DOI https://doi.org/10.30525/978-9934-26-284-5-2

SPORTS JURISDICTION AS THE MAIN WAY OF PROTECTING THE RIGHTS OF THE SUBJECTS OF SPORTS LEGAL RELATIONS

Aparov A. M.

INTRODUCTION

A proper understanding of the legal subject offered in this column, one way or another, requires a fixation and review of the general provisions of sports law as a relatively new branch of the legal system, with a subsequent transition to an overview of the subtleties of the legal aspects of the institution of sports jurisdiction as one of the main ways of protecting the rights of the subjects of sports legal relations. Moreover, we emphasize that the latter is the most efficient and high-quality way of protecting the rights and interests of the subjects of sports legal relations and is directly related to the organization and implementation of activities by general and special jurisdictional bodies for the protection and protection of rights.

We also note that a proper understanding of the subject of this work requires the mastery of such blocks of legal issues as the peculiarities of consideration of sports disputes in bodies of general sports jurisdiction and the procedure for consideration of cases in bodies of special sports jurisdiction. At the same time, the key concepts in the work are sports dispute, protection of rights, sports process, sports-procedural relations, sports jurisdiction, civil jurisdiction, administrative jurisdiction, economic jurisdiction, control-disciplinary committee, appeal committee, International Court of Arbitration for Sport in city of Lausanne (CAS), etc. We also note that in this work we are talking about such institutes of sports law as the institute of legal protection of subjects of sports law and the institute of sports process and dispute resolution in the field of physical culture and sports. Moreover, the scope of the content of the above-mentioned covers the issue of sports jurisdiction as one of the key ways of protecting the rights of the subjects of sports legal relations.

The acquisition of independence by Ukraine at the time initiated the rapid development of the national branches of science, education and culture, in connection with which the subsequent change in the ideology and worldview of an individual created sufficient opportunities for revising theories, concepts and approaches in all spheres of human life, including in the field of sports. As a result, the rapid development of legal sciences began and the creation of new branches of legal knowledge based on them, in particular, the field of

sports law as a new direction in Ukrainian jurisprudence, which covers social relations that arise and develop in the field of physical culture and health activities and sports.

In turn, the multifacetedness and personal peculiarity of each type of sport and types of physical, recreational, and cultural activities led to the development of a number of legal mechanisms for their regulation and corresponding normative and legal sources of their fixation. In the latter case, we are talking about the so-called sports legislation, which regulates sports social relations.

One way or another, the basis of the development of sports social relations is physical culture, recreational, and sports activities related to a person's right to free access to physical education and sports as necessary for his development and the development of his personality. This, among other things, was substantiated in the International Charter of Physical Education and Sports, which was adopted on 21 November 1978 at the General Conference of the United Nations Organization on Education, Science and Culture in Paris.

1. Sports law general provisions. Sports disputes

The concept of physical culture is related to the activity of subjects in the field of physical culture and sports, which is aimed at ensuring the motor activity of people for the purpose of their harmonious, primarily physical, development and leading a healthy lifestyle.

In turn, sport should be considered as an activity of subjects in the field of physical culture and sports, aimed at identifying and unified comparison of people's achievements in physical, intellectual and other preparedness by conducting sports competitions and corresponding preparation for them.

Generalized the concept of physical-recreational and sports activities should be understood as a set of creative, universal, purposeful measures, during which objects, processes and phenomena of natural and social origin, based on the combination of private and public interests, can be changed and can be carried out professionally by the subjects of the sphere of physical culture and sports for the development of physical culture and are aimed at ensuring the motor activity of people in order to harmonize, primarily physical, development and conduct of a healthy lifestyle to identify and a unified comparison of people's achievements in physical, intellectual and other preparedness by conducting physical-recreational and sports events and ensuring appropriate preparation for them.

As already known, the result of the development of legal regulation of sports social relations is the formation of the sports law field. Accordingly, sports law is a complex branch of Ukrainian law, which in terms of content

and form is a set of legal norms that regulate the organizational, social and economic bases of activity in the field of physical culture and sports, social relations that arise when creating conditions for the development of physical culture and sports, economic, property, labour and financial social relations related to them, which arise in connection with the organization and conduct of targeted physical culture, recreational and sports events of a commercial and non-commercial direction, relations between subjects of the sphere of physical culture and sports, who have an amateur or professional status or are engaged in physical culture and sports to satisfy their personal needs, as well as relations between organizers of physical culture and recreational or sports events. Currently, the key features of the indicated branch of the legal system are complexity, relative independence, institutionalization and sectorality.

The subject of regulation of the norms of sports law is sports legal relationships – social relations that arise between the subjects of the field of physical culture and sports in the process of carrying out physical-recreational and sports activities, which includes physical education of different groups of the population, mass sports, physical and sports rehabilitation, children's and youth sports, sports of higher achievements, professional sports, Olympic sports, etc., and which are regulated by special norms of sports law.

In turn, the norm of sports law is a written and obligatory rule of behaviour aimed at regulating social relations that arise between the subjects of sports law in the process of organization and implementation and termination of subjects of physical culture and sports, as well as in connection with the state management in this field.

Like any other field of law, sports law is a complex holistic system with a certain internal structure, which includes several blocks of institutional-legal regulation. The institute for legal protection of sports law subjects and the institute of sports process and the settlement of disputes in the field of physical culture and sports occupy their individual and special place among the latter. Moreover, the content of the specified ones also covers the issues of sports jurisdiction.

Legal issues of jurisdiction are one of the cornerstones in the theory of law as a whole and in the legal profession and deontology in particular, because it concerns the topics of protection of rights, freedoms, legitimate interests of individuals and legal entities within any legal and other systems. Sphere of sports and sports social relations is not an exception, where the problems of protecting the rights and legitimate interests of sportsmen and other sports law entities are often associated with significant diversity, and sometimes contradiction in their nature, which can cause or as a consequence to generate cases of various sports and other disputes, as well as situations of deviation of

the behaviour of the subjects from the rules agreed in this area, the provisions of sports or other legislation and, in addition, cases of offenses.

Protection of the right should be understood as a set of legal measures aimed at stopping and eliminating existing violations of rights and legal interests and, accordingly, the application of appropriate measures in this connection aimed at restoring the legal position of the victim of the offense. In its essence, the issue of legal protection is covered by the category of protection of law[1].

The institute for the protection of sports rights and interests has a complex-sectoral legal character, because the content, forms, means and procedures of such protection are determined by the norms of various branches of law, in particular material and procedural.

Having mentioned the rights and legitimate interests as a kind of objects of protection, it is advisable to provide an understanding of them:

– rights are normatively established by law limits of permitted behaviour of an individual or legal entity, which corresponds to opposite legal prescriptions regarding the corresponding opposite behaviour of other subjects;

– legitimate interests are measures of permissible behaviour established by law for the subject, which, however, are devoid of a clear legal prescription about the corresponding counter-behaviour of other subjects.

In legal theory, the protection of rights and interests is traditionally classified into jurisdictional and non-jurisdictional.

Thus, jurisdictional protection includes the set of powers and competences of authorized state authorities to resolve legal issues and disputes (including the activities of competent authorities to protect the rights and legitimate interests of legal subjects), as well as issues of legal responsibility (including activities of competent authorities to stop and eliminate existing violations of rights and legitimate interests and to apply appropriate measures in connection with this, aimed at restoring the legal position of the victims). By the way, the sports process as a mechanism of legal protection should be attributed to the jurisdictional type of legal protection.

Non-jurisdictional protection reflects the independent activity of individuals and legal entities aimed at protecting their own rights and legitimate interests.

Accordingly, jurisdictional protection is carried out by state and other bodies and people that may be specially created and authorized for such activity, as well as carry it out along with other main activities. As for the

---

[1] Апаров А. М. , Онищенко О. М. Господарське право України : навчальний посібник з основ теорії, практики та проблематики навчальної дисципліни (ключові пояснення, тлумачення, рекомендації). Київ : Видавничий дім «Кий», 2022. С. 219–220.

latter, this is quite clearly visible in the field of physical culture and sports: sports arbitration bodies at sports federations, sports disciplinary commissions, etc. State jurisdictional bodies primarily include courts of general jurisdiction that hear civil and labour cases.

According to the theory of law, general (judicial, arbitration) and special (administrative, notary, executive) protection procedures are distinguished within the jurisdictional form of protection, non-jurisdictional – self-defence, mediation, etc.

