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# Arbitration in Sports Dispute Resolution: The Role and Importance of International Sports Arbitration

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## Arbitration in Sports Dispute Resolution: The Role and Importance of International Sports Arbitration

### Abstract

The relationship between law and sports is becoming increasingly significant in contemporary society. The rise in legal disputes, the development of sports management, entrepreneurship, sponsorship, marketing, doping issues, gender equality, and growing interest in the field all point to the need for an interdisciplinary approach to examining the connection between sports and the economy, as well as the development of the economic potential of sports. In Serbia, as in many other countries, sports law is a relatively new legal discipline undergoing major transformations. There is growing interest in the study of sport not only as a phenomenon within the legal system but also as an economic sector. Sports and the economy are closely intertwined, as the sports industry represents a crucial segment of the global economy. Professional sports, recreational activities, sports infrastructure, and the sports equipment industry generate substantial annual revenue, contributing to employment. This has led to an increasing number of legal disputes related to contracts, player transfers, sponsorship agreements, and violations of anti-doping regulations. Sports are no longer solely recreational activities; they have evolved into a key sector involving various economic activities such as the organization of sports events, sponsorship and partnership arrangements, marketing, media rights, tourism, and hospitality. This paper analyzes the role and importance of arbitration in sports dispute resolution, focusing on the Court of Arbitration for Sport as the central institution for resolving sports disputes on an international level. It explores the legal framework, procedures, and regulations governing arbitration processes, as well as the advantages and disadvantages of arbitration compared to judicial proceedings. By analyzing relevant cases, the paper examines the impact of sports arbitration on the rights of athletes, clubs, and federations, as well as the economic consequences of arbitration rulings. The research aims to determine whether arbitration is a more efficient mechanism for resolving sports disputes than traditional court proceedings and to propose potential reforms to improve the legal framework for sports-related conflicts.

**Keywords:** sports law, sports arbitration, Court of Arbitration for Sport, economy, sport

### Introduction

*"Ibi ius ubi societas" – "Where there is society, there is law"* (Javorina, 2002, p. 48).

Guided by this maxim of Roman legal tradition, it is emphasized that no society exists without being governed by legal norms. Sport functions as a factor of social cohesion, uniting individuals from diverse social, ethnic, and economic backgrounds around common goals. This phenomenon can be discussed in the context of social stability and community development, affirming that investments in sport represent not only economic capital but also a social resource.

Considering the globalization of sports competitions, the increasing number of professional contracts, and the growing commercial interests in sport, the presence of various forms of abuse—such as athlete exploitation, doping, corruption, money laundering, and sponsor pressure—has become an inevitable and increasingly frequent component of the sports system in the 21st century. Consequently,

the complexity of resolving such disputes has intensified. Given these challenges, it is insufficient for sports disputes to be addressed solely by specialized legal bodies within sports organizations. It is necessary to apply positive law, considering the specificities of this sector, thereby enabling the resolution of sports-related conflicts before regular courts.

In this context, arbitration emerges as an efficient and expeditious method of dispute resolution, allowing athletes, clubs, federations, organizations, and other stakeholders to attain just outcomes without the burden of lengthy court proceedings. The economic significance of sport is reflected in its evident influence on economic development, stimulating economic growth through various means. The sports industry provides employment in sectors such as certified sports professionals (e.g., coaches), sports management, sports equipment production, marketing, sponsorship, and event organization—thus creating a broad spectrum of new job opportunities.

Simultaneously, it drives infrastructure development through the construction of stadiums, sports halls, courts, arenas, swimming pools, and the establishment of proper cycling and trail networks, thereby contributing to the development of local communities and governance. This, in turn, fosters small and medium-sized enterprises through local businesses, hospitality services, social responsibility initiatives, and cultural engagement.

Modern labor relations represent a complex area where maintaining a balance between labor rights and obligations is increasingly challenging. Frequent violations of labor regulations—typically aimed at reducing employer obligations at the expense of employee rights—further complicate this field. In this regard, one of the most demanding challenges lies in regulating the employment status of athletes and their relationships with various stakeholders involved in their professional arrangements, considering the unique characteristics and dynamic nature of sports (Opačić et al., 2021, p. 72). Therefore, proper and effective application of legal regulations is imperative. As noted: "Sport is too big a game to be business, and too big a business to be just a game" (Mulasmajić, 2023, p. 78).

International sports arbitration, with particular emphasis on the Court of Arbitration for Sport (CAS), plays a crucial role in regulating sports relations and ensuring legal certainty. Arbitration in sports enables the issuance of legally binding decisions while ensuring compliance with specific sports norms and rules.

