

Research Paper

The Establishment of a National Institution of Arbitration for Sport: with an Emphasis on the Situation in Iran

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Abstract

Since its establishment in 1984, the Court of Arbitration for Sport (CAS) has played a key and decisive role in addressing the sports legal disputes, and the tendency of national Olympic committees, various international and national federations, sports stakeholders to refer to disputes. In the meantime, different countries have taken a big step towards resolving sports disputes at the national level by following the example of the Court of Arbitration for Sport (CAS) and establishing arbitration bodies. Careful study of their statutes and extraction of useful cases and given the large volume of disputes in this area can be effective in establishing this body in Iran. The issue of establishing a national arbitration body, which has been raised by the Ministry of Sports and the National Olympic Committee for a decade, is facing various legal challenges in the Iranian legal system. Observing these challenges and inclination to solve them bring about the way to establish such a body.

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Introduction

More than three decades have passed since the establishment of the Court of Arbitration for Sport (CAS), and the institution has struggled with many structural challenges and complex cases over the years. Issues such as the independence and impartiality of the Court, the manner of selection of arbitrators, duration of the proceedings, etc., were all among the issues that the Court has faced many times in the past few decades and has been able to greatly answer. In addition, with the increasing commercialization of sports and sports competitions and the need for specialized and prompt proceedings, sports stakeholders have increasingly favored dispute resolution mechanisms by this international institution. This international arbitration institution also gained such credibility and acceptance and we have witnessed the formation of its “ad hoc divisions” in international sports competitions such as Olympics, World Cup, etc., for quickly handling cases of such competitions.

Hence, some countries, inspired by the structure and statute of the Court of Arbitration for Sport (CAS), decided to establish a national and specialized institution for the resolution of sport disputes which may pave the way for specialized proceedings in their territory. So far, a number of countries have established this body, and some have been prosperous so that the “Sports Resolution (UK)” has gained such credibility that some world federations have entrusted disciplinary

proceedings or doping cases to this body.

It is for a while that the idea of establishing a national court of arbitration for sport has been raised in Iran. However, the establishment of such an institution will face several structural and natural challenges, some of which are analyzed in this article. In the present study, after examining the structure and jurisdiction of the Court of Arbitration for Sport (CAS) and referring to the statutes of several countries that have established this institution, we seek to take a look at the current institutions dealing with dispute resolution in Iran and its various challenges in terms of the lack of experts in the field of sports law and its formal issues. But in addition to these cases, the advantages of establishing such an institution, including the establishment of it with a correct structure, the use of experts in the field of sports law, and furthermore, the feature of saving costs, will also be considered

Types of sports legal disputes

The field of sports law is one of the broadest new fields in law. So no other field of law can be found with such thematic diversity. In other words, all the rights to protect the amateur and professional athletes, the rights related to the health and safety of athletes, the anti-doping rules, the rules related to television broadcasting, the rights of spectators, the rules related to licensing,

etc., are among the issues dealt with in the sports law. Also, with the increase in the financial dimension of various activities in the sports industry, such as salaries and payments made to coaches and athletes, investments made by sponsors of sports clubs during competitions, amounts exchanged between media and organizers of competitions as the right to broadcast competitions and commercial cooperation that is arranged in connection with the right of publicity of sports stars, a diverse field of legal disputes and cases can be noticed (1).

Sports disputes include both groups of the professional and amateur athletes, which are divided into three forms: general, playground and commercial forms, each of which has specific areas involving issues such as the competence of athletes, discipline, selection, doping, citizenship, contract violations, athletes' commercial disputes over licensing, and other issues leading to lawsuits in various sports authorities(2).

The necessity and importance of arbitration in sports disputes

Arbitration will play a very important role in resolving sports disputes, because the philosophy of the existence of sports and the legal disputes arising from it are based on accelerating the execution and the process of redress. If the same process as in the general courts of justice to lawsuit and proceedings are underway in sports disputes, the very nature of sports is compromised. For this reason, it is necessary to choose the methods

such as arbitration to deal with the various disputes in sports in order to achieve the assumed goals.

