrality enshrined in sport governing bodies' ('SGBs') constitutive documents paves the way for the regulation of 'political' expressions“ (Abanazir, 2022). The sports court should consider sports cases as openly as possible, so as not to politicize them. They say that sports and politics should be separated from each other and that political influence should not be applied to sports. However, such large-scale cases that harm the whole world cannot be ignored. Here we should consider the example of Russia. We cannot look at such an issue unfairly, because we should consider it as an example of motivation. On the other hand, over time, the games increasingly represent an arena of competition between national teams and not the athletes themselves. Nationalist and aggressive moods often erupt in stadiums.

The arbitral award must be made in writing, with an indication of the deadline for delivery. The decision should reflect the motives on which the said decision is based. This does not apply when the parties have agreed to something else or when the decision reflects

the agreement of the parties. After the arbitral award is prepared, the winning party may have to enforce the said award if the losing party does not comply with the award. In this case, the party depends on the court, because the arbitration does not have the power of enforcement. What is arbitration and what are its advantages? This The issue is especially relevant today, when there are a large number of pending cases in the courts and the parties have to wait for a long time for the final decision of the court. In order to avoid all this, the parties refer to the arbitration on the basis of the arbitration agreement, where the term established by law for the consideration of the case is defined. The parties themselves select the arbitrator/arbitrators. In the appointment of arbitration members, the preferential position of any of the parties and bias towards any of them is excluded. The obligation to protect the confidentiality of information on the part of the arbitration is also important, because the sessions in the arbitration are closed. There is no second or third instance in arbitration. The basic principle of private arbitration is the willingness of the parties, competitiveness. The parties themselves determine what means to defend themselves, what evidence to present and what demands to make. The arbitrator only evaluates them and then makes a decision.

PART III. NATIONAL SPORTS ARBITRATION TRIBUNALS

Despite the international popularity of the Court of Arbitration for Sport, it is important to consider that each country has similar judicial institutions. If the sovereignty of the state is not manifested in such state institutions, the prestige of the country and the validity of the court will be lost. When we talk about the National Sports Court, it is necessary to mention the National Sports Committees as well, because they should become the basis of further guaranteed courts. However, we may encounter some contradictions in this matter, because not all countries in the world may have the resources needed to establish a national sports court. First of all, because sports referees may not have judicial experience and education. For referees, it is necessary to create such programs that teach them the rules and laws of international sports arbitration. In order to improve this, international organizations should open donor corporations that will help sports to establish similar bodies.

To better understand this part of the paper, it is important to review the National Sports Tribunal of Australia. The National Sports Tribunal of Australia uses several ways and methods to resolve conflicts. „They use different methods to help parties resolve their disputes as efficiently as possible, without the need for a lawsuit. These are:

- Arbitration
- Mediation
- Conciliation
- Case appraisal“ (The National Sports Tribunal of Australia, 2023).

Among the four main directions, one of the most important is arbitration. It is an introductory process of consideration of the case, which includes getting to know the interests of both parties and the complaint. Of course, if the case is submitted for consideration, the greatest attention will be paid to its introductory process. The complainant must inform the court of the nature of his complaint against the athlete, team, coach, or referee. Arbitration is a versatile and effective method of dispute resolution. An arbitrator hears arguments and evidence before making a binding and enforceable decision. The National Sports Tribunal's arbitrator will be an NST member.

The next step is mediation. Mediation is an alternative method of dispute resolution, through which two or more parties with the help of a mediator try to end the dispute by mutual agreement. The mediator himself is a neutral person who helps the parties to reveal their interests and reach an agreement on the disputed issue. In addition, the mediator

facilitates constructive communication between the parties and provides the necessary environment for reaching an agreement. “Mediation is a process where a neutral third party, called a mediator, helps people in conflict negotiate a mutually acceptable agreement. In the National Sports Tribunal (NST), the mediator is a specialist NST Member from the alternative dispute resolution list” (The National Sports Tribunal of Australia, 2023). The main value of the mediation process is that the third party does not protect the interest of any party and only tries to protect the interests of each party based on the law. Each aspect of the agreement must be fulfilled as much as possible, otherwise the mediation will have no meaning. A mediator must be knowledgeable in sports as well as in the field of general law. Mediators have undergone appropriate training in mediation and have been awarded a certificate confirming their status as mediators. In addition, mediation is a confidential and voluntary process. The sessions are held in a neutral and less formal space, where the parties can freely express their needs and interests, discuss their visions of resolving the issue in order to preserve the relationships that are important to them and effectively resolve the conflict. In case of unsuccessful completion of mediation, the parties have the right to continue the dispute in court or arbitration.