The Court of Arbitration for Sport is a specialized body that resolves the most significant disputes at the international level while maintaining the autonomy of sport. By adapting to the contemporary principles of sovereign states and applying fundamental arbitration rules—modified in certain aspects due to the specific nature of sports matters and relevant international legal standards, it is ensured that the Court's decisions are final and binding.

Although this court holds an important place within the international legal framework, the domestic legal theory often neglects this phenomenon. The purpose of this paper is to draw the attention of the domestic legal community to the existence of the Court of Arbitration for Sport and to highlight its specific features in contrast to traditional commercial arbitration. Social relations in sport deviate from classical principles of commercial arbitration, primarily due to the unique structure of sport.

With the increased commercialization and professionalization of sport, sports disputes have gained significant material implications. The parties involved now strive to protect their rights not only within the sports community but also before national courts. In this context, the need has arisen for a new model of dispute resolution capable of achieving two fundamental goals: reducing the influence of national courts

and centralizing that influence where it cannot be entirely eliminated. This seemingly impossible task has been addressed through the application of alternative dispute resolution methods—specifically arbitration—which has already proven its effectiveness in commercial disputes.

The aim of this research is to analyze the importance and role of international sports arbitration in dispute resolution, with particular focus on the Court of Arbitration for Sport as the central institution in this process. Through the examination of legal frameworks, procedures, and specific cases, the paper will highlight the advantages and challenges of arbitration in the sports context, as well as its impact on the rights of athletes, clubs, and sports organizations.

### **Research scope, objectives, and methodology**

The Court of Arbitration for Sport (CAS) represents a significant component of the mechanism for curbing legal abuses and addressing anomalies in the application of regulatory frameworks within the field of sport. The CAS, seated in Lausanne, is an independent international institution that resolves sports-related disputes through arbitration or mediation, provided that its jurisdiction has been previously agreed upon by the parties involved. Its primary role is to assume responsibility for international sports disputes that would otherwise fall under the jurisdiction of national courts, and to resolve them swiftly and efficiently within the parameters of sport-specific procedures and regulations applicable to each individual case. The Court of Arbitration for Sport operates in an exceptionally complex and dynamic environment, constantly evolving and facing a range of challenges inherent to the daily realities of global sport. For legal principles to be successfully applied in this domain, it is first necessary to clearly identify the main sources of conflict and to determine effective strategies for addressing and overcoming them.

### **Research subject**

The subject of this research is centered on understanding the significance, role, and necessity of the Court of Arbitration for Sport in the resolution of sports disputes, both at the international and national levels. An analysis of the institution's specific scope of jurisdiction enables the identification of everyday challenges that undermine the effective implementation of legal regulations in the field of sport. Through a detailed examination of the conceptual framework of relevant legal institutions and issues present in contemporary practice, the research focuses on interpreting key procedural shortcomings—at both national and international levels—that enable various forms of legal abuse. This further underscores the importance of the Court of Arbitration for Sport, highlighting its contribution to legal, sporting, economic, and social development within both global and local frameworks. The paper also includes an analysis of specific cases that have had particular significance for legal practice and have generated interest among both the expert community and the general public. Based on this analysis, it can be concluded that the topic of this research is highly relevant, with substantial scientific and practical implications in both the international context and the domestic legal system.

### **Research Objective**

The objective of this scholarly research is to highlight, through a comprehensive analysis of the jurisdiction and functional scope of the Court of Arbitration for Sport (CAS), the complex challenges this institution faces on a daily basis in the realm of sports protection. Particular emphasis is placed on the

role of CAS as the highest international arbitral body responsible for the final resolution of disputes within the autonomous system of sport, as well as on the importance of its arbitral decisions.

The paper is theoretical in nature, with the intention of encouraging further and more systematic exploration of CAS's role within domestic legal scholarship, in alignment with its recognized importance on the global stage. Within the scope of the paper, the impact of sports arbitration proceedings on the rights of athletes, clubs, federations, and organizations is considered, including the economic implications of decisions rendered in such proceedings.

The ultimate goal is to assess the efficiency of the arbitration mechanism in sport compared to traditional judicial proceedings, while simultaneously formulating concrete recommendations for improving the legal framework governing sports disputes at both international and national levels. Additionally, the research seeks to provide scientifically grounded theoretical insights into the protection of sports integrity, through an analysis of the operations of relevant institutions and legal mechanisms.

By employing various methodological approaches, the study aims to offer a multifaceted understanding of the processes that contribute to the preservation of core sporting values, identifying optimal solutions to problems that threaten sports ethics. Particular attention is given to areas that directly affect the identity of sport, such as ethical challenges, anti-doping controls and the fight against doping, prevention of money laundering, the influence of sponsorships, anti-corruption measures, and the legal, economic, and social aspects stemming from these phenomena.