In the context of the key regulatory principles of the concept of protection of rights and legitimate interests, it will be appropriate to mention the provisions of Art. 55 of the Constitution of Ukraine[2], according to which everyone has the right to protect their rights and freedoms from violations and illegal encroachments by any means not prohibited by law.

We note that it is obvious that the basis for the protection of economic rights and interests is, as a rule, violation, non-recognition or contestation of such rights and/or interests. At the same time, if the violation is substantively related to the commission of an act that violates the norms of law and the rights and legitimate interests of the subjects, then non-recognition and contestation presuppose the presence of disputed situations between the subjects. In a more meaningful context, we note the following in relation to the indicated categories.

Violation of rights and interests is the basis for the application of legal responsibility, which in this case serves as a means of protection and restoration of violated legal norms and subjective rights. Moreover, it is the application of measures of legal responsibility for violation of legal norms and subjective rights and interests, as a rule, related to the activities of jurisdictional subjects in accordance with the limits of their competence and jurisdiction.

In a general sense, legal responsibility involves a set of measures of legal coercion for the committed offense and the offender. Depending on the branch structure of law, legal responsibility is divided into constitutional, material, disciplinary, administrative, civil and criminal.

It is worth noting that responsibility in the field of physical culture and sports must also be defined as legal. Even in the case when we are talking about the corporate rule-making of subjects in the field of sports, it is necessary to remember that their rules are sanctioned by the state (from the types of sports recognized in Ukraine).

In accordance with the normative principles of legal regulation of the field of sports, individuals guilty of violating legislation in the field of physical

---

[2] Конституція України від 28 червня 1996 року. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

culture and sports bear civil, disciplinary, administrative or criminal liability in accordance with the law and in accordance with the decisions of competent entities within their jurisdiction, more details are discussed below.

As already mentioned, the protection of sports rights and interests is carried out also within the framework of disputed situations. In particular, during the implementation of specific legal norms regulating social relations that arise in the field of physical culture and sports, there may be certain controversial legal situations for the resolution of which, as well as for the above-mentioned cases of committing offenses and non-recognition of subjective rights and interests, as well as violations of the norms of sports law, general judicial and law enforcement bodies (courts of general jurisdiction, prosecutor's office, state executive service, etc.), as well as special sports arbitration entities (in football, for example, CDC, AC, sports agents, international sports court in Lausanne, etc.).

The majority of disputes in physical culture and sports legal relations are related to professional sports, since the commercial component present in professional sports activities causes a conflict of interests of individual subjects.

Sportsmen, as subjects of sports legal relations, sometimes turn to courts of general jurisdiction for help in resolving issues related to contracts (primarily with wages), transfers to another team, sportsman (player) status, admission to participation in competitions, use of doping, insurance, accidents, etc. (the case of V. V. Vashchuk versus. FC Dynamo Kyiv regarding the club's falsification of his signature on the employment contract of 4 November 2002[3] or the case of Jadson FC Shakhtar versus the Orkut social network, which was created by Google regarding the misuse of its image in the social network[4].

However, consideration and resolution of sports disputes with the help of special sports arbitration bodies (domestic jurisdictional bodies, arbitration courts) is the most efficient and high-quality way of their development and is also an element of a kind of sports corporate ethics.

Sports disputes arise and exist in connection with the lack of a common understanding of the application of norms among the subjects of sports legal relations regarding the issues of proper exercise of rights and performance of duties in the field of sports or due to the fact that there may be irreparable consequences of the misconduct of one of the participants in the conflict, and

---

[3] Справа Ващук В. В. проти ЗАТ «ФК «Динамо Київ» стосовно фальсифікації клубом його підпису на трудовому контракті від 4 листопада 2002 року. URL: http://www.ua-football.com/ukrainian/news/3E290625.html.

[4] Справа Жадсона ФК «Шахтар» проти на соціальної мережі orkut, яка створена компанією Google щодо неправомірного використання свого образу в соціальній мережі. URL: http://prosport-ru.tsn.ua/sport/futbolist-shahtera-podal-v-sud-na-sotsialnuyu-set.html.

such behaviour can be recognized as unsportsmanlike. Thus, if the conflicting parties cannot independently settle the dispute that has arisen between them in a peaceful way, the conflict turns into a legal dispute. It is possible to resolve a sports dispute either by involving third parties (an independent expert, intermediary agent, etc.), or by applying to a competent body – a court of general jurisdiction or a special sports arbitration body.

As a generalization, we note that a sports dispute is a legal dispute between subjects participating in sports relations regarding mutual rights and obligations, as well as their disputes arising from relations that are not sports, but have an impact on the rights and duties of sportsmen and other subjects of sports relations or related to them.

Features of sports disputes are:

– they are mediated by the norms of various branches of law (in addition to the norms of civil and economic law, which determine the legal status of organizations in the field of professional sports, there are also norms of administrative, labour, financial law, etc.);

– they are characterized by the specificity of the subjects of a sports dispute and the diversity of their activities (the main subjects of a sports dispute are sportsmen, sports federations, sports leagues, sports teams, agents, trainers, sports doctors, TV and radio channels, sponsors, manufacturers of sports clothing, etc.);

– they are diverse in their types (there is no single classification of sports disputes, and therefore it is impossible to differentiate them in practice, in order to choose the most optimal way of solving them).

Depending on the legal status of the sportsman within the framework of a specific legal relationship, sports disputes are divided into:

– general (sportsmen act as subjects of labour, family, land, and property legal relations, and disputes involving them are considered in compliance with the general rules of subordination and jurisdiction by courts of general jurisdiction);

– special (sportsmen act as subjects of sports relations formed in the process of the sportsmen's preparation and participation in competitions, as well as the participation of legal entities in activities related to the organization and holding of sports competitions at the national and international levels. Such disputes are considered mainly by sports arbitration bodies, but their review by courts of general jurisdiction is not excluded).

Depending on the status of the sportsman, sports disputes are divided into disputes involving professional sportsmen and disputes involving amateur sportsmen.

Based on the level at which the dispute arose, sports disputes are divided into national and international.

Courts of general jurisdiction, arbitration courts, sports arbitration bodies, bodies of international sports arbitration may be involved in the process of settling and resolving disputes in the field of physical culture and sports. However, the process of considering disputes in courts of general jurisdiction is more strictly regulated than in the field of, for example, professional sports. Institutes of sports arbitration are still in the stage of formation and development of a unified procedural practice, and therefore the appeal of subjects of sports legal relations to the system of courts of general jurisdiction is to some extent justified.

Disputes in the field of physical education and sports may arise in relation to: property rights and interests of subjects of sports activities; determining the status and order of transitions (transfers) of sportsmen; labour relations; agency activity; sponsorship contracts; rights to telecast sports events; contractual and other civil legal relations in the field of physical culture and sports. The above-mentioned bodies are called to settle controversial issues arising in the field of physical education and sports. In interaction with interested people, these bodies determine the creation and development of the sports process by their activities.

We would like to remind you that in order to protect the violated or contested right, appropriate legal mechanisms are established by legislation, which should be referred to such a legal concept as jurisdictional and non-jurisdictional protection of the right. It is the sports process as a mechanism of legal protection that should be classified as a jurisdictional type of legal protection.

Jurisdictional protection, as we already know, is carried out by state and other bodies and individuals. They can be specially created and authorized for such activity, as well as carry it out along with another, basic activity. As for the latter, this is clearly visible in the field of physical culture and sports: sports arbitration bodies at sports federations, sports disciplinary commissions, etc. State jurisdictional bodies primarily include courts of general jurisdiction that hear civil and labour cases.

The essence of the sports process is expressed in the implementation of fair, impartial, open justice only by a court or a specially authorized body of sports arbitration through consideration and resolution in court (arbitration) sessions of cases related to the protection of the rights and legitimate interests of people engaged in activities in the field of physical culture and sports – individuals and legal entities.

The sports process is the procedure for conducting cases in courts of general jurisdiction and sports arbitration bodies regulated by the norms of civil and sports procedural law, which is determined by a system of interrelated civil and procedural rights and obligations and procedural actions

implemented by their subjects: courts, sports arbitration bodies and process participants.

The sports process is an institution of sports law, which includes a set of procedural norms located in a defined system that regulate social relations in the sphere of justice or the resolution of disputed situations by courts of general jurisdiction and sports arbitration bodies.