Arbitration in sports and resolving sports disputes have many effects and benefits when compared to judicial resolution. For example, one of the advantages of sports arbitration is its low cost compared to judicial settlement, and it can also be said that arbitration sessions are held in the shortest time. For example, in the Olympic Games or important international tournaments, the judges are present at the venue and conduct the hearing. Finally, it can be pointed out that the referees are experts in sports affairs and stated that the referees who deal with sports issues and disputes are experts in the field of sports in dispute, thus the disputed issue is more precisely addressed, and as a result, the consent of the parties to the dispute is obtained (3).

The structure and legal function of the CAS

In this section, due to the ambiguities concerning the Court's dependence in the "International Olympic Committee" among athletes and sports institutions in dealing with sports disputes as well as fundamental changes in its structure, the history of the Court in two periods will be stated separately: from the establishment until 1994, which led to the formation of a new body called the "International Council of Arbitration for Sports (ICAS)", and from 1994 up to now. In the following, the structure and principles

of competence of this important international body will be mentioned.

In the early 1980s, the development of sports in the international arena has accelerated. The development of professional sports, sports clubs, federations and the related organizations has led to growing sports disputes, and these cases have highlighted the lack of an international institution to deal with these disputes. After being elected as the President of the International Olympic Committee in 1981, Juan Antonio Samaranch stated that there was a need for an independent Supreme Court to hear disputes in the world of sports. A year later, at a meeting of the International Olympic Committee in Rome, Kéba Mbaye, then a judge at the International Court of Justice, was appointed as the director of CAS and its Rules, together with Gilbert Schwaar and with the financial support of the committee, passed the “Code of Sports-related Arbitration” in New Delhi in 1983, which came into force on June 30, 1984 (4). Other issues that led to the formation of this international institution were the need for “speed”, “reduced cost”, “expertise” and “flexibility” in handling the international cases, because if sports disputes were referred to public courts, a long time had to be spent to achieve results while the service life of athletes was not more than 10 years (5).

Of course, the Court was not welcomed in the first decade of its activity, and its non-acceptance had various reasons, the most important of which was its strong and controversial

dependence on the International Olympic Committee. A committee that could have been one of the plaintiffs, and this was exactly the opposite of the ideal for which the court was set up. This dilemma in the case of “Elmar Gundel” was considered with special delicacy and accuracy by the Swiss Federal Court. In fact, this institution, by commenting on an issue beyond the scope of the case, dramatically changed the head of the court from the International Olympic Committee to the International Council of Arbitration for Sports. As a result, the actors in the field of sports gave unique recognition and credibility to this institution by referring their disputes to the court (6).

The message of the Swiss Federal Court was clear: The International Court of Arbitration for Sport (CAS) must find its independence from the International Olympic Committee more quickly in its organization and financial affairs. Thus, the ground was prepared for future developments and important changes in the arbitral institution of the Court.

The International Conference on Law and Sport was held in Lausanne, Switzerland, on September 13 and 14 to implement the above reforms. The most important result and achievement of this conference was the establishment of the International Council of Arbitration for Sport, which in fact, replaced and assumed the responsibilities and duties of the International Olympic Committee. The contract on the establishment of the council was concluded in 1994 as “Paris Agreement” between the International Olympic Committee and the Association

of Summer Olympic International Federations (ASOIF), represented by the presidency of the association, and the Association of the International Winter Sports Federations (AIWF) and the Association of National Olympic Committees (ANOC). The introduction of this agreement states:

“With the aim of resolving disputes in the field of sports, an arbitration institution called the Court of Arbitration for Sport (CAS) has been established and with the aim of ensuring the protection of the rights of the plaintiffs in the proceedings of this institution and the observance of complete neutrality by this institution, the parties to the agreement decided to establish an institution called the International Counsel of Arbitration for Sport” (7).