Through the analysis of collected data—including expert interviews, statistical indicators, and a review of legal acts, international treaties, case law, and arbitral practice—the research strives to develop scientifically validated recommendations for safeguarding the principle of fair play and enhancing the overall sports system. These findings may serve as a foundation for future studies and strategic initiatives in the field of sports law and policy. Furthermore, by examining CAS jurisprudence and conducting comparative analysis with national legal systems, the study offers reasoned conclusions regarding the adequacy of existing legal provisions and the need for their potential adaptation to contemporary challenges.

### **Research methodological framework**

The theoretical framework of this research is based on a comprehensive review of existing scientific and professional knowledge available in relevant literature, with the aim of establishing a foundation for further analysis. This review includes an examination of prior studies and data from a variety of sources—ranging from statistical reports and publications by international institutions to monographs, scholarly studies, expert analyses, and theoretical discussions authored by both domestic and international scholars. The collected data encompass not only key scientific achievements but also validated examples of best practices in both domestic and international legal contexts.

The research approach in this study involves the application of various theoretical and empirical methods. The primary methodological basis is the normative-dogmatic method, which is a standard approach in legal science. This method allows for the systematic and critical analysis of legal norms, including both domestic legislation and relevant international legal acts and documents, with the goal of precise interpretation and evaluation of their content. It facilitates a deeper understanding of legal concepts and principles, as well as their interrelations within the researched topic, thereby providing space for scholarly discourse and contributing to the development of legal science.

Closely linked to the normative-dogmatic method is the logical method, which ensures the accurate and consistent interpretation of legal norms in accordance with the principles of formal logic. Its integration into the research provides coherence and methodological precision in the processing of legal materials.

The sociological method further enriched the research approach by offering deeper insight into the social, cultural, and institutional contexts that influence the normative regulation of sport, particularly in the area of safeguarding its integrity. This method enabled an analysis of the broader societal frameworks that shape legal regulation and practice in combating deviant phenomena in sport.

The historical method was employed to explore the genesis of sports arbitration mechanisms, with particular attention devoted to the legal-historical development of sports norms in Serbia and comparable systems. This approach facilitates an understanding of the evolution of legal regulation in sports disputes and sheds light on the historical origins and trajectories of doping, corruption, and other violations of sporting values.

For the purpose of comparing legislative solutions across different legal systems, the comparative method was used. It enables the identification of similarities and differences in national legal frameworks and the potential transposition of successful foreign solutions into the domestic context. This methodology reveals global trends in resolving sports disputes and contributes to the advancement of national legal standards.

In analyzing the relevant literature and legal acts, the content analysis and synthesis method was applied, especially in processing case law and professional materials from the field of sports law, as well as in examining laws, by-laws, international treaties, and regulations.

The descriptive method was also employed, providing a precise account of the jurisdiction and functional scope of the Court of Arbitration for Sport, its advantages and shortcomings, including frequent criticisms concerning the lack of transparency in proceedings, possible arbitrator bias, and limited opportunities to appeal CAS decisions.

The method of explication, used to provide detailed explanations of key legal concepts and procedures, was applied in the analysis of specific cases from the Court of Arbitration for Sport's practice, enabling an accurate understanding of their legal and practical implications.

The case study method served as an important tool for thematic analysis of specific examples from practice, aiming at a deeper understanding of the typology and characteristics of sports arbitration proceedings.

The statistical method enabled the systematic collection, classification, and analysis of quantitative data, with the goal of identifying patterns and relevant indicators related to sports disputes and their resolution.

Finally, the inductive-deductive method was used, allowing for the derivation of general conclusions from concrete examples (induction), and the subsequent application of those conclusions in the analysis of new situations and prediction of potential legal solutions (deduction).

The combination of the aforementioned methods ensured a comprehensive, multidisciplinary approach that enables both theoretically grounded and empirically verifiable analysis of sports arbitration mechanisms within the modern legal framework.



## **Economic aspects of professional sports**

Professional sport has become a significant economic sector, with large financial resources invested in player transfers, sponsorships, television rights and marketing. Sports clubs function as economic entities, participating in the market and subject to economic laws and regulations. According to data from the European Commission from 2018, the sports sector accounts for about 2% of the European Union's GDP, while in some countries this percentage reaches up to 3.7%. Investments in sport not only stimulate economic development, but also affect employment, given the large number of jobs within the sports industry (Andreff, 2011, p. 18). Professional sport has a significant economic impact, both globally and nationally. Its economic dimension is reflected in various aspects, including income from sponsorships, player transfers, television rights, ticket sales, licensing and trade in sports products. One of the key sources of income in professional sports is sponsorship contracts. Large companies invest significant funds in sports clubs and individuals in order to increase the visibility of their brands through their promotion. In addition, television rights make up a large part of the income of sports organizations, as broadcasters pay high amounts for the exclusive rights to broadcast the most important competitions.