The procedural rights and obligations are established for the participants in the sports process by the rules of civil and sports procedural law. Thus, a court of general jurisdiction or a sports arbitration body has the right to consider and decide cases that are assigned to its jurisdiction. It is responsible to the state and society for the quality of the administration of justice. The court or sports arbitration body is vested with authority over other participants in the process. At the same time, it is obliged to strictly observe the procedural rights of the people involved in the case and the rights of other participants in the process.

Individuals and legal entities have the right to participate in the sports process, file petitions, prove the grounds for their claims, appeal the decision made by the court or sports arbitration body, and participate in its implementation. Along with a set of procedural rights, they also bear procedural duties: conscientiously use their procedural rights, pay court costs (arbitration fees), appear when summoned by a court or a sports arbitration body, and provide evidence.

The procedural action of one or another participant in the sports process acts as a result of his exercise of procedural rights and fulfilment of duties provided for by the law or regulations of the sports arbitration body.

Norms of sports procedural law determine the entire course of the court or arbitration process, establish for each subject of sports procedural relations a measure of proper and possible behaviour.

The object of legal regulation of the sports process is social relations in the field of sports justice.

The sports process has its subject and method. The subject of a sports process as an activity of a court or a sports arbitration body for the administration of justice, implemented in a defined procedural form, is specific cases.

The subject of the sports process includes:

– the system of procedural actions performed by the court, the sports arbitration body and the participants in the sports process;

– content, form, conditions of execution of procedural actions;

– the system of sports procedural rights and obligations of the subjects of legal relations, which determine the content of sports procedural actions;

– guarantees of implementation of sports procedural rights and obligations and implementation of procedural decisions.

On the one hand, the emergence of the sports process, its development, the transition from one stage to another depends on the will of the interested parties. On the other hand, the mandatory main subject of sports procedural relations is a court or a sports arbitration body, which makes an authoritative decision that is subject to compulsory execution in necessary cases.

These features indicate the existence of a legal regulation method as an element of the sports process.

The sports process method is a set of ways and means of influencing the behaviour of relevant specific subjects in specific procedural legal relations established in the norms of sports procedural law.

According to the generally accepted classification, imperative and dispositive methods of legal regulation of relations are distinguished.

The imperative method of influencing the subjects' behaviour of regulated relations is enshrined in legal norms that establish clearly defined rules of conduct, categorical prescriptions – obligations, prohibitions and coercion:

– obligation – the obligation of specific active behaviour;

– prohibition of certain actions and inaction;

– coercion – influence aimed at ensuring the implementation of the rules of individual norms of the sports process.

The forms of imperativeness expression are categorical prescription, determination of quantitative (terms, sizes, periodicity, shares) and qualitative (description of foreseen actions and order of their execution) conditions of application and method of implementation of the legal norm.

The dispositive method is characterized by permission and determined by the rights of the subjects of sports procedural legal relations to active behaviour within the limits established by procedural norms, or refraining from it at their own discretion.

The permission method is widely used in the rules of sports procedural law, which define the procedural-legal position of the parties and other people participating in the case. The parties are endowed with broad procedural powers to protect subjective material rights, the implementation of which is possible at their discretion on the basis of free expression of a will and is ensured by a system of necessary procedural guarantees. So, the dispositive method characterizes permission for active behaviour of subjects of sports procedural legal relations.

At the same time, the analysis of legal relations in the field of the sports process allows us to conclude that the main method of the sports process is a combined imperative-dispositive method, in which power relations are combined with freedom, equality and the possibility of choosing the

appropriate lawful behaviour (Article 30 of the FIFA Regulations on to players' agents, approved by the FIFA Executive Committee on 29 October 2007[5]).

The sports process method is also characterized by a separate type of legal facts – procedural actions of the court, sports arbitration body and people participating in the case, which depend on the emergence and development of procedural legal relations and which are means of exercising procedural rights and fulfilling obligations. Procedural sanctions serve as guarantees of their implementation. They establish legal consequences for violation of rights and non-fulfilment of duties.

Therefore, the method of legal regulation of the sports process is imperative-dispositive in its content and is ensured by such methods of influencing legal relations and the behaviour of its subjects as obligations, prohibitions, coercion and permission.

The primary element of the sports process is procedural norms. Norms of the sports process are universally binding rules established by the state, a subject of the field of physical culture and sports, an international sports organization, which regulate the procedure for the administration of justice and are determined by the system of procedural actions performed by the subjects of sports procedural legal relations, and the system of their procedural rights and duties, the implementation of which is ensured by procedural means (guarantees) determined by legislation and regulations. Norms of the sports process are classified: by content; by the sphere of application; by the method of influencing the behaviour of authorized persons.

According to their content, the norms of sports procedural law are divided into regulatory and definitive. Regulatory establish the conduct rules of specific subjects of the sports process: a court of general jurisdiction, a sports arbitration body, participants in the process.

Definitive norms determine the tasks of the sports process, formulate its principles and institutions, define procedural concepts.

According to the scope of application, the norms of the sports process are divided into general, special and exclusive. The general rules are relevant for all types of proceedings and all stages of the sports process. Special norms regulate the rights, obligations and procedural actions of subjects of sports procedural legal relations only at a certain stage of judicial development – at the stage of consideration of the case on the merits or at the stage of appeal, etc. or at the consideration of a certain category of cases. Exceptional norms are aimed at specifying, supplementing general and special norms and establish exceptions to them.

---

[5] Регламент ФІФА по агентам гравців від 29 жовтня 2007 року. URL: http://pfl.ua/docs/FIFA_Regl_agent.pdf.

According to the method of influencing the behaviour of authorized people, the norms of the sports process are divided into imperative and dispositive. Imperatives, again, establish obligations, prohibitions, coercion, and supplementing them, dispositive norms determine the rights of subjects of sports procedural legal relations and the content of their active behaviour within the limits defined by the norms themselves.

The norms of the sports process are characterized by:

– a circle of people (subjects in the field of physical culture and sports – individuals and legal entities);

– action in time (conducting the sports process is carried out in accordance with the procedural laws, regulations, arbitration agreements that are in force during the consideration of the case, the implementation of individual procedural actions);

– action in space (proceedings in courts of general jurisdiction, sports arbitration bodies, including international ones are carried out taking into account the legal force of the relevant procedural document and within the boundaries of a clearly defined territory where a sports offense was committed or a dispute arose).

Therefore, the norms of the sports process can be established both at the legislative level (such as the Civil Procedure Code of Ukraine, which regulates procedural relations in courts of general jurisdiction), and at the level of subjects in the field of physical culture and sports (Disciplinary rules of the FFU, adopted by the Executive Committee FFU on 11 June 2009[6], etc.).

The sports process is built on the basis of basic principles and ideas, in other words, on the principles of the sports process. The term “principle” in translation from Latin means “foundation, basis”. In the principles in a concentrated form, the basic principles of the law functioning and the implementation of judicial proceedings are fixed.

The importance of the sports process principles is determined by their influence on the rule-making and law enforcement activities of courts of general jurisdiction or sports arbitration bodies. When developing the norms of current legislation or norms of sports regulatory law, during their enforcement, no contradictions regarding the principles of the sports process can be allowed.

The principles of sports procedural law determine the main forms of activity of the court, sports arbitration bodies and other participants in the sports process, and their violation, as a rule, leads to a change in procedural decisions.

The main principles of the sports process should include:

---

[6] Дисциплінарні правила ФФУ від 11 червня 2009 року. URL: http://pfl.ua/docs/FFU_Disc_rules_2009.pdf.