The eleven duties of this institution are listed in Article 6 of the Code of Arbitration for Sport, which is performed either by itself or by a board consisting of a chairman of the council, two vice-chairmen and two heads of the departments of the CAS. However, there are certain functions that the council may not separate. Any change in the Code of Arbitration for Sport can only be decided by a full meeting of council members, and in particular by the two-thirds of its members. In other cases, a simple majority is sufficient provided that at least half of the council members are present during the decision-making(8).

The main cases referred to the CAS include doping, disputes over contracts and player transfers, and

appeals against sports federation rulings. Performing all kinds of judicial actions causes the Court to use all judicial models. For example, when dealing with business matters such as player transfer, it becomes a civil court based on civil rights, and when dealing with decisions of sports bodies, it is based on executive law, and it is a criminal court when dealing with doping cases. It is also a civil court when resolving disputes between different institutions of the Olympic movement. In fact, the coexistence of different judicial models is observed in this International Court of Justice(9).

The ad hoc divisions of general arbitration are divided into two parts, “ordinary divisions” and “appeal divisions”. Ordinary arbitral divisions deal with disputes that are, firstly, directly or indirectly related to sports, and secondly, arising out of a contract or civil liability, such as sponsorship contracts or television broadcasting rights or player transfer contracts. However, the jurisdiction of the Court of Appeal is related to disputes that are directly or indirectly related to sports and, secondly, arise following the decision of the sports institution.

The important note to the wide definition of dispute is that, given Article 27 of Code of Sports-related Arbitration which uses the term “sport-related” to disputes(10), it should be considered that any sport-related disputes can be raised and dealt with in one of the two ordinary or appeal divisions, and it seems that this term includes a mixed kind of typical and personal criterion. In other words, it is

personal because sports actors can refer their disputes and lawsuits to the court and it is typical, which means it is possible that a person might not be an athlete but might have something to do with sports(6).

Also, during the Olympic games, special arbitration divisions are formed to expedite the settlement of disputes, in which only athletes and sports institutions and organizations can demand arbitration, unlike the normal and appeal arbitration divisions that handle disputes with a mixed criterion. In the Viking Case, for example, the special arbitration waived his jurisdiction to hear a company request(11). The other part of the court, which was established in 2016 in coincidence with the Rio Olympics, is the anti-doping department, which deals with issues related to doping during the world games.

National institutions for sports disputes resolution

Dispute resolution is independently and professionally an accepted part of the international sports bureaucracy and is developing in various national systems. This section examines the German and British national arbitration institutions and whether the establishment of such institutions has been effective in accelerating the process of sports disputes resolution.

The German Arbitration Center established the German Court of Arbitration for Sport in 2008. The idea of establishing an independent

arbitration court for sports-related issues was raised by “the German National Anti-Doping Agency (NADA)” in 2004. With this idea in mind, the agency sought to organize structures to combat doping in sports and to establish a court of arbitration for sports by obtaining a special legal authorization. At the time, the agency was working to create alternatives such as establishing a separate arbitral tribunal or working with an independent arbitral tribunal. However, given that the agency’s activities focused on investigating anti-doping violations, and that, a separate arbitral tribunal under the name of this agency could have been charged with impartiality, the agency decided to participate with the German Arbitration Center in the establishment of an independent arbitration center for German sports organizations and federations.

With the participation of these two institutions and in accordance with the requirements of the Code of the World Anti-Doping Agency and the German National Anti-Doping Agency in relation to violations of these rules, anti-doping regulations were proposed and comprehensive rules were provided to address other sport-related disputes. The German Court of Arbitration for Sport is a private institution, independent of the government, sports federations and associations, clubs, other agencies and athletes, and it is independent in terms of organizational status and economic affiliation. The purpose of establishing this court was to organize sports in Germany and to resolve sports-related issues through an

arbitration process, as well as to exclude state courts from the investigation process by the well-known sports law experts.