The economy of professional sports also includes player transfers, which is a multi-million dollar industry. Clubs invest in bringing in talented players, thereby increasing their market value and attractiveness to fans. In addition, the sale of tickets and season tickets is a significant source of income, while the sale of jerseys and souvenirs further contributes to the economic stability of sports organizations. In addition to direct revenues, professional sport also has wider economic effects. The development of sports infrastructure, tourism associated with sports events and job creation in the sports sector contribute to economic growth. The organization of major sports events, such as the Olympic Games or the FIFA World Cup, stimulates investment in infrastructure and attracts a significant number of tourists, thereby increasing income from hospitality, transport and trade. Professional sport represents a significant segment of the global economy, influencing economic development and opening up new opportunities for employment, investment and innovation. Its importance goes beyond the boundaries of sport, encompassing a wider socio-economic context.

## **Sports contracts and the legal nature of disputes in sports**

Sports contracts represent a specific type of contractual relations that are largely determined by the nature of sports and the rules of sports organizations. These contracts include various types of agreements, including employment, sponsorship, license, transfer and athlete representation agreements. Due to their complexity and international character, sports contracts often lead to legal disputes that are resolved through specialized arbitration institutions, such as the Court of Arbitration for Sport in Lausanne. Contracts in sport encompass a variety of legal relationships, including employment contracts for professional athletes, sponsorship contracts, rights transfer contracts and commercial contracts. The specificity of sports contracts is reflected in the need to take into account the regulations of sports federations, which often leads to legal disputes. Sports disputes can be contractual or disciplinary in nature. Contractual disputes refer to violations of contractual obligations, such as unpaid wages, while disciplinary disputes refer to compliance with sports rules and ethical norms (Matthew et al., 2020, p. 45).

Sports contracts must comply with the laws of the country in which they are implemented, as well as with the rules of international and national sports federations. Key features of these contracts include:

- Specificity of contractual obligations - the obligations of the contractual parties are often defined by sports regulations;
- Special contract termination regime - sports contracts can be terminated before the expiration date due to violation of contractual provisions or disciplinary measures;
- Dispute resolution clauses - many sports contracts contain clauses that mandate that disputes be resolved through arbitration instead of regular courts.

Sports disputes can be contractual or disciplinary in nature. Contractual disputes most often arise due to: non-fulfillment of contractual obligations (eg unpaid wages, non-compliance with sponsorship exclusivity clauses), player transfers and compensation, or violation of competition and discipline rules. Disciplinary disputes include cases of doping, non-compliance with the rules of fair play and ethical standards in sports. These disputes are usually resolved by the disciplinary bodies of sports federations, while their decisions can be appealed before the Court of Arbitration for Sport.

### **Arbitration settlement of disputes in sports**

Judicial methods of peaceful settlement of disputes include arbitration and proceedings before international courts (Dimitrijević et al., 2012, p. 258). Sports arbitration is a specialized form of alternative dispute resolution that enables faster and more efficient resolution of sports conflicts compared to traditional court proceedings. The main reason for the application of sports arbitration is the need for expeditious procedures, considering short sports careers and the need for urgent solutions (Kaufmann-Kohler, 2015, p.59). International sports arbitration is most often associated with the Court of Arbitration for Sport (CAS), while national sports arbitration bodies operate within the framework of national sports federations and laws. Most sports contracts include arbitration clauses that provide for disputes to be resolved before CAS or other arbitral bodies (Blackshaw, 2017, p.88). International competitive sport is characterized by a seasonal rhythm and a limited duration of the athletes' professional career, which is why the efficiency and effectiveness of dispute resolution take on special importance in the protection of their rights and interests.

Arbitration is a way of resolving disputes before a non-state, i.e. private body that the parties themselves choose and authorize to make a final decision. This process implies that a third party (arbiters), on the basis of an agreement between the parties, decides on disputed issues. Their decision is binding and in most legal systems has the same legal effect as a court judgment, including the possibility of enforcement by the state. Arbitration proceedings are characterized by the principles of: equality of parties, adversary, open justice, autonomy in choosing the rules of procedure and the place of arbitration, opportunity and economy in the way of proceeding, party disposition in choosing the governing law for the essence of the dispute (and arbitrary agreement), non-publicity, collegial decision-making and interference with the state court (and the proceedings before it). Arbitration law knows different divisions of arbitration, but the most significant is the division into ad hoc and institutional arbitration. From a legal point of view, in terms of adjudication authority and the significance of their decisions, there is no essential difference between these two types of arbitration. The differences are mostly of a practical and



organizational nature. Institutional arbitration is a permanent body with established rules of procedure and an administrative apparatus that manages the arbitration procedure in accordance with its rules, with the possibility of respecting the wishes of the parties. Today, most sports disputes are resolved before arbitration courts, because the advantages of arbitration have long been recognized in sports. By applying the classical principles of arbitration, with certain corrections due to the specificity of sport, especially in its non-commercial aspects, as well as by applying the appropriate norms of international law, a satisfactory result was achieved. Based on classic international commercial arbitrations, the Court for Arbitration in Sports was established.

