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THE ROLES AND FUNCTIONS OF THE COURT
OF ARBITRATION FOR SPORT

Abstract: This body was originally created to resolve disputes during the Olympic Games. After 1992, CAS implemented reforms to operate independently from the IOC, in the result, «International Council of Arbitration for Sports" (ICAS) was established for both organizationally and financially. Later, two arbitration divisions (Ordinary Arbitration Division and Appellate Arbitration Division) were established to deal with different disputes.

In case of disciplinary violations, it is important for every sports organization to have institutions and procedures that evaluate it fairly, respect individual rights, and enable the parties to present evidence to solve the problem. If any sports organization fails to offer appropriate guarantees, CAS and other arbitration tribunals they should apply. In this article, we will talk about its activities, duties and working principles.

Key words: sport, arbitration, law, court, arbiter.

Aytac Arazxan qızı Təhməzli

İdman üzrə arbitraj məhkəməsinin rolu və funksiyaları

Xülasə: Bu qurum əvvəlcə Olimpiya Oyunları zamanı mübahisələri həll etmək üçün yaradılıb. 1992-ci ildən sonra CAS BOK-dan müstəqil fəaliyyət göstərmək üçün islahatlar həyata keçirdi. Nəticədə həm təşkilati, həm də maliyyə baxımından müxtəlif mübahisələri həll etmək üçün Beynəlxalq İdman Arbitraj Şurası (ICAS) təşkil edildi.

İntizam pozuntuları halında hər bir idman təşkilatı üçün onu ədalətli qiymətləndirən, fərdi hüquqlara hörmət edən və tərəflərin problemi həll etmək üçün sübutlar təqdim etməsinə imkan verən qurum və prosedurların olması vacibdir. Hər hansı bir idman təşkilatı müvafiq zəmanət verə bilmədikdə, CAS və digər arbitraj məhkəmələrinə müraciət etməlidir. Bu yazıda biz onun fəaliyyəti, vəzifələri və iş prinsipləri haqqında danışacağıq.

Açar sözlər: idman, arbitraj, hüquq, məhkəmə, arbitr.

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Резюме: Этот орган изначально был создан для разрешения споров во время Олимпийских игр. После 1992 года CAS провела реформы, чтобы работать независимо от МОК, в результате чего был создан «Международный спортивный арбитражный совет» (ICAS) как в организационном, так и в финансовом отношении. Позже были созданы два арбитражных отделения (Обычное арбитражное отделение и Апелляционное арбитражное отделение). были созданы для разрешения различных споров.

В случае дисциплинарных нарушений для каждой спортивной организации важно иметь институты и процедуры, которые справедливо оценивают ее, уважают права личности и позволяют сторонам представить доказательства для решения проблемы. Если какая-либо спортивная организация не может предложить соответствующих гарантий, CAS и другие арбитражные суды должны обращаться к ним. В этой статье мы поговорим о ее деятельности, обязанности и принципах работы.

Ключевые слова: спорт, арбитраж, право, суд, арбитраж.

Introduction

CAS was established in 1984 and is an independent body involved in the resolution of disputes in the field of sport, as well as appointing tribunals to make final decisions. Disputes are reflected in different sections of CAS depending on their type. Although the head office of the CAS is located in Lausanne, Switzerland, it has 2 offices in Sydney and New York. After a written arbitration request, the matter is considered here.

Thus, Article 27 of the Code states that the CAS has the authority to make decisions only on disputes. But there is rule 61 in the Olympic Charter, which stipulates that all disputes related to the Games should be submitted only to the CAS. In 2005, FIFA, and in 2009, the International Olympic Committee and all International Olympic Federations recognized the jurisdiction of the CAS.

International Council of Arbitration for Sport (ICAS)-the main task of it which is considered the supreme body of CAS, is to protect the independence of CAS and the rights of the parties. ICAS has 20 legal members who are well versed in sports law. Once appointed, they must sign a declaration of commitment to make objective and independent decisions.

I. Types of CAS Arbitration

There are three different types of CAS arbitration, including: • Ordinary Arbitration Procedure • Appeal Arbitration Procedure • Includes Ad Hoc Arbitration Procedure. First-instance disputes related to sports, i.e., mainly commercial matters (sponsorship, broadcast rights, etc.) are dealt with by Ordinary Arbitration Matters and account for less than 10% of the CAS workload. The Appellate Arbitration Procedure is used when there are appeals against decisions made by various sports organizations and accounts for approximately 80% of the CAS workload [3, p-6].

Ad Hoc Arbitration Procedure - The Ad Hoc Division was first established in 1996, and since that year special divisions have been established for each edition of the Summer and Winter Olympic Games. The main task of this branch is to look at the problems faced by athletes during competitions. Since 2016, the Ad Hoc Anti-doping Department of CAS has been looking into cases related to doping at the Olympic Games.

The following key reforms were implemented to strengthen the independence of the CAS:

- The International Council of Arbitration for Sport (ICAS) was established and is considered a supervisory body.
- Establishment of a separate Ordinary Arbitration Division and Appellate Arbitration within the CAS. After these reforms, the Swiss Federal Supreme Court recognized that the CAS is independent from the IOC and that its decisions have the same authority as court decisions. Note that the CAS Statutes and CAS Rules are collectively referred to as the "Code" [3, p-5].

II. What kind of laws and procedures CAS apply?

CAS operates under the Rules of Procedure of the Dispute Settlement Body for Sport ("CAS Rules") and has specific rules of procedure. AS has general provisions for arbitrations covering issues such as the language and venue of the proceedings. Ordinary panels may consist of one or three arbitrators, one of whom is elected as the panel chairman. Ordinary procedures last from 6 to 12 months.

Clearness in CAS Proceedings and Publication of Awards. One of the unique features of the CAS system is the protection of confidentiality. Although the proceedings are confidential, the final awards can be published, provided that the parties agree to allow it. All decisions made since 1986 are publicly available on the CAS website. CAS proceedings are generally held behind closed doors unless the parties agree or at the request of the athlete [7].

Publication of the final decisions is considered beneficial, as it increases confidence in the transparency of awards in the world of sports.

Language. The working languages of the CAS are French, English and Spanish, and one of these three languages must be chosen in the

proceedings with the agreement of the chairman of the council. But the parties may request another language, provided that the Panel and the CAS Court Office agree. Here are some conditions there are:

- payment of translation costs;
- pre-presentation of all documents submitted in languages other than the language of the proceedings and approval in both languages, etc [1, p.-11].

List of arbitrators. One of the features criticized by the arbitration community is that during the process, the parties can appoint only the persons on the "CAS List of Arbitrators" as arbitrators. If one of the parties does not comply with this rule, CAS will set a new term and replace that arbitrator with another one.

The CAS List of Arbitrators includes about 400 arbitrators from different continents and with different legal experience, who are elected for a four-year term and cannot act as parties' lawyers. Although this system has certain advantages, it can be ensured that the referees have more experience and have a deeper knowledge of the rules of the sport.

Conclusion

The problems occurring in the field of sports are becoming more and more relevant for both athletes and national and international federations that organize competitions. The establishment of discipline within these federations ensures the fair conduct of competitions. Although federations develop rules to resolve most of these disputes internally, they sometimes prefer to refer issues to sport-specific arbitration bodies. Human rights play a key role when maintaining the balance between the parties. The main obligation of CAS is to make legal decisions based on universal human rights. At this time, CAS must act transparently and impartially to ensure credibility.

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