Early experience has shown that the Center of Sports Arbitration Rules provides a reliable framework for the efficiency, speed, independence and confidentiality of resolving disputes with respect to sport. But its impact on the development of sports law in Germany depends on its acceptance by all the parties involved in sport, and now, its growth in German sports is significantly felt. The arbitration rules of this court are tailored to the needs of the sports and can be applied to the various types of disputes related to the sport. These rules are regulated in accordance with the Center of Arbitration Rules of 1988, which the commercial disputes are dealt with in the courts in accordance with these regulations. The benefits and advantages of the arbitration process under this law are: the use of specialists and experts in sports affairs and the speed and confidentiality of the arbitration process [\(12\)](#).

The existence of an "arbitration agreement" is a prerequisite for the referral of arbitration to the German Center of Arbitration for Sport, which can be imagined in two ways: The first is based on a contract in the form of an arbitration agreement in accordance with the German Code of Civil Procedure (specially article 1029)[\(13\)](#) , and the second is by under statute, by last wills or other rulings not based on an agreement[\(13\)](#). The German

Arbitration Center recommends the following arbitration agreement:

"All disputes arising out of or in connection with this Agreement shall be settled in accordance with the Arbitration Rules for Sport relating to disputes relating to the German Arbitration Center without recourse to domestic courts."

In addition, the number of arbitrators, the applicable law and the language of the arbitration must be added to the agreement. Finally, the arbitration agreement must be set in writing, which means that the arbitration agreement must be included in one of the contracts of the parties or exchanged by the parties through another method (letter, fax or telegraph). Similar to the sample law, German arbitration law also recognizes this formal necessity.

The arbitration process begins with a petition. If the petition does not comply with the requirements of the Center's Arbitration Rules, the Center Secretariat shall request the applicant to make further amendments and shall set a limited time for this matter. If the amendments are not made within the stipulated time, the proceedings will be terminated without prejudice to the right of the plaintiff to re-request arbitration from the center[\(14\)](#). After completing the petition, the plaintiff must pay the administrative costs as well as the costs of the arbitrators. In disputes concerning violations of anti-doping rules, a request is sent to the German National Anti-Doping Agency. The court publishes a list of arbitrators

to be chosen by the parties to the dispute. This list includes people who specialize in sports law and have enough experience in the arbitration process. The party that must nominate an arbitrator may choose from this list, but is not mandatory.

The arbitration proceedings shall end with a final decision, but only if the plaintiff withdraws his claim before the pronouncement, or if the dispute is settled by other means prior to the pronouncement, or when the court closes the hearing due to a defect in the nomination of an arbitrator. In these cases, the proceedings will be terminated(article 39). The rulings of national institutions of arbitration for sport, including the German Court of Arbitration for Sport, cannot be finalized and, in accordance with the statutes of the International Sports Federations, deprive the parties of referring their disputes to the CAS. But in the meantime, an arbitral pronouncement issued in accordance with the rules of German arbitration for sport is final. There is an exception to this rule in disputes related to the violation of anti-doping rules, in which case the center sports arbitration rules, based on the requirements of the World Anti-Doping Agency Code, has provided for the review of the arbitration decision by the CAS. Therefore, considering this issue, the certainty of the ruling of this institution is something that Germany pays special attention to.

The “UK Sports Dispute Resolution Panel (SDRP)” was established in 1997 through nine

inclusive sports organizations in the UK. The establishment of this institution was mainly the brainchild of a British lawyer named Charles Woodhouse, who worked as a former legal adviser to the Commonwealth Games Federation (CGF). The London-based panel was established on June 1st, 2000, and in the same year opened the first case of infringement of an intellectual property rights of a sports organization in a dispute between the “National Governing Bodies (NGBs)” and the sponsor. It settled the dispute among the Trinidad and Tobago federation and its players over revenue sharing during the 2006 World Cup in Germany. In March 2008 the sports dispute resolution center moved to a new location on Fleet Street in London and adopted a new name as its brand, Sport Resolution (UK). It dealt with 19 cases during the 2012 London Olympics and Paralympics, including Aaron Cook and Taekwondo UK. In 2013, the panel launched a special sports research, review and planning service with the use of specialists to support children called the “National Safeguarding Panel (NSP)”.