The basics of the dispute resolution system in sports include the establishment of an international arbitration organization that will resolve the most significant disputes in the international sports community, with all the characteristics of classic international arbitration. The arbitration agreement is mandatory and must be signed by the parties to the dispute, which commits them to arbitration and compliance with the arbitration decision. That agreement is also a prerequisite for membership in higher sports organizations and for participation in the most important competitions (Galantić, 2015, p.323). The arbitration decision that is made has the status of *res judicata*, i.e. a *res judicata*, which equates its effect to the decision of a state court. The decisions of the International Court of Sports (CAS) are considered international arbitration decisions, and states have the obligation to recognize and enforce them, but only in accordance with the terms of the Convention on the Recognition and Enforcement of International Arbitral Awards from 1958 (Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, art. 1).

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

Although the courts have a significant role in the resolution of sports disputes, alternative ways of resolution, such as arbitration and specialized forums, are increasingly being used. This trend is also present in other areas of law, where special bodies outside the regular court system are increasingly formed and dispute resolution mechanisms become an integral part of contracts between parties. The Court of Arbitration for Sport (CAS) was established in 1984 by the International Olympic Committee (IOC) with the aim of efficiently resolving disputes arising from Olympic sports. Over time, CAS has gained increasing importance as a specialized forum for resolving sports legal issues. Although it does not represent a court in the classic, state sense, CAS functions as an independent arbitration body that considers disputes related to the Olympic Games, as well as those related to international sports federations responsible for regulating Olympic disciplines and their members. In addition, the jurisdiction of the CAS can be extended to other sports disputes, provided that the parties to the dispute agree to arbitration before this body (Healey, 2005, p. 9).

The legal basis for the jurisdiction of the Court of Arbitration for Sport (CAS) is contained in Rule 61 of the Olympic Charter, according to which it is prescribed that all disputes arising from, or related to, the Olympic Games must be resolved exclusively before the CAS, in accordance with the provisions of the Code of Sports Arbitration (International Olympic Committee, 2020, p. 103). When we talk about the most important achievements of athletes, we usually think of their successes in the Olympic Games. This is understandable, because the roots of official organized sports competitions are connected precisely with the ancient Olympic Games (Kastratović & Dragić, 2024, p. 300). The Lausanne Court of Arbitration for Sport (CAS) was established with the aim of diverting international sports disputes from national courts

and providing a highly specialized forum where these disputes can be resolved quickly, relatively cheaply and in a flexible procedure, "within the sporting family". The court has developed significantly since its establishment in the mid-eighties and today enjoys the trust and recognition of the international sports community. Today, CAS conducts four different procedures: regular, appeal, ad hoc accelerated procedure, as well as mediation procedure.