– the principle of dispositiveness (who wants to exercise his right, must take care of it himself; the person to whom the right belongs can refuse it; no one can be forced to file a lawsuit (complaint) against his will – there is no judge (arbitrator) without a plaintiff; the court (arbitrator) must not go beyond the requirements of the parties, with exceptions established by law (regulations, statutes));

– the principle of competition (consists in a competitive form of initiative and activity of people participating in the case and the court (arbitration) in the exercise of rights and performance of duties in determining the range of circumstances that are important for the resolution of the case, as well as in collecting, researching and evaluation of evidence that confirms or refutes these circumstances);

– the principle of procedural equality of the parties (establishes equal opportunities for the parties to exercise their procedural rights and fulfil their obligations);

– the principle of the oral form of case consideration (case consideration is conducted orally, the procedural activity of judges (arbitrators) and trial participants takes place in verbal form);

– the principle of a rational procedural form (consists in creating the most favourable order for the procedural activity of the court (arbitration), for access to the sports process in the case of interested people and their procedural activity);

– the principle of immediacy of consideration of cases, the court (arbitration) when considering the case should, as a rule, perceive the evidence in the case from primary sources and examine them directly. It is not allowed to delegate the powers of the court (arbitration) to other bodies (organizations);

– the principle of efficiency (consists in the fact that it is a legal requirement that ensures the timeliness of consideration and resolution of cases within time limits through the most complete and rational use of procedural means aimed at their quick and correct resolution);

Therefore, the principles of the sports process regulate social relations that arise during the consideration and resolution of cases, as well as the review of court (arbitration) decisions in the sports process.

During the consideration and resolution of cases in the sports process, social relations arise between the court (arbitration) and other participants in this process. These relations are regulated by the norms of sports procedural law and are sports procedural legal relations.

Sports-procedural legal relations are a variety of legal relations that arise in the process of sports justice on the basis of sports procedural law rules

between only two subjects – the court (arbitrator) that hears the case and any other participant in the process.

Sports procedural legal relations cannot be formed between the participants of the process outside the court (arbitration). This is due to the fact that the sports process does not give the participants of the process any rights and does not impose any obligations on them in relation to each other. Since there are no procedural obligations of the participants in the process relative to each other, there are no legal consequences in case of their non-fulfilment.

A characteristic feature of sports-procedural legal relations is that these are relations of a subordinate nature. In the sports process, the court (arbitrator) is endowed with powerful powers, while other subjects of legal relations do not have such powers.

The authoritative nature of the court's (arbitration) powers does not mean that it is the bearer of rights, and all others are only the bearers of duties. The court (arbitrator) has duties in relation to other participants in the sports process (accept claims, complaints, consider petitions, etc.). The procedural rights and duties of the court (arbitration) and other participants in the sports process are interconnected, and the interests of the court (arbitrator) should not conflict with the interests of other participants in the legal relationship.

One of the features of sports procedural legal relations is that they are possible only in legal form, that is, they are legal, in contrast to material relations, which can exist as actual ones. A specific feature of sports procedural legal relations is that they form a system of closely interconnected, mutually conditioned and changing relations. Each individual legal relationship is an element of the system and cannot exist in isolation from another. All of them have a single target orientation, serve the correct and comprehensive consideration and resolution of the case in the sports process.

The elements of sports legal relations are: subject, object and content.

Therefore, the subjects of sports procedural legal relations are the bearers of sports procedural rights and duties in the process of administering justice in sports procedural matters. They include:

– courts of general jurisdiction and sports arbitration bodies;

– people whose participation in the process has legal norms and who, at one of the stages of the sports process, can perform procedural actions aimed at achieving the goal of the process;

– parties, third parties, procedural representatives who represent the interests of other participants in the sports process, other people who contribute to the consideration of cases in the sports process;

Objects of sports procedural legal relations include:

– actions of legal relations subjects;

– activity of the court (arbitration);
– material-legal relations protected by court (arbitration);
– a dispute about the right between the participants of material legal relations, referred to the court (arbitration);
– consequences of procedural actions provided for by law (regulations, arbitration agreement), which are the purpose of the sports process (general object), protection of the material rights and legal interests of the parties and third parties (special object), a specific case.

The contents of sports procedural legal relations are:
– procedural rights and obligations of the court (arbitration) and other subjects of this legal relationship;
– actions (behaviour) of participants in the sports process;
– rights, obligations and actions of participants in the sports process;
– legally significant behaviour of the participants of this legal relationship.

Therefore, the sports process is a set and system of legal norms, the subject of which is the regulation of social relations in the sphere of the justice administration through the consideration of cases by courts of general jurisdiction or sports arbitration organizations, which determine the procedural order of proceedings in cases related to the organization and activities of subjects' spheres of physical culture and sports.

In the sports process, both courts of general jurisdiction (for example, civil and commercial) and sports arbitration organizations act as judicial bodies. Arbitration bodies created under international sports organizations may also belong to the latter. Proceedings in cases related to the resolution of disputes in the field of physical culture and sports may also be considered by the European Court of Human Rights.

Now we will consider the peculiarities of the legal status of bodies of general and special sports jurisdiction.

The bodies of general sports jurisdiction should include courts of general jurisdiction of Ukraine: administrative, economic and civil. Subjects in the field of physical education and sports, physical and legal entities can apply to these very courts.

The right to apply to a court of general jurisdiction for the protection of one's rights and interests is guaranteed by the Constitution of Ukraine. Thus, according to Art. 124 of the Constitution of Ukraine[7] justice in Ukraine is carried out exclusively by courts. Delegation of court functions, as well as appropriation of these functions by other bodies or officials, are not allowed. It is also determined that the jurisdiction of the courts extends to all legal

[7] Конституція України від 28 червня 1996 року. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

relations that arise in the state. The Constitution provides that judicial proceedings are carried out by courts of general jurisdiction.

Characterizing the judicial procedure for the protection of rights and legitimate interests, it is first of all appropriate to consider the judicial system of Ukraine.

The judicial system of our country provides for the existence of two types of courts: the Constitutional Court of Ukraine (a court of the so-called constitutional jurisdiction) and courts of general jurisdiction, which is enshrined in Art. 124 of the Constitution of Ukraine.

In turn, the courts system of general jurisdiction in accordance with the Constitution of Ukraine is built according to the principles of territoriality, specialization and instance.

Regarding the principle of instance, the courts system of general jurisdiction consists of: local courts, appeals courts, higher specialized courts and the Supreme Court of Ukraine.

The essence of the territoriality principle boils down to the delineation of the territorial jurisdiction of one or another court, that is, the distribution of its powers to consider relevant cases within a certain territory. At the same time, territorial jurisdiction is defined, as a rule, in procedural laws.

Ensuring the implementation of the specialization principle of the judicial system, the legislator determined that courts of general jurisdiction specialize in consideration of civil, criminal, economic, administrative cases, as well as cases of administrative offenses. Along with this, the specialization of judges in consideration of specific categories of cases may be introduced in courts of general jurisdiction. Thus, in the structure of the judicial system of Ukraine, among other things, a system of specialized commercial courts, which are governed by the norms of the Commercial Procedural Code of Ukraine, has been created and is effectively functioning.

The powers of the Constitutional Court of Ukraine for the protection of sports rights and interests are of considerable importance in terms of the constitutional necessity of official interpretation of the Constitution of Ukraine and the laws of Ukraine in order to ensure the implementation or protection of the constitutional rights and freedoms of a person and a citizen, as well as the rights of a legal entity upon a written petition to the Constitutional Court of Ukraine (constitutional appeal), since the subjects of the right to constitutional appeal are specific individuals.

The procedure for conducting constitutional proceedings is defined by the legislator in the Law of Ukraine "On the Constitutional Court of Ukraine"[8]. The forms of appeal to the Constitutional Court of Ukraine and, accordingly,

---

[8] Про Конституційний Суд України : Закон від 13 липня 2017 року. *Відомості Верховної Ради України*. 2017. № 35. Ст. 376.

the grounds for initiating constitutional proceedings are a constitutional submission and a constitutional appeal.

In Art. 1 of the Economic Procedural Code of Ukraine[9], the legislator states that enterprises, institutions, organizations, other legal entities (including foreign ones), citizens who carry out entrepreneurial activity without creating a legal entity and have acquired the status of a subject of entrepreneurial activity in accordance with the established procedure, have the right to apply to the economic court in accordance with the established sub-department of economic affairs for the protection of their violated or disputed rights and interests protected by law, as well as to take the measures provided for by the Economic Procedural Code of Ukraine aimed at preventing offenses.

The normative basis on the basis of which economic courts resolve economic disputes is the Constitution of Ukraine, the Economic Procedural Code of Ukraine, other legislative acts of Ukraine, as well as international treaties, the binding consent of which has been granted by the Verkhovna Rada of Ukraine. At the same time, commercial courts should not apply acts of state and other bodies, if these acts do not correspond to the legislation of Ukraine.