It was set up to provide simple, independent and effective mechanisms for sport governing institutions, business organizations and individuals across the UK to resolve their disputes fairly, promptly and at a reasonable cost. The panel provides a variety of sports dispute resolution services in the UK through mediation, arbitration, litigation and executive services, also the National Anti-Doping Panel (NADP) independent services in case of doping

is the responsibility of this panel. Similar to the practice of the CAS, the panel raises non-binding advisory opinions in referred cases, which are of practical importance in assisting the parties in the disputes in identifying legal issues arising from their dispute. In this regard, there are rules on special advisory opinions that must be observed in such cases.

The components of the panel in the UK have many features in common, and the diverse dispute resolution services that they provide to the world of sports, as well as the rules and procedures of their operation are generally adapted from today's well-established and successful models, such as the CAS, which has certain norms in this field. Their goals are similar, as is the provision of mechanisms for resolving various types of sporting disputes, including commercial ones, which are fair, relatively cost-effective, fast, and effective methods, and the effectiveness of these methods extends to the range of authority and freedom of action of individuals. The mentioned goals have also been welcomed by athletes, teams, sports organizations and other related people and their representatives around the world. They are especially applicable in cases where there is a need for quick solutions due to deadlines, especially in disputes related to the competence.

The panel handles requests and referrals in more than 50 sports in the Olympics, Paralympics and other high-level competitions in the UK. Other disputes that are minor, called "grass roots" in the UK sports community are

also addressed by the panel. It offers its services through specific referees and mediators' divisions, all of whom specialize in their field and are hired for their unique understanding of the UK sports system. According to a report published by the European Commission in June 2016 entitled "Grassroots Sport-Shaping Europe", the sport is defined as follows: " Grassroots sport is physical leisure activity, organised and non-organised, practised regularly at a non-professional level for health, educational or social purposes"[\(15\)](#)

The members of the various divisions of the panel are committed to complying with certain behavioral regulations, the provisions of which also apply to all members of the arbitration divisions and any other divisions that operate temporarily by the panel. According to the regulations, all members are obliged to perform their duties "expeditiously and professionally" and also to announce, as soon as possible, anything that is considered contrary to their duties at the panel. In addition, the regulation states a "relation of trust and confidence" for members, which describes it as an important principle, and in accordance with the provisions of paragraph 3 of Article 3 of the regulation, any violation of this regulation may lead to an action against the relevant member. But this restriction by the panel does not mean complete withdrawal or termination of membership from the relevant divisions, but it is temporary.

It is noteworthy that this panel in the UK introduces itself as a non-profit

organization that, in addition to providing sports dispute resolution services for everyone in the UK and preventing the occurrence of sports disputes through education and information, intends to play a role as an excellent center for managing sports disputes and to introduce its vision as follows: protection, support and increase of honesty and trust in all aspects of sports at all levels(16). The British Sports Dispute Resolution Panel has a separate agreement for different types of dispute resolution methods, which shows the importance of this issue for the panel. Given the numerous sports disputes arising in the UK, it is important that these agreements are referred to mediation before referral to arbitration in some important sporting institutions, such as the British Olympic Committee. In the event of any dispute arising out of or in connection with this agreement, the parties shall first settle the dispute through the mediation procedure of the Dispute Resolution Panel, which shall be binding on the day on which the dispute is referred to mediation. Several companies and businesses in the UK that manufacture sports equipment and devices use a similar dispute resolution clause in their agreements. The British Olympic Committee has also included a standard and valid dispute resolution clause in its trade agreements: First, the priority is to refer to mediation, and if it fails or is not successful, then it can be referred to arbitration. This clause is as follows:

“In the event of a dispute or in connection with this agreement, which includes any request for its existence,

validity or termination, the parties shall first seek peacefully resolving the dispute with mediation in accordance with the mediation procedure in London on the date on which the dispute is referred to mediation.”