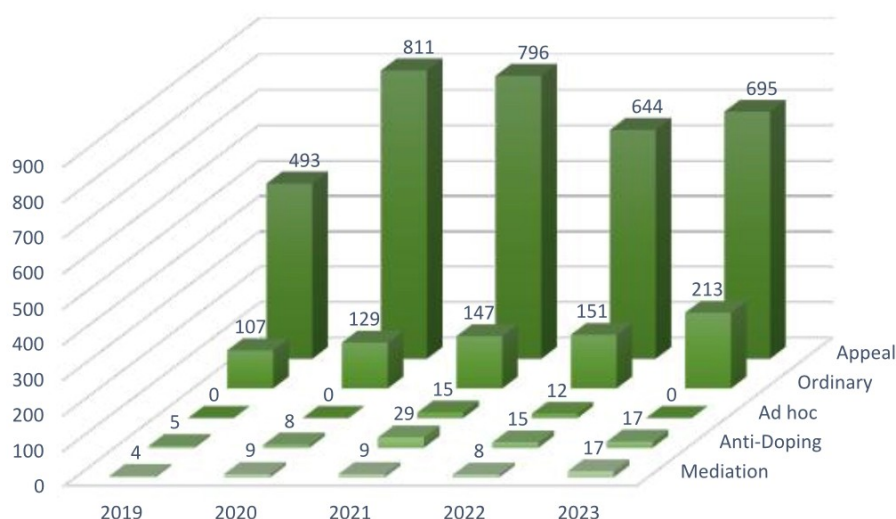
The subject of these proceedings includes all types of sports disputes, which means any dispute of a private nature that is directly or indirectly related to sports, including international commercial and disciplinary disputes. CAS can decide on the subject matter of the dispute, either in regular or appellate proceedings, only if there is a valid arbitration agreement. It can be a part, i.e. a clause of the contract on the basic job, it can be made as a separate contract after the dispute has arisen, but it is most often found in external documents such as general terms of business, regulations of sports federations, applications for membership in a sports association or even in applications for competitions. The parties to the dispute may choose the applicable law for the merits, and the rules of the CAS Code apply to the proceedings. The decision is final and the unsatisfied party can challenge it with a lawsuit for annulment before the Federal Supreme Court of Switzerland (Petrović, 2016, p.453). However, the success rate of these appeals is low, because in practice, appeal procedures against arbitration decisions generally do not lead to their annulment and are rarely successful (Netzle, 2011, p. 22). The autonomy of sport, in the context of adopting rules of conduct and their execution, also implies the resolution of disputes that arise during their application. The only optimal way of resolving disputes, which is largely independent of state courts, is arbitration. Arbitration, with the necessary modifications compared to classic commercial arbitration and with the application of multi-level arbitration decision-making for the most important disputes, became an effective tool used by the international sports community. Thus, it managed to maintain its autonomy, even after leaving the traditional amateur basis, including in terms of dispute resolution (Galantić, 2015, p.1988).

Arbitration proceedings before the CAS include the filing of a complaint, the appointment of an arbitrator, the exchange of submissions, an oral hearing and the rendering of a decision. CAS decisions are final and binding on all parties to the proceedings. Currently, the latest available annual report of the Court of Arbitration for Sport is for the year 2023, where it is pointed out that in the last five years there has been a gradual increase in the number of cases before the Court of Arbitration for Sport, whereby a total of 942 proceedings were registered in that year. Although arbitration procedures based on appeals still represent the majority of cases, a significant increase in the number of regular arbitration procedures and mediations was observed during 2023, which is shown in Figure 1..

### **Court disputes in the field of sports in the legal system of the Republic of Serbia**

The resolution of disputes in the field of sports in the legal system of the Republic of Serbia is regulated by the Law on Sports from 2011 (National Assembly of the Republic of Serbia, 2011, art. 50). This law provides that the members of the sports association and the sports associations themselves can mutually determine the jurisdiction of the arbitration for resolving disputes related to the rights they freely dispose of. The law provides for several forms of arbitration: the establishment of an ad hoc arbitration court, as well as two permanent sports courts: one at the Olympic Committee of Serbia (Permanent Sports Arbitration – SSA) and the other at the Sports Association of Serbia (Permanent Sports Arbitration Court – SSAS) (National Assembly of the Republic of Serbia, 2011, art. 51).

**Figure 1. Development of the number of cases in the period from 2019 to 2023 before the Court of Arbitration for Sport**



Note. ICAS Annual\_Report Financial Statements 2023

The competence of the SSA is precisely in resolving disputes concerning Olympic and Paralympic sports, while the SSAS is competent for non-Olympic sports. In addition to these forms of arbitration, the Law also provides for the inclusion of the Court of Arbitration for Sport (CAS), based in Lausanne, as an important institution for resolving disputes in sports. By introducing an arbitration institution based outside the Republic of Serbia and accepting its decisions into the national legal system, the Law enables disputes related to the rights of members of sports associations, for which the jurisdiction of arbitration has been determined by agreement, to be the subject of international sports arbitration, in accordance with the rules of the competent international sports federation. The role of international courts in resolving civil and commercial disputes with an international element was assumed by arbitration institutions, which organize international arbitration (Stanivuković, 2024, p.198). In situations where there is a close material legal connection between the parties to the proceedings and third parties who did not formally participate in the arbitration, but who may be bound by the arbitration agreement, it is recommended to recognize the so-called of the intervention effect of the arbitration decision and in relation to those persons. This effect should be recognized if those third parties were previously invited to participate in the arbitration, or, if this was not the case, that they should be given the right to invoke the objection of negligent handling of the previous dispute in the proceedings they initiate independently (Veličković, 2023, p.133).