According to Art. 12 of the Commercial Procedure Code of Ukraine, commercial courts are subordinated to:

1) cases in disputes that arise during the conclusion, change, termination and execution of economic contracts, including regarding the privatization of property, and on other grounds, except:

– disputes about the privatization of the state housing fund;

– disputes arising from the agreement of standards and technical conditions;

– disputes about the establishment of prices for products (goods), as well as tariffs for services (execution of works), if these prices and tariffs, in accordance with the law, cannot be established by agreement of the parties;

– disputes arising from public legal relations and referred to the competence of the Constitutional Court of Ukraine and administrative courts;

– other disputes, the resolution of which, in accordance with the laws of Ukraine and international treaties of Ukraine, is assigned to other bodies;

2) bankruptcy cases;

3) cases based on the statements of the bodies of the Antimonopoly Committee of Ukraine, the Accounting Chamber on issues assigned to their competence by legislative acts;

---

[9] Господарський процесуальний кодекс України від 6 листопада 1991 року. *Відомості Верховної Ради України*. 1992. № 6. Ст. 56.

4) cases arising from corporate relations in disputes between a legal entity and its participants (founders, shareholders, members), including a participant who dropped out, as well as between participants (founders, shareholders, members) of a legal entity related with the creation, activity, management and termination of the activity of such a person, except for labour disputes;

5) cases in disputes regarding the accounting of rights to securities;

6) cases in disputes arising from land relations in which business entities participate, with the exception of those referred to the competence of administrative courts;

7) cases in disputes with property claims against the debtor, in respect of whom a bankruptcy case has been initiated, including cases in disputes regarding the invalidation of any transactions (agreements) concluded by the debtor; collection of wages; reinstatement of officials and employees of the debtor, with the exception of disputes related to the determination and payment (recovery) of monetary obligations (tax debt), determined in accordance with the Tax Code of Ukraine, as well as cases in disputes about the invalidation of transactions (contracts), if the supervisory body designated by the TC of Ukraine applies for the exercise of its powers with a corresponding lawsuit;

8) cases on applications for approval of the debtor's rehabilitation plans before the initiation of a bankruptcy case.

The procedure for consideration and resolution of cases by commercial courts is regulated in detail by the Commercial Procedure Code of Ukraine.

It is obvious that in certain situations there may be a need to protect sports rights and legitimate interests in the sphere of public-law relations against violations by state authorities, local self-government bodies, their officials, and other subjects in the exercise of their powerful management functions based on legislation, including the implementation of delegated powers. Such a task, in accordance with Art. 2 of the Code of Administrative Procedure of Ukraine, provides for administrative procedure as a whole, which is carried out through a fair, impartial and timely review of administrative cases.

As a general rule, any decisions, actions, or inactions of subjects of power may be appealed to administrative courts, except for cases where the Constitution or laws of Ukraine establish a different procedure for court proceedings. Therefore, every person (including the subject of economic legal relations) has the right, in accordance with the procedure established by the Code of Administrative Procedure of Ukraine, to apply to the administrative court if he believes that his rights, freedoms or interests were violated by decisions, actions, or inactions of subjects of power.

In its procedural essence, the protection of rights and legitimate interests by administrative courts is carried out by conducting administrative

proceedings, which should be understood as the activity of administrative courts regarding consideration and resolution of administrative cases in the prescribed manner. At the same time, a case of administrative jurisdiction within the meaning of the legislation is a public-law dispute referred to an administrative court for resolution, in which at least one of the parties is an executive power body, a local self-government body, their official, or another entity that exercises power management functions based on legislation, including the implementation of delegated powers.

The jurisdiction of administrative courts extends to public legal disputes, which in the sense of the legislation, in particular, are:

1) disputes of individuals or legal entities with the subject of authority regarding the appeal of his decisions (normative legal acts or legal acts of individual action), actions or inaction;

2) disputes regarding the acceptance of citizens for public service, its completion, dismissal from public service;

3) disputes between subjects of authority regarding the implementation of their competence in the field of management, including delegated powers;

4) disputes arising from the conclusion, execution, termination, cancellation or invalidation of administrative contracts;

5) disputes at the request of an authority subject in cases established by the Constitution and laws of Ukraine;

6) disputes regarding legal relations related to the election process or the referendum process;

7) disputes between individuals or legal entities with the administrator of public information regarding the appeal of his decisions, actions or inaction regarding access to public information.

It is quite obvious that certain types of disputes listed above (in particular, provided for in the above-mentioned paragraphs 1, 7 can arise in the field of culture and sports.

In cases concerning the appeal of decisions, actions or inaction of authority subjects, administrative courts check whether they have been adopted (committed):

1) on the basis, within the limits of authority and in the manner provided by the Constitution and laws of Ukraine;

2) using the authority for the purpose for which this authority was granted;

3) justified, that is, taking into account all the circumstances that are important for making a decision (committing an action);

4) impartially;

5) honestly;

6) prudently;

7) in compliance with the principle of equality before the law, preventing all forms of discrimination;

8) proportionally, in particular with observance of the necessary balance between any adverse consequences for the rights, freedoms and interests of the person and the goals to be achieved by this decision (action);

9) taking into account the person's right to participate in the decision-making process;

10) in a timely manner, that is, within a reasonable period of time.

Jurisdiction, powers of administrative courts regarding consideration of administrative cases, the procedure for applying to administrative courts and the procedure for conducting administrative proceedings are regulated in detail by the provisions of the Code of Administrative Legal Proceedings of Ukraine[10].

In certain situations, there may be a need for the protection of sports rights and legal interests by courts considering civil and criminal cases, as well as cases of administrative offenses.

The legislation gives every person the right, in accordance with the procedure established by the Civil Procedure Code of Ukraine, to apply to the court for the protection of their violated, unrecognized or disputed rights, freedoms or interests arising from civil, residential, land, family, labour or other relations.

Since the subject of sports legal relations can obviously be a participant in relevant legal relations (for example, labour), in case of relevant disputes, he can be a participant in civil proceedings.

Based on the provisions of Art. 1 of the Civil Procedure Code of Ukraine[11], the tasks of the civil judiciary are fair, impartial and timely consideration and resolution of civil cases with the aim of protecting the violated, unrecognized or contested rights, freedoms or interests of individuals, rights and interests of legal entities, and the interests of the state. In addition, in accordance with Part 2 of Art. 30 of this Code, the plaintiff and the defendant in a civil process, among others (individuals, the state), may be legal entities.

Regarding criminal proceedings, its tasks according to Art. 2 of the Criminal Procedure Code of Ukraine[12] are to protect the individual, society, and the state from criminal offenses, protect the rights, freedoms, and legitimate interests of participants in criminal proceedings, as well as ensure a quick, complete, and impartial investigation and trial, so that anyone who

---

[10] Кодекс адміністративного судочинства України від 6 липня 2005 року *Відомості Верховної Ради України*. 2005. № 35–36, № 37. Ст. 446.

[11] Цивільний процесуальний кодекс України від 18 березня 2004 року. *Відомості Верховної Ради України*. 2004. № 40–41, 42. Ст. 492.

[12] Кримінальний процесуальний кодекс України від 13 квітня 2012 року. *Відомості Верховної Ради України*. 2013. № 9–10, 11–12, 13. Ст. 88.

commits criminal offence, was prosecuted to the extent of his culpability, no innocent person was charged or convicted, no person was subjected to unreasonable procedural coercion and that due process of law was applied to each participant in the criminal proceedings.

And finally, regarding cases of administrative offenses, we will point out that according to Art. 1 of the Code of Ukraine on Administrative Offenses[13], the task of this code, among other things, is to protect the rights and freedoms of enterprises, institutions and organizations.

Arbitration courts are also a separate branch of judicial bodies. According to the definition given in Art. 2 of the Law of Ukraine of 11 May 2004 "On Arbitration Courts"[14], an arbitration court is a non-state independent body formed by agreement or relevant decision of interested individuals and/or legal entities in the manner established by the Law of Ukraine "On Arbitration Courts", to resolve disputes arising from civil and economic legal relations.

According to Art. 1 of the specified Law, by agreement of the parties, any dispute arising from civil and economic legal relations may be referred to the arbitration court, except for cases provided for by law. In accordance with Art. 3 of this Law, the task of the arbitration court is to protect property and non-property rights and legally protected interests of individuals or legal entities through comprehensive consideration and resolution of disputes in accordance with the law. In addition, the right to refer disputes to an arbitration court has also found its normative anchoring in branch procedural legislation.