If the dispute is not resolved within 60 days of the referral to mediation or any other time agreed upon by the parties, the dispute shall be settled by arbitration in accordance with the rules of the Arbitration Panel. These regulations are considered by taking into account the following phrases:

- 1- The number of referees must be one
- 2- The place of arbitration must be London
- 3- This agreement is the executor and ruler and must be interpreted according to the law of England (16).

Status quo of handling sports disputes in Iran

Considering that football is a popular sport in the world as well as in Iran, we will deal with the structure of resolving football disputes in Iran. There are a number of judicial and non-judicial authorities in the Football Federation to deal with disputes and violations. Pursuant to Article 6 of the Disciplinary Regulations adopted in 2018, the three elements of Disciplinary Committee, the Ethics Committee and the Appeals Committee, are recognized as the judicial pillars of the Federation. The players' status committee is known as a non-judicial authority of the Football Federation, which will be mentioned below.

Disciplinary Committee

According to the new disciplinary regulations, the competence of the disciplinary committee is divided into two types: The general and specific. According to Article 12 of these regulations:

“General jurisdiction includes the investigation of violations that cause violations of the statute or other rules, regulations, directives, instructions or decisions of the Football Federation, FIFA, the Asian Football Confederation and the rules of the football match and that is not in the special competence of other football authorities.”

According to Article 13, the special competencies of the Disciplinary Committee are:

“1- Punishment of serious violations that are hidden from the officials of the competition. 2- Correction of the referee's obvious mistakes in disciplinary decisions. 3- Extending the period of suspension due to dismissal by the referee. 4- Determining additional (more) punishments, such as fines, etc.”

Ethics Committee

According to Article 61 of the statute, the football federation's ethics committee, along with the disciplinary committee and the appeals committee, are introduced as the federation's judicial bodies. The purpose of forming this committee, according to FIFA's decision, is to preserve and protect football and to confront any action that damages the football and its values [\(17\)](#). The ethics committee has been formed

to preserve the football and the following goals can be considered for this committee:

- 1- Improvement
- 2- Helping the health of the competitions and ensuring that the results are true
- 3- Trying to improve the reputation of the country's football players
- 4- Developing sound communications between all actors of football sport
- 5- Supporting professional football ethics

Appeals against the votes cast in these two committees will be considered by the Federation Appeals Committee [\(18\)](#).

Player Status Committee

Although Article 41 of the Football Federation's statute introduced the Players' Status Committee as one of the federation's standing committees, no practical action had been taken by the federation to formally form the committee until 2017. In 2017, something happened to Esteghlal and Traktorsazi that the need for a specialized committee in the Football Federation to monitor the proper implementation of FIFA transfer rules and internal transfer rules, as well as the settlement of disputes in a professional manner, was felt more than ever. As a result, after a long process and the imposition of various suspensions and penalties for Iranian clubs by FIFA, the Football Federation decided to establish an authority to more closely monitor the

implementation of transfer rules and to resolve disputes professionally. Thus, in June 2017, with the approval of the new transfer regulations and the procedure, the players' status committee officially began its work (19).

Pursuant to Article 50 of the Football Federation Statute, this committee is responsible for legal matters and overseeing the implementation of regulations relating to the internal and external transfers of players and the relationship between agencies in accordance with FIFA rules and regulations approved by the federation. Problems and complaints of members, players, coaches, managers, officials, tournament staff and agencies should be resolved by the Dispute Resolution Board of this committee and in accordance with its special regulations.