### The role of the arbitration agreement - the arbitration clause

It is very important to note that the arbitration agreement as an instrument of determination for the method of legal protection is an increasingly present legal choice in the twenty-first century. One of the basic principles of arbitration settlement of disputes is that the parties to the dispute agree to entrust the settlement of the dispute to arbitration, and not to the court of the given country. This consent constitutes the legal basis for arbitration. In practice, the usual rule is that this consent must be expressed in writing and form part of the arbitration agreement. By agreeing to arbitration, the parties renounce the

judicial protection that would otherwise be provided by state courts, while arbitrators obtain their authority to resolve disputes based on mutual consent, and not on the basis of state authority (Janićijević, 2024, p. 12). (Šarkić et al, 2025, p. 241). In order for a dispute arising from a certain social relationship to be removed from the jurisdiction of a national court and placed under the jurisdiction of arbitration, it is necessary for the parties in the disputed relationship to agree to resolve the dispute in this way. Their consent can be expressed in the form of an arbitration clause, which is concluded for a dispute that will arise, or in the form of an arbitration agreement for a dispute that has already arisen. For reasons of legal certainty, but also as a form of warning to the parties that by concluding an arbitration agreement they exclude the jurisdiction of national courts, the arbitration agreement must be in writing (Vukadinović Marković, 2021, p. 144). The arbitration clause on which the jurisdiction of the CAS is based most often appears in two forms. The first, the usual form for arbitration proceedings, is a written contract that is concluded in advance between the participants of a sports event and the sports organization that organizes that event. Another form, more specific, is the inclusion of an arbitration clause in the general acts of sports organizations, known as an arbitration clause by invitation, which is a condition for membership in the sports pyramid. The role of the arbitration agreement is particularly evident in business relations, where decision-making speed, confidentiality and the possibility of choosing expert arbitrators represent significant advantages. Although an arbitration agreement means a waiver of judicial protection in the traditional sense, it does not imply a lower level of legal certainty, but on the contrary, arbitration can provide equally high-quality legal protection, adapted to the specific needs of the contracting parties.

### **Case study**

In practice, disputes relating to arbitration often concern breach of contractual obligations (such as termination of contracts with players or coaches), anti-doping proceedings, as well as claims involving discrimination or unfair treatment by sports organizations.

#### **Case study A. v. Caykur Rizespor & TFF**

The dispute before the CAS was caused by the technical director of the Turkish football club Çaykur Rizespor Kulubu Denegri, a Turkish citizen. He terminated the one-year contract on his own initiative due to circumstances that he considered to be a limitation or termination of his competences and authority. The Executive Board of the Turkish Football Federation (TFF) considers that the unilateral termination of the contract was illegal and a breach of contractual obligations, which is why the technical director is obliged to return the amount of 30,666.67 US dollars to the club, and then the amount of 50,000 new Turkish liras in the form of damages.

After that, the TFF Arbitration Court concluded that the termination of the contract was illegal. In this case, CAS once again referred to the strict rules regarding its jurisdiction, stating that it is necessary that all parties to the dispute must expressly agree to submit the dispute to CAS arbitration, i.e. that such a possibility exists when the statutes or regulations of the sports bodies that made the decisions foresee the possibility of a lawsuit to CAS.

There is no jurisdiction of the CAS when the decision of the sports body only states that there are no disciplinary sanctions for the plaintiff for his appeal to the CAS, without an arbitration clause (Art. R47. CAS Code). Besides, there is no international dimension in the dispute between the Turkish coach and

the Turkish club. Therefore, the TFF rule according to which "Appellants against the decisions of the Arbitration Council in disputes between athletes, technical directors and coaches arising outside the contract, which include an international dimension, may be submitted to the Court of Arbitration for Sport" does not apply. (Čizmić, 2011, p.98).

### **Case study – tennis player Jannik Sinner**

The case study of Jannik Sinner, an Italian tennis player, illuminates the complexity of anti-doping procedures and the challenges of implementing the rules in professional sports.

Namely, in March 2024, Sinner was twice tested positive for clostebol, a banned anabolic steroid. According to his explanation, he pointed out in his statements that the contamination occurred unintentionally during a massage given to him by a physiotherapist using a spray containing clostebol, which he had previously used to treat his own cut. An independent International Tennis Integrity Agency (ITIA) tribunal accepted Sinner's explanation, concluding that there was no fault or negligence on his part, and he was allowed to continue competing. However, in September 2024, the World Anti-Doping Agency (WADA) filed an appeal with the Court of Arbitration for Sport (CAS), challenging the finding of Sinner's not guilty. WADA argued that although there was no intent to cheat, the athlete was responsible for the actions of his team and sought a suspension of one to two years. In February 2025, WADA and Sinner reached an agreement whereby Sinner accepted a three-month suspension, beginning on February 9 and ending on May 4, 2025. WADA acknowledged that there was no intent to cheat and that there was no performance enhancement, but emphasized the athlete's responsibility for the carelessness of his team members. The decision on the short suspension caused controversy in the tennis community. Many well-known tennis players have expressed concern about the perception of favoritism and inconsistencies in the anti-doping system, pointing out that lesser-known players could be punished more severely in similar situations. In addition, Sinner's nomination for the Laureus Sportsman of the Year Award was withdrawn due to the suspension.