It is important to keep in mind that a dispute can be referred to an arbitration court if there is an arbitration agreement between the parties that meets the requirements of the Law of Ukraine "On Arbitration Courts", and only before a competent court makes a decision in a dispute between the same parties, on the same subject and for the same reasons. Exceptions to the general rule of subordination of cases to arbitration courts are indicated by the legislator in Art. 6 of the Law of Ukraine "On Arbitration Courts". We will also talk about the specifics of arbitration protection.

The dispute resolution system in professional sports is built on the corporate principle and allows appeals to courts of general jurisdiction only in those cases when the subject of the appeal (applicant, plaintiff) has exhausted all instances of sports justice. For example, in the field of football, such a subordinate system of instances of sports justice looks like this: the disciplinary committee of the Premier League, the control disciplinary

---

[13] Кодекс України про адміністративні правопорушення від 7 грудня 1984 року. URL: https://zakon.rada.gov.ua/go/80731-10.

[14] Про третейські суди : Закон України від 11 травня 2004 року. *Відомості Верховної Ради України*. 2004. № 35. Ст. 412.

committee of the FFU, the FIFA Disputes Chamber, the Court of Arbitration for Sport in Lausanne.

At the same time, we cannot help but note that at this stage of Ukraine's development, the field of sports law is only being formed, and the system of sports justice is being formed along with it. In this connection, many questions arise as to whether the subjects of the field of professional sports have the right to apply for the protection of their rights and interests to the courts of general jurisdiction without following the procedures for resolving disputes in special sports arbitration bodies.

In general, the distinction between special sports jurisdiction and general jurisdiction, so to speak, causes many contradictions. The fact is that the urgent issue in this case is the question of defining the very concept of responsibility in sports law, which was already discussed above (about legal responsibility). Determining the relationship between sports jurisdiction and legal responsibility, the essential features of the latter should be mentioned.

Firstly, a sanction, as a consequence of the application of legal responsibility, can be applied only if its specific type is normatively enshrined in legislation and, secondly, the imposition and execution of such sanctions is ensured by the power of state coercion. If we consider sports responsibility in this context, it is certainly not legal, but it can be called a responsibility of a corporate nature. Mentions of independent sports sanctions are not contained in any normative legal act, and, accordingly, they can be provided by means of state coercion only at the stage of decisions implementation of sports arbitration bodies, as decisions of arbitration courts.

Therefore, sports sanctions should be recognized as a type of corporate sanctions related to a clearly defined circle of people (entities) that make up a certain corporation. The nature of the possibility of applying a sanction to a certain person is typically civil. That is, a person who joins a corporation performs the act of joining (agreement of joining), thus assuming all the rights and obligations characteristic of a member of this corporation. And when a party to such a contract does not agree to go through all instances of sports arbitration when its rights are violated, it has the legal right to apply to the system of courts of general jurisdiction.

However, taking into account the above-mentioned aspects, it should be noted that courts of general jurisdiction have the right and can consider any cases related to even corporate norms, taking into account the implementation of the latter.

The court of general jurisdiction, when resolving a dispute between subjects of the field of physical education and sports, which are bound by the rights and obligations of corporate norms, should consider the case on the

merits of the implementation of these corporate norms. And it is not necessary for such sports rules to be prescribed at the legislative level.

Courts of general jurisdiction, as mentioned above, consider cases according to the relevant specialization of the courts:

– administrative courts consider cases, in particular, regarding the appeal of any decisions, actions or inaction of subjects of power, related to the registration or liquidation of subjects in the field of physical education and sports-legal entities (Decision of the Odesa District Administrative Court of 20 August 2010 in case No. 2a-3377/10/1570 on the administrative claim of the Ovidiopol District Department of Justice of the Odesa Region to the Public Organization "Football Federation of the ovidiopol district" for the forced dissolution (liquidation) of the public organization[15]);

– commercial courts consider disputes, in particular between enterprises and organizations – subjects of the field of physical education and sports in the field of business (Decision of the Commercial Court of the Zhytomyr region of 16 June 2011 in case No. 16/5007/61/11, at the request of the Main department of affairs families, youth and sports of the Zhytomyr Regional State Administration to the Zhytomyr Regional Sports Public Organization "Zhytomyr Regional Football Federation" on the invalidation of contract No. 4-sp of 18 March 2011[16]);

– courts of civil jurisdiction consider disputes regarding the protection of violated, unrecognized or disputed rights, freedoms or interests of subjects in the field of physical education and sports – individuals and legal entities, labour disputes (Decision of the Desna District Court of Kyiv of 28 February 2011 in case No. 2-453, on refutation of information that does not correspond to reality and defame the honour, dignity and business reputation of the plaintiff, and compensation for moral damage[17]).

---

[15] Постанова Одеського окружного адміністративного суду від 20 серпня 2010 року у справі № 2а-3377/10/1570 за адміністративним позовом Овідіопольського районного управління юстиції Одеської області до Громадської організації «Федерація футболу Овідіопольського району» про примусовий розпуск (ліквідацію) громадської організації. URL: http://reyestr.court.gov.ua/Review/11100084.

[16] Рішення господарського суду Житомирської області від 16 червня 2011 року у справі № 16/5007/61/11, за позовом Головного управління у справах сім'ї молоді та спорту Житомирської обласної державної адміністрації до Житомирської обласної спортивної громадської організації «Житомирська обласна Федерація футболу» про визнання недійсним договору № 4-сп від 18.03.2011 р. URL: http://reyestr.court.gov.ua/Review/16284348.

[17] Рішення Деснянського районного суд м. Києва від 28 лютого 2011 року у справі № 2-453, про спростування відомостей, що не відповідають дійсності, і порочать честь, гідність і ділову репутацію позивача, та відшкодування моральної шкоди. URL: http://reyestr.court.gov.ua/Review/16049823.

The majority of sports disputes considered by courts of general jurisdiction are related to contesting the decisions and actions (inaction) of sports organizations and their associations. Such cases are considered according to the rules of legal proceedings as cases on the protection of a subjective right. In such cases, sports arbitration bodies are not competent to consider such disputes, because they are based on administrative or other relations, which are based on the principle of subordination of the parties. Since the parties are usually in an unequal position in cases of appeals against the actions of physical culture and sports organizations, it is necessary to check the competence of the sports arbitration body in relation to the dispute under consideration in each specific case.

It is worth noting that, according to the legislation of Ukraine, sports arbitration bodies do not have the competence to consider labour disputes. Therefore, the courts of general jurisdiction accept and consider lawsuits regarding violations of the labour rights of professional sportsmen, trainers, sports judges, etc. So, for example, sportsmen of team sports enter into labour contracts with physical culture and sports organizations. Whereas sportsmen engaged in individual sports, as a rule, enter into civil law agreements. The first category of sportsmen is subject to labour legislation, the second to civil legislation.

According to the provisions of the current legislation, the courts of general jurisdiction are competent to consider sports disputes, the subjects of which are: sportsmen of team sports (if they have entered into labour contracts with a physical culture and sports organization); sportsmen engaged in individual sports (in cases where they are not registered as subjects of entrepreneurial activity); physical culture and sports organizations (sports federations, sports leagues, sports teams); business entities involved in the field of physical culture and sports (sponsors, agents, TV and radio companies, etc.).

It should be mentioned separately that the legislation of Ukraine prohibits consideration of certain types of cases by courts of arbitration for sport (arbitration courts), in particular when the party to the case is a foreign person. Therefore, such cases should also be considered by courts of general jurisdiction.

Thus, Article 6 of the Law of Ukraine "On Arbitration Courts" of 1 May 2004 No. 1701-IV[18] establishes that arbitration courts, in accordance with the procedure provided for by this Law, can consider any cases arising from civil and economic legal relations, except:

1) cases in disputes about the invalidation of normative legal acts;

---

[18] Про третейські суди. Закон України від 11 травня 2004 року. *Відомості Верховної Ради України*. 2004. № 35. Ст. 412.