The third stage of the trial is already on reconciliation and agreement. The third stage of the trial is already on reconciliation and agreement. Conciliation also does not work if a third party is not involved, like mediation. He must be a person who is involved in both sports and law. „Conciliation is a process in which a neutral third party, known as a conciliator, actively assists people in conflict in reaching an agreement that they can all accept. The conciliator at the National Sports Tribunal (NST) is a specialist NST Member from the alternative dispute resolution list“ (The National Sports Tribunal of Australia, 2023). The said conciliation process usually involves several meetings between the parties and the mediator, which, in turn, may include one or more confidential sessions - private meetings. Private meetings are held between the individual parties and the mediator, with additional confidentiality safeguards in place. During this, the parties can have a representative. The role of the representative is especially important when the parties settle the dispute and enter into a written mediation agreement. A mediation agreement can be enforced voluntarily or by compulsory enforcement. The mediation agreement may be submitted to the court for approval in order to issue a writ of execution.

The last step is to evaluate the case and draw a conclusion. „Case appraisal is a process where a neutral third party, called a case appraiser, helps the parties resolve their dispute by providing a non-binding opinion on the facts and the likely outcomes. This non-binding

opinion may also include advice regarding the parties' next steps" (The National Sports Tribunal of Australia, 2023). Case appraisal differs from arbitration in that the NST Member makes a legally binding and enforceable decision on the arbitration's outcome. In the case of appraisal, the NST Member provides a nonbinding opinion based on the parties' information. Arbitration takes longer because submissions, evidence, and hearings are required. Any trial should include a section at the end for evaluation so that everyone understands why this or that conclusion was reached. All of this simplifies the process for both parties as well as legal researchers. This process also increases credibility in society, because if everyone has the opportunity to review and study court proceedings, people will trust such proceedings more.

CHAPTER 5. FUTURE TRENDS AND CHALLENGES: DOPING AS ONE OF THE MAIN FOCUSES

Given that sports arbitration is not so new in the history of sports and law, it is important to understand that it too may face some difficulties and challenges. International organizations care about making sports accessible and fair for everyone, so everyone's contribution is important. In order to better understand the topic, it is important to highlight the main challenge that sports arbitration can face when dealing with athletes, teams and referees. Therefore, it is necessary to touch on one of the most relevant topics, doping and related challenges.

It is also necessary to note that the international standards related to various technical and procedural comments of the anti-doping program were developed and developed after consultations with the signatories and the authorities. After that, it is approved by the World Anti-Doping Agency. The use of doping in sports is, on the one hand, a violation of sports ethics, tarnishing the image of the sport and the athlete, and on the other hand, it represents a serious risk to the athlete's health and threatens his right to compete in a clean, honest and fair environment. The International Olympic Committee has announced a relentless fight against the use of all kinds of doping drugs and threatens to severely punish anyone who tries to defeat their rivals with the help of various drugs or chemical substances. It is due to his efforts that all international sports federations banned the use of steroids and other aids. On the other hand, these bans threatened the careers of many famous athletes, and some of them even had to say goodbye to the sport. It is necessary to explain that it is prohibited drugs and methods that can improve sports results. In professional sports, doping refers to a variety of drugs and medical manipulations that, in some way, extend the body's capabilities. For example, it helps to increase muscle mass, as well as movement speed and endurance. Steroids and almost all other hormones are banned. Stimulants (from alcohol to drugs) cannot be used during the competition. The list is very long and it is divided into categories. For example, there are drugs and procedures that are completely prohibited and there are those whose use is prohibited only during competition.