Pursuant to Article 25 of the Transfer Regulations approved in 2017, in Articles 25 and 26, the following matters have been entrusted to the Players Status Committee:

- 1- Disputes between players and clubs regarding the fulfillment of contractual obligations, maintaining the stability of contracts, breach of contracts, termination of contracts, sports penalties and determination of compensation.
- 2- Conflicts between clubs regarding the right to education and its division.
- 3- Other legal disputes related to the field of transfers between clubs, which is not mentioned above.

- 4- Disputes of other persons, including managers, technical, medical, service staff, and team supervisor and clubs.
- 5- Disputes between official transfer intermediaries and official agents of matches with players, coaches and clubs.
- 6- Examining the authenticity of the contracts and terminating it in order to maintain the sports health of the competitions.

Among the positive actions taken after the formation of this committee are the followings:

- 1- Precise monitoring of the internal and external debt situation of clubs
- 2- Execution of votes within the legally prescribed time limit and helping not to accumulate the club's debt, as well as creating trust for individuals to achieve their rights and entitlements
- 3- Issuing votes in accordance with the judicial procedure of the FIFA Dispute Resolution Chamber, the Players Status Committee, as well as the CAS, which has caused the clubs to comply with international regulations (19).

Powers and competencies of the National Court of Arbitration for Sport

In Iran, arbitration in resolving disputes had not been considered before and the use of arbitration has been considered for some time. For example, the focus of the Ministry of Sports and Youth in the first conference on the national sports rights in 2015 is related to this issue. At present, sports

disputes in Iran are resolved through the federations themselves through the disciplinary means. According to the general regulations of sports competitions (1995), the mentioned committees are considered as an independent institution in handling sports disputes. According to Article 42 of the Statute of the Olympic Committee of Iran, all disputes regarding sports are first examined in the Sports Law Commission. However, it seems that an institution that has a supervisory role, except for the existence of such an arbitral tribunal in the country, cannot handle sports disputes, and the committees within the federations themselves should take charge, and this article seems to be a point of contention.

The formation of a national institution of arbitration in Iran, considering the focus of formal and informal institutions on this field, the establishment of which is imminent, has advantages, obstacles and challenges, which are to be briefly mentioned in this section.

Powers and competencies

The model of most national arbitration authorities in the countries that have established this institution is the CAS. Some countries have placed their arbitration system next to the CAS, on the basis of which it is possible to appeal the votes to the CAS. It seems that the authority of this institution in Iran should be based on the CAS and the legal structure of our country. To create such competence and authority, the following items in the domestic legal system seem useful:

Inserting the competence of the National Institution of Arbitration in regulations and contracts

Due to the fact that the parties cannot be the arbitrators of their disputes, the existence of a certain mechanism, including the appointment of referees and the procedure for appointing referees in sports contracts, is essential. However, regarding the jurisdiction of this court, it can be said that according to the principles of domestic law and the experience of different countries that established such a court, this court will potentially replace the judicial organs of the federations. Regarding the philosophy of forming this institution, which is to prevent litigation in the CAS, it can be said that the decision of the National Institution of Arbitration for Sport, in addition to what was said about the benefits of arbitration, was final and binding. But in specified cases according to the statute, which has not yet been approved, the appeal of the votes can be considered.

Development of arbitration rules independently in sports

If the rules of arbitration in sports are silent, it is not possible to refer to the rules of civil procedure, because this method will be very time consuming and will cause inefficiency in the field of sports law. Therefore, it is necessary to formulate comprehensive arbitration regulations for the National Institution of Arbitration for Sport. Although all the National Institutions of Arbitration for Sport in other countries have considered the authority to

mediate, according to current Iranian regulations, the referee is required to issue an arbitration order and is not allowed to prepare a correction report that is inconsistent with the nature of sports disputes. In this institution, whether the process of selecting sport specialists is subject to the rules of civil procedure (or not), it seems that a separate process should be considered so that the rules of civil procedure are not involved.