2) cases in disputes arising from the conclusion, change, termination and execution of business contracts related to the satisfaction of state needs;

3) cases related to state secrets;

4) cases in disputes arising from family legal relations, except for cases in disputes arising from marriage contracts (agreements);

5) cases on restoring the debtor's solvency or declaring him bankrupt;

6) cases in which one of the parties is a body of state power, a body of local self-government, their official, another subject while the exercise of power management functions on the basis of legislation, including the performance of delegated powers, a state institution or organization, state-owned enterprise;

7) cases in disputes regarding real estate, including land plots;

8) cases on establishing facts of legal significance;

9) cases in disputes arising from labour relations;

10) cases arising from corporate relations in disputes between a business partnership and its participant (founder, shareholder), including a participant who dropped out, as well as between participants (founders, shareholders) of business partnerships related to the creation, activity, management and termination of the activities of these companies;

11) other cases which, in accordance with the law, are subject to resolution exclusively by courts of general jurisdiction or the Constitutional Court of Ukraine;

12) cases where at least one of the parties to the dispute is a non-resident of Ukraine;

13) cases, based on the results of consideration of which the implementation of the arbitration court's decision will require the taking of appropriate actions by state authorities, local self-government bodies, their officials and other subjects during their exercise of power management functions based on legislation, including the implementation delegated powers;

14) cases in disputes regarding the protection of consumer rights, including consumers of bank (credit union) services.

In general, the courts of general jurisdiction, as a rule, postpone the consideration of the case where there is a condition in the contract between the parties on the transfer of a sports dispute to sports arbitration. And only if the sports dispute is not resolved through the sports arbitration process, the court of general jurisdiction can consider this dispute.

Now we will consider the peculiarities of the legal status and activities of bodies of special sports jurisdiction.

Therefore, the bodies of special sports jurisdiction should include sports arbitration bodies created and operating under physical culture and sports organizations, mainly sports federations.

Sports federations, associations and unions adopt documents of a normative nature, in particular disciplinary regulations, which determine the procedure for the formation and operation of the jurisdictional bodies of the relevant sports organization, for example, the Control and Disciplinary Committee, the Appeals Committee, sports commissioners.

2. Special Jurisdictional Bodies' System in Sports

Let's consider the system of special jurisdictional bodies in sports using the football justice system as an example.

According to the Charter of the public union "Football Federation of Ukraine" of 16 June 2017[19], the implementation of football justice provides for the following.

The bodies of FFU football justice are:

– The Control-disciplinary committee is a body of the first instance;

– The Appeals committee is a body of the second instance.

Football justice bodies resolve all internal disputes between the FFU, its members and other people involved or working in football.

The control-disciplinary committee consists of the chairman, deputy chairman and 5 (five) members. The chairman of the Control-disciplinary committee and his deputy must have a higher legal education and at least three years of professional work experience.

The Appeals committee consists of the chairman, deputy chairman and 3 (three) members.

The chairman and deputy chairman of the Appeals committee must have a higher legal education and at least three years of professional work experience.

The Appeals committee is authorized to consider appeals against the decisions of the Control disciplinary committee in accordance with the Disciplinary rules of the FFU in force at that time.

The FFU Dispute resolution chamber is an independent authority, established in accordance with the requirements of FIFA, for consideration and resolution of disputes arising between football entities, which has exclusive competence to consider and resolve disputes related to activities in professional football, in particular:

– between professional clubs and football players, as well as between professional clubs and trainers, regarding employment issues and contractual disputes arising from labour relations;

– between professional clubs on the issues of fulfilling transfer obligations and paying the solidarity mechanism;

---

[19] Статуту громадської спілки «Федерація футболу України» від 16 червня 2017 року. URL: https://uaf.ua/files/biblioteka/ndocs_904%20(3).pdf.

– between professional clubs and amateur clubs or children's and youth sports institutions on issues of determining the size and payment of compensation for the training of football players.

Decisions of the FFU Appeals committee and the FFU Dispute resolution chamber are final and binding. They can be challenged only in the Court of Arbitration for Sport in Lausanne (Switzerland).

The Court of Arbitration for Sport (Lausanne, Switzerland) has the exclusive competence to consider all disputes within the scope of the activities of FIFA and UEFA, as well as appeals against the decisions of the Appeals committee of the FFU, as a body of last resort.

In accordance with Article 51 of the Disciplinary rules of the Football Federation of Ukraine, adopted by the FFU Executive committee on 11 June 2009[20], the FFU football justice enforcement bodies are:

– Control-disciplinary committee (CDC) is a body of the second instance;

– The Appeals committee (AC) is a body of the third instance.

The functions of the Bodies of football justice can be performed by the disciplinary bodies of other legal entities, if this is provided for by their statutes or agreements (contracts) with the FFU.

Articles 58–60 of the above-mentioned rules also determine the jurisdiction of the CDC and AC.

The jurisdiction and activities of the CDC are determined by the Statute of the FFU and the Disciplinary rules of the Football Federation of Ukraine.

The CDC supervises compliance by people involved or working in football with the legislation of Ukraine, statutory and regulatory documents, as well as considers issues related to their violations and protests against the decisions of the legal entities' bodies.

CDC applies disciplinary sanctions in case of violation of statutory and regulatory documents, if this does not fall under the jurisdiction of another body, and establishes the presence or absence of facts of legal significance, as well as:

– applies disciplinary sanctions for violations not noticed by match officials;

– corrects obvious errors in disciplinary decisions made by the arbitrator. All other decisions of the arbitrator are final;

– extends suspension for a match, which is automatically caused by removal from the field;

– applies additional disciplinary sanctions in addition to the personal punishment applied by the arbitrator, for example, a mandatory monetary contribution.

---

[20] Дисциплінарні правила Федерації футболу України від 11 червня 2009 року. URL: http://pfl.ua/docs/FFU_Disc_rules_2009.pdf

CDC has the right to supervise the legality of decisions made by the Bodies of legal entities, and may independently open proceedings for their review in case of non-compliance with the Rules. Such proceedings may be opened within a month from the date of the decision made by the Body of a legal entity.

In the context of the implementation of the above-mentioned norm, all decisions made by bodies of legal entities are submitted to the CDC within 10 (ten) days from the date of their adoption.

Disciplinary rules of the FFU, in particular Art. 59, determine the jurisdiction of the chairman of the determined regarding the adoption of certain decisions made by him alone. Thus, the chairman of the determined can make the following decisions on his own:

– suspension of people for up to three matches or for a period of up to two months;

– imposition of a mandatory monetary contribution of up to 5,000 hryvniai;

– extension of the validity period of the sanction in connection with serious violations (doping, corruption, physical violence, falsification, violation of the age limit, distortion of the match result) at the request of the relevant organizations;

– settlement of disputes arising as a result of objections filed against members of the CDC;

– introduction, changes and cancellation of temporary decisions.

According to Article 60 of the Disciplinary rules of the Football Federation of Ukraine, the jurisdiction of the AC includes consideration of appeals against the decisions of the CDC.

Consideration of sports disputes in the jurisdictional bodies of physical culture and sports associations most closely corresponds to the specifics of sports relations, contributes to the settlement of disputes within the sports community and allows for verification of the decision made on the dispute. The advantage of solving sports disputes with the help of internal jurisdictional bodies is the timeliness of dispute resolution; consideration of a sports dispute by subjects who have special knowledge in the field of physical culture and sports.

The organizational documents of most physical culture and sports organizations contain arbitration clauses on consideration of certain categories of disputes in Courts of arbitration for sport.

By their legal nature, such sports courts are arbitration courts. It should be mentioned that according to Art. 1 of the Law of Ukraine “On Arbitration Courts” of 11 May 2004 No. 1701-IV, arbitration courts are established for the purpose of protecting property and non-property rights, as well as legally

protected interests of individuals and legal entities. By agreement of the parties, any dispute arising from civil and economic legal relations may be referred to the arbitration court, except for cases provided for by the law. Art. 2 of this Law states that the arbitration court is a non-state independent body formed by agreement or relevant decision of interested individuals and/or legal entities in the manner established by this Law, to resolve disputes arising from civil and economic legal relations; arbitrator – an individual appointed or elected by the parties in a manner agreed upon by the parties or appointed or elected in accordance with this Law to settle disputes in an arbitration court; arbitration is the process of resolving a dispute and making a decision by an arbitration court; arbitration agreement is an agreement between the parties to submit a dispute for resolution by an arbitration court.

However, arbitration courts cannot be equated with state courts of general jurisdiction, because:

– arbitration courts do not apply methods of state coercion;

– arbitration courts are created and operate not by the decision of the state authority, but by the agreement of the parties;

– unlike a court of general jurisdiction, an arbitrator is not a holder of judicial power;

– the decision of the arbitration court is binding only for the parties to the arbitration proceedings.