It is important to briefly review the history of the Anti-Doping Agency. „In 1999, the World Anti-Doping Agency (WADA) was established to coordinate the international anti-doping effort. Within countries, national anti-doping agencies maintain their own system. In Ireland, this is carried out through the Anti-Doping Unit of the Irish Sports Council. It works in conjunction with the National Governing Bodies (NGB's) of the

various sports within the country, who have their own regulations and constitutions“ (Colmain, 2010). An anti-doping convention was created to avoid doping. The first part of the mentioned code contains specific anti-doping rules and principles that must be followed by people involved in sports. Therefore, absolutely all articles of the Code are mandatory and must be fulfilled by any athlete and other persons of any anti-doping organization. The rules may vary from state to state, but there are also some articles that should remain absolutely unchanged and are the same for everyone. This type of relationship is reciprocal, as the convention binds both the athletes and the anti-doping conventions. The purpose of the Convention on Combating Doping in Sports and the World Anti-Doping Agency is to promote the prevention and fight against doping in sports in the field of physical education and sports.

„The use of doping refers to the ingestion, injection or use of any prohibited substance or prohibited method by an athlete in any other way“ (Petersen, 2020). An athlete is defined as anyone who participates in sport at the international or national level, as well as anyone else who participates in a lower level sporting event, for the purposes of the doping control. The doping control process is defined in sports law as the scheduling of testing, sample collection and handling, laboratory analysis, result processing, hearings, and appeals. „It is the personal duty of every athlete to prevent Prohibited Substances from entering his body. Athletes are responsible for detecting any Prohibited Substance, or its metabolite (an intermediate product of the metabolism of an active substance, antidote, or synergist, or any destructive product created in the body or environment), or marker in a sample taken from their body“ (Özdemir, 2005). Possession of Prohibited Substances is also prohibited by Athlete Support Personnel, which may include any coach, instructor, manager, agent, team staff member, official, medical or paramedical personnel who work with athletes who participate in/prepare for or treat athletes in athletic competition. Their possession of a prohibited substance is permitted if a permit for therapeutic use is granted or there is some other valid reason. For example, it is allowed to buy insulin for people with diabetes, and it is also allowed for the team doctor to possess prohibited substances for use in acute and emergency situations.

The fact of taking a prohibited substance by an athlete is confirmed by special testing. Testing shall be conducted for anti-doping purposes only. Any Athlete may be required to take a Sample at any time and place by the Anti-Doping Organization to which he is subject. The following have the right to conduct testing: the National Anti-Doping Organization, the International Federation, the International Olympic and Paralympic

Committee, the organizer of another important sports event. „According to Article 2.5 of the Anti-Doping Code, during doping control, any type of interference with the implementation of the control procedure is prohibited, for example, changing identification numbers on special control forms, breaking a bottle or changing a sample by adding a foreign substance“ (World Anti-Doping Agency, 2021).

The Prohibited List is an integral part of the UNESCO International Convention Against Doping in Sport—an annex that lists prohibited substances and prohibited methods, divided into categories such as alcohol, steroids, stimulants, hormones, narcotics, diuretics, local anesthetics, beta blockers, diuretics and peptide hormones, masking agents and others. The Code also allows the prohibition of the use of a specific substance, if its use in combination with another substance has the effect of doping and increases athletic performance. It does not matter whether the use of a prohibited substance or prohibited methods has produced results, using or attempting to use them is already considered a violation of the rules. Circumstances when an athlete evades officials who want to conduct a doping control procedure on him are considered a violation of anti-doping rules.

The World Anti-Doping Code does not prohibit the publication of information about persons violating anti-doping rules, on the contrary, it even imposes an obligation to do so. It is debatable how correct such an approach is regarding the disclosure of personal data, although the fact is that Article 8 of the Code talks about the need to transfer relevant information to third parties, which aims to investigate the facts of anti-doping rule violations and determine sanctions. The form and period of the sanction depends on the severity of the violation. It should be noted that a number of well-known athletes have violated the "Anti-Doping Code", whose names are specially published by WADA. For example, “one such athlete is the five-time winner of the "Grand Slam" tournaments, Russian tennis player Maria Sharapova, who admitted that a banned substance was found in her blood during the Australian Open in January 2016. Sharapova's blood was found to contain meldonium, which was newly added to the list of prohibited drugs by the World Anti-Doping Agency (WADA). The Russian tennis player was sanctioned with a 15-month disqualification” (Hattenstone, 2017). Cases of doping failures occur in all sports, and football is no exception in this regard. It can be said that it is necessary for each athlete and his accompanying person to understand the negative consequences of doping use and refuse to use it, thereby helping to maintain a competitive environment. In the modern sports reality, while the main principles are fair and equal competition, it is necessary to protect the right of each athlete to compete in an environment suitable for the spirit of