The case of Janik Sinner highlights the complexity of anti-doping rules and the need for consistent application of justice in sport. Although Sinner's suspension is over, discussions about the fairness and transparency of the anti-doping process remain current.

### **Conclusion**

Arbitration settlement of disputes in sports is a key mechanism for ensuring fairness, speed and efficiency in resolving conflicts that arise within sports organizations. The specificity of sports arbitration stems from the need to preserve sports autonomy, while at the same time respecting general legal principles and international standards.

Sports arbitration, such as the Court of Arbitration for Sport (CAS) in Lausanne, has played a key role in creating a single mechanism for resolving sports disputes on a global scale. Its jurisdiction, which sports organizations voluntarily accept through arbitration clauses, enables the consistent application of sports law, minimizing the influence of national courts and preventing legal uncertainty in sports.

Precisely because of its specialized competence, CAS has become an authority in the field of resolving sports disputes, especially in disciplinary matters, contractual relations, player transfers and



doping issues. Although sports arbitration faces challenges, such as issues of transparency, accessibility and international jurisdiction, its role in the advancement of sports law is indisputable.

Considering the domestic legal framework, it can be concluded that Serbia follows international trends through the Law on Sports and institutions such as the Permanent Sports Arbitration at the Olympic Committee of Serbia. However, additional improvements are necessary in terms of strengthening the independence of arbitration bodies, standardizing practice and increasing awareness of the importance of arbitration among sports actors.

In the future, the further development of sports arbitration will require harmonization of national regulations with international standards, as well as continuous monitoring of the evolution of sports law. Only in this way can it be ensured that arbitration remains an effective and fairly accepted mechanism for resolving disputes in sports.

This paper presents the key aspects of CAS that can influence the reform of the arbitration settlement of sports disputes in Serbia.

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## **Arbitraža u rešavanju sporova u sportu: uloga i značaj međunarodne sportske arbitraže**

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### **Sažetak**

Odnos između prava i sporta postaje sve značajniji u savremenom društvu. Povećanje broja pravnih sporova, razvoj sportskog menadžmenta, preduzetništva, sponzorstava, marketinga, pitanja dopinga, rodne ravnopravnosti i rastuće interesovanje za ovu oblast ukazuju na potrebu za interdisciplinarnim pristupom proučavanju povezanosti sporta i ekonomije, kao i razvoja ekonomskog potencijala sporta. U Srbiji, kao i u mnogim drugim zemljama, sportsko pravo je relativno nova pravna disciplina koja prolazi kroz velike transformacije. Sve je veće interesovanje za proučavanje sporta ne samo kao fenomena unutar pravnog sistema, već i kao ekonomskog sektora. Sport i ekonomija su usko povezani, budući da sportska industrija predstavlja ključni segment globalne ekonomije. Profesionalni sport, rekreativne aktivnosti, sportska infrastruktura i industrija sportske opreme ostvaruju značajne godišnje prihode i doprinose zaposlenosti. To je dovelo do sve većeg broja pravnih sporova u vezi sa ugovorima, transferima igrača, sponzorskim aranžmanima i kršenjem antidoping propisa. Sport više nije samo rekreativna aktivnost; on se razvio u ključni sektor koji obuhvata različite ekonomske aktivnosti, poput organizacije sportskih događaja, sponzorstava i partnerskih aranžmana, marketinga, medijskih prava, turizma i ugostiteljstva. Ovaj rad analizira ulogu i značaj arbitraže u rešavanju sportskih sporova, sa posebnim fokusom na Sud za sportsku arbitražu kao centralnu instituciju za rešavanje sportskih sporova na međunarodnom nivou. Istražuje se pravni okvir, postupci i regulative koji uređuju arbitražne procese, kao i prednosti i nedostaci arbitraže u poređenju sa sudskim postupcima. Analizom relevantnih slučajeva, rad ispituje uticaj sportske arbitraže na prava sportista, klubova i saveza, kao i ekonomske posledice arbitražnih odluka. Cilj istraživanja je da se utvrdi da li je arbitraža efikasniji mehanizam za rešavanje sportskih sporova u odnosu na tradicionalne sudske postupke i da se predlože potencijalne reforme radi unapređenja pravnog okvira za rešavanje konflikata u sportu.

*Ključne reči:* sportsko pravo, sportska arbitraža, Sud za sportsku arbitražu, ekonomija, sport