Removing barriers to referring sports disputes to arbitration

According to the content of Principle 139 of the Constitution of Islamic Republic of Iran and Article 457 of the Code of Civil Procedure, what the status of referring disputes to the National Institution of Arbitration for Sport will be, if one of the parties is recognized as a legal entity of the government and the public or state property is the subject of litigation. This is especially the case for the clubs that have not yet been privatized; such as Esteghlal and Persepolis that may have to pay during disputes with other clubs or individuals (1).

Challenges

In this section, the most important challenges facing the establishment of this institution in Iran are pointed out.

The Independence of National Institution of Arbitration for Sport

Independence is one of the most important conditions for the establishment of this institution. The

establishment of this institution is the result of the participation of actors in the field of sports, including the National Olympic Committee, sports federations, athletes and public sports officials in this field, who can participate in most sports disputes. The issue that the CAS has faced during these three decades of its activity is the involvement of various international sports institutions, including the International Olympic Committee. In this issue, some cases have been raised which included the case of Elmar Gundel which has led to several revisions in the regulations of the International Council for Sport. Therefore, it seems that in order to establish this institution, a private institution that operates under the auspices of the National Olympic Committee should be considered, because if it is a subset of a government institution, it is naturally considered with the nature of its formation as an independent institution in decision-making and voting. This fundamental problem in the establishment of this institution in Iran must be taken seriously so that no individual may suffer from the public distrust of athletes and clubs in this institution.

Lack of specialists in the field of sports law

One of the basic challenges in Iranian sports is, currently, the lack of legal experts in this field. Due to the fact that sports law is not covered in Iranian universities, few researchers have specifically addressed this field; as a result, few people have specialized in this field. Failure to use these people has caused federations and clubs to face

various legal cases at the international and domestic levels. The lack of familiarity with the regulations has caused many legal problems and a lot of costs for clubs and sports community in Iran highlighting that we should take special measures to train these specialists.

Intervention of the national courts in the arbitration process

The philosophy of less court intervention in arbitration is based on two factors: first, encouraging arbitration in countries by limiting the government intervention, and, secondly, reducing the intervention of courts in line with the existing procedure in the international system with the aim of accelerating the arbitration process⁽²⁰⁾. There is a general principle in sport saying that all sports disputes should be handled within sports dispute resolution institutions and should not even be referred to the public courts. According to the general rule in the Iranian law, when the law governing the arbitration contract is based on the Iranian law, there is a possibility of annulment of the arbitrator's decision in the courts, and this will greatly damage the certainty of the arbitration process in sports disputes in which time plays an important role and will undermine the credibility of the arbitration institutions. Furthermore, this intervention can be considered important in issues such as injuring the arbitrator, issuing an interim injunction, appointing an arbitrator of the abstaining party, vote opposing with public order and even enforcing the arbitral votes.

Conclusion

The establishment of a National Institution of Arbitration for Sport has always been of interest to sports practitioners and lawyers due to the small increase in cases and the specialization of resolving sports disputes. Considering the structure and, of course, the jurisprudence of the International Court of Arbitration for Sport (CAS), the national courts and centers for resolving sports disputes, a good model for the establishment of such an institution is in access. This institution has been currently formed with the presence of lawyers specializing in sports law in a number of countries, and one of the most successful experiences is the Sport Resolutions UK. This authority has been able to act as a judicial arm of a number of international federations in various cases, including doping. In Iran, such an institution can be established by following the similar experiences. Of course, as mentioned, there are several problems in this direction, the most important of which is the expertise and the use of experienced sports jurists who can rely on the jurisprudence of international authorities such as FIFA and CAS to create a desirable and acceptable procedure. It is worth noting that the mandatory jurisdiction of the National Court will be subject to the provision of jurisdiction in the statutes of domestic federations. The Court can act both as a settlement agency and as an authority to issue advisory opinions to the national federations.

Ethical Considerations

Compliance with ethical guidelines

This article does not contain any studies with human participants or animals performed by any of the authors.

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