sportsmanship. Each athlete should have an expectation of fair competition. That is why, on the one hand, it is important to perfect the national anti-doping legislation and follow the instructions of the agency meticulously, and on the other hand, to raise the awareness of athletes as much as possible so that they refrain from unfair competition.

5.1 Sports Law and Racism

One of the requirements for the effective exercise of human rights is that everyone has the free will to develop and maintain their own physical, mental, and moral strength. Discrimination based on gender, ethnicity, sexual orientation, language, religion, political or other opinion, national or social origin, property status, or other grounds, in particular, is prohibited. It is also very sad that racism is also present in sports, when perhaps sports should be the first place where it should be strictly protected. Facts of racial discrimination are common abroad. „In 2018, only in the United States of America, the University of Central Florida recorded 52 cases of discrimination against athletes, and 137 cases internationally. Among them, NBA player LeBron James became a victim of a racist attack. In June 2017, James' home was vandalized with racist graffiti, suggesting the difficulty of being a black athlete. Yaya Toure, former player of "Manchester City", remembers many facts of racial discrimination. The midfielder criticizes FIFA and UEFA for their indifference and recalls the time he spent in the Ukrainian "Metallurg" in the context of racist attacks. Not only the opponents' fans were negative towards Yaya Toure, but also the fans of their own team” (Alkemeyer & Bröskamp, 1996) They focused on the color of Toure's skin instead of his talent and compared him to a monkey, often even parodying him in the stands and constantly chanting racist phrases. American tennis player Serena Williams also speaks about racial discrimination and notes that black women receive less royalties than white women, in particular, black women earn 17 percent less than white women. In sports, as in almost every other field, we encounter discrimination. Discrimination can be of different types, and to fight against each of them, sport uses legal regulations directed against discrimination, which, in turn, derive from international agreements. In addition to the aforementioned regulations, most sports have also developed their own policies, rules and guidelines to combat discrimination. I have already mentioned that there are several types of discrimination. In order to thoroughly analyze the methods developed by sports to combat each of them, it is necessary to consider the types of discrimination

Athletes are harassed not only by spectators, but also by teammates, opposing team members, staff, and coaches because of their skin color. It is worth noting that in such sports as golf and tennis, the facts of racism are less evident. This is due to the fact that people of color tend to be poorer Americans and are less likely to participate in sports such as golf and tennis because they require a lot of financial resources. That is why it is necessary for sports federations to work on solving the problem of racial discrimination. Sports organizations should have a zero-tolerance policy for this type of discrimination and harassment. Sports federations should encourage athletes to speak openly about discrimination they experience or witness.

The fight against racism in sport is one of UEFA's most important goals. That is why, he developed a number of plans to solve the mentioned problem, of course together with the Sports Arbitration Court. The official guidelines, which include a three-step system to combat racism, help athletes, coaches and other officials protect themselves from racist harassment in stadiums. These guidelines give referees the power to initially stop play and, if racist behavior continues, to cancel the match altogether. One of the best ways to reduce racism is that once a referee becomes aware of a racist act, he is empowered to stop the game. After that, a verbal appeal is made to the perpetrators of the racist actions, who are mostly spectators, in the stadium to stop the action. In addition, if the racist act continues after the second start of the game, the referee is authorized to completely cancel the match. It is essential that a decision to abandon a match is made only after all other possible measures have been taken and the impact of the consequences of the cancellation on the players and the public has been properly assessed. Today's reality and the steps taken indicate that the goal of sports federations should be to promote the entry into force of the code of conduct in the near future, which, by introducing disciplinary sanctions, will help to reveal the facts of discrimination and punish them. It is also necessary to raise the awareness of people working in the field of sports about the condemnation of violence and hate speech in sports, so that finally sports can become an arena for the manifestation of individual abilities of people.

5.2 Sport, politics and law

When we consider the events taking place in the international arena, sports, politics and law are three inseparable issues that cannot exist without each other. Especially when it comes to the modern situation. There is an opinion that after the end of the Cold War and

the entry into the active phase of globalization, sport has lost its political importance, but the reality is different, especially when it comes to the Russian Federation. „Sports celebrities and institutions that cooperate with authoritarian regimes often ignore the facts of human rights violations in these countries or, to some extent, justify themselves by saying that their relationship with them contributes to the opening and reforms of closed societies. In fact, by collaborating with dictators, celebrities, athletes, and institutions become propagators of their narrow political ideology“ (Human Rights Foundation, 2018). No sane person believes that the United States Victory at the Olympic Games would confirm the racial, intellectual, moral or physical superiority of Americans. We can assume that in the legal perspective, the political strength of the states determines its strength in almost all aspects. When talking about the intertwining of sports and politics in the 21st century, first of all, We should mention the Russian Federation. If in the 90s Russian sports developed more or less freely, in 2002 the Presidential Council for the Development of Physical Culture and Sports appeared.

In terms of democratic development and economic growth, youth is one of the greatest values in modern countries. Therefore, the full participation of youth in the process of the country's reconstruction is the most important task of the state. Correct development and implementation of youth policy further increases the potential and role of youth. For this, first of all, it is necessary to establish the perception of youth as a social category on the part of the state. We believe that youth policy should have two main goals. First of all, it should serve the development of young people at the individual level, their formation as full-fledged, progressive and active citizens. On the other hand, with the active involvement of such young citizens in social and political life, the construction of a modern type of European state. It should not be surprising that the Russian Federation is not a member of the Court of Arbitration for Sport, because it cannot share and understand the reasons of the court and international politics. It can be said decisively that it is practically impossible to separate sports from politics. This gives us the opportunity to say that we cannot separate politics from the field of law. Therefore, we draw the conclusion that sports and the field of law are two important precedents that are really connected with each other. The given definition is not able to fully formulate this concept in such a way as to describe as much as possible its purpose for the human being and for humanity in general, at the beginning of whose millennial history, sport was an inseparable part of everyday life, one of the means of self-presentation, and it maintains its importance to this day. Sports success in both individual and team sports competitions is not only a personal, personal challenge, but

presenting the country's name in the international space is the primary feeling of pride based on success.

CONCLUSIONS

1. The Court of Arbitration for Sport is popular because it is the only mechanism for the legal resolution of sports disputes. Despite the challenges in arbitration, its popularity is still relevant. This must be balanced, because sports arbitration is the only solution for sports disputes. The sports industry is not the only place experiencing legal uncertainty. An unstable situation puts teams and athletes in an extremely bad position. Also, despite the fact that sports and sports betting are popular around the world, for some reason sports arbitration is not distinguished by its popularity. Therefore, in order to increase the validity of sports arbitration, it is necessary to increase its popularity.
2. The master thesis discussed the main and most famous cases when sports arbitration did not fulfill its real function. Therefore, we saw its shortcomings along with many positive contexts. The content of the agreement to refer the dispute to arbitration must be in accordance with the true will of the parties to consider a specific civil dispute by a specific arbitration. If there is no such reservation, the arbitrator is not authorized to hear the dispute. The arbitration agreement must either expressly specify the specific arbitrator that will be authorized to hear and decide the dispute, or such will of the parties must be derived from the definition of the agreement. Along with this, it is necessary to mention that as well as international sports arbitration, national sports arbitration courts should also be developed and financed by the states.
3. Based on everything, we can safely say that arbitration helps to resolve sports disputes, considering both its sports and legal aspects. Also, the Sports Court of Arbitration played a major role in the fight against racism, xenophobia and homophobia. It has increased both the level of awareness and its legal relevance and general popularity in society. It stems from the specific needs of the sports industry and is not focused on just one field. The Court of Arbitration for Sport tries to examine the basic issues that dominate sports law. Sport is an issue where statehood and law play one of the significant roles, so we cannot separate it from these two angles. Where an arbitration clause is broadly worded and requires interpretation, only strong evidence will be taken into account to establish that the parties intended to exclude arbitration as a dispute resolution mechanism.

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