Based on the above legal restrictions, it is necessary to determine the competence of courts of arbitration for sport.

Therefore, the creation and operation of courts of arbitration for sport as sports arbitration bodies should not contradict the mentioned law. Sports arbitration (court of arbitration) is an independent body in which a sports dispute is considered by an arbitrator (arbitrators, judge or judges) who act as mediators. The organization and construction of courts of arbitration for sport in Ukraine is in many cases built according to the scheme of the International Court of Arbitration for Sport in Lausanne.

At the same time, domestic courts of arbitration for sport have a number of their own features. First of all, world practice follows the path of differentiation of arbitration procedures depending on the nature of a specific dispute. The work of international sports arbitration is based on the following arbitration procedures:

– ordinary arbitration procedure;

– appeals arbitration procedure;

– arbitration procedure in the ad-hoc chamber;

– advisory procedure;

– mediation procedure.

The regulations of Ukrainian sports arbitrations do not make such a differentiation, but only establish separate exceptions from the general procedural rules for the consideration of disputes related to the appeal of the actions and decisions of physical culture and sports organizations, for example, shorter terms of their consideration.

Secondly, in contrast to international sports arbitrations, domestic ones do not have the right to consider disputes about the appeal of the actions or decisions of physical culture and sports organizations. As already mentioned, arbitration courts are not authorized to consider disputes arising from administrative or other relations based on the subordination of the parties, since the parties are usually in an unequal position in cases of appeals against the actions or decisions of physical culture and sports organizations.

It is necessary to note the conditional nature of the allocation of appeal proceedings in the sports arbitration process. Thus, the subject of "appeal proceedings" is the verification of the legality and reasonableness of decisions made by physical culture and sports organizations. In this case, the sports arbitration does not act as the next instance that reviews the dispute, but essentially as the court of first instance that decides the dispute anew within the limits of its arbitration procedure.

For example, the Appeal court of the Automobile Federation of Ukraine (FAU) was established and operates in Ukraine on the basis of the Regulations of the Appeal court of the Automobile Federation of Ukraine, approved by the Presidium of the Automobile Federation of Ukraine of 12 September 2017[21].

The main principles of arbitration in sports arbitration are:

– the principle of legality. The organization and functioning of courts of arbitration for sport must be carried out on a legal basis and not contradict special legislation, in particular, the Law of Ukraine "On Arbitration Courts" of 11 May 2004 No. 1701-IV;

– independence of arbitrators and their obedience only to the law. Arbitrators must be independent and impartial when considering a case and must not favour the position of one party or another. If a person directly or indirectly has an interest in the decision of the case, he has no right to be an arbitrator in this case;

– equality of all participants in arbitration proceedings before the law and the sports arbitration court. Arbitration proceedings are based on the equality of the parties. Each party must be given equal opportunities to present their position and protect their rights and interests;

[21] Регламент роботи Апеляційного Суду Автомобільної Федерації України від 12 вересня 2017 року. URL: https://s1.fau.ua/new/documentsubgroup/45/files/2012.09.2017).pdf

– competitiveness of the parties. It consists in the freedom of providing each participant with an arbitration review of their evidence and in proving their persuasiveness before the court. Each party is obliged to prove the circumstances that it refers to in support of its demands or objections;

– binding for the parties the decision of the sports arbitration court. The execution of the sports arbitration court's decision is mandatory for the parties to the arbitration proceedings;

– voluntary formation of the sports arbitration court. The court of arbitration for sport is formed on the basis of a voluntary decision of the participants of the physical culture and sports organization;

– confidentiality. Arbitrators and employees of the court of arbitration for sport do not have the right to disclose information that became known to them during the arbitration without the consent of the parties or their legal successors. The case is considered in a closed session, unless the parties have agreed on a different order of consideration. The arbitrator cannot be questioned as a witness about the information that became known to him during the arbitration proceedings;

– assisting the parties in reaching a settlement agreement at any stage of arbitration proceedings. The parties at any stage of arbitration have the right to conclude a settlement agreement. Sports arbitration should in every possible way assist the parties in settling the dispute by concluding an amicable agreement. However, such a settlement agreement must not contradict the current legislation and violate the rights and legitimate interests of third parties.

Consideration of cases in sports arbitration is carried out only according to the agreement of the parties, which must be concluded only in writing – an arbitration agreement. An arbitration agreement is the agreement of the parties to refer a dispute that may arise in a specific legal relationship to sports arbitration.

An arbitration agreement is concluded by including an arbitration clause in a contract or other document signed by the parties, or by other means of concluding agreements (exchange of letters, telegraphic messages, etc.). However, as a rule, arbitration agreements are contained in the regulatory documents of physical culture and sports organizations, which are referenced in contracts or other documents concluded by the parties to a possible arbitration proceeding.

Let us consider the issue of the organization and activity of sports arbitrations.

Arbitrators of sports arbitration can be an individuals who have the necessary special knowledge in the field of relations, which can be the subject of disputes subordinate to sports arbitration. Such individuals are appointed

or elected to the post of arbitrator. As a rule, arbitrators of courts of arbitration for sport must have a legal education. Arbitrators are re-elected, as a rule, every three, four or five years, depending on the terms of the regulations of the courts of arbitration for sports. Depending on the cases, arbitration proceedings are conducted individually or collegially in sports arbitrations. Courts of arbitration for sport are headed by their presidents, who have their deputies.

Courts of arbitration for sport must accept the case of their jurisdiction and consider it in the shortest possible time. As a rule, the terms of arbitration in courts of arbitration for sport do not exceed two months.

Arbitration of cases in courts of arbitration for sport is carried out on a paid basis. The costs of handling cases include:

– arbitrators' fees;

– the arbitration fee, the amount, terms and procedure for payment of which are determined by the parties in the regulations of the sports arbitration court;

– expenses incurred by arbitrators in connection with participation in arbitration, including expenses incurred by arbitrators for travel to the place of dispute resolution;

– expenses related to paying for the services of experts, translators, if they were invited or appointed to participate in the arbitration proceedings;

– expenses related to the examination and research of material and written evidence in their location;

– expenses incurred by witnesses;

– expenses related to the payment by the party in whose favour the decision of the court of arbitration for sport was adopted, of the representative's services related to the provision of legal assistance;

– expenses related to the organizational support of arbitration proceedings;

– expenses for correspondence of the sports arbitration court;

– expenses for telephone, telegraph, telex, facsimile, electronic and other communication;

– the secretary fee of the court of arbitration for sport and other expenses determined by the regulations of the court of arbitration for sport or the contract with the arbitrator.

The size of arbitration fees and the composition of additional costs are established by the regulations of the relevant courts of arbitration for sport. The arbitration fee is paid by the complainant (plaintiff) when filing a complaint (lawsuit).

It is also necessary to pay attention to the right of the party whose demands are satisfied by the court, to demand that the other party be reimbursed for the costs incurred by it.

The court of arbitration for sport independently decides whether or not it has competence to consider a specific case. The party has the right to declare that this court lacks competence in relation to the dispute referred to it for resolution before the start of consideration of the case on its merits. The party has the right to declare that the court of arbitration for sport has exceeded the limits of its competence, if in the process of arbitration an issue arises, the consideration of which is not provided for in the arbitration agreement or which cannot be the subject of such consideration in accordance with the regulations of the sports arbitration court. In the above cases, the court of arbitration for sport must postpone the consideration of the case or stop the consideration of the case on its merits until it resolves the question of whether it has the appropriate competence.

If the court of arbitration for sport reaches a conclusion that it is impossible to consider a specific dispute due to its lack of competence, the arbitration proceedings are terminated, and the costs incurred by the court of arbitration for sport are reimbursed by the parties in equal shares.

Upon acceptance of the application (lawsuit), the court of arbitration for sport decides on the existence and validity of the agreement on transferring the dispute for consideration to this court. If the court of arbitration for sport comes to a conclusion about the absence or invalidity of the specified agreement, it must refuse to consider the case. A reasoned decision is issued on the refusal to consider the case, which is sent to the parties. At the same time, the claim materials are returned to the applicant (plaintiff) together with the decision.

Unless the parties have agreed otherwise, before the court of arbitration for sport makes a decision, the party has the right to change, supplement or clarify its claims.

The rules of arbitration in the court of arbitration for sport for the resolution of a specific dispute are determined by the arbitration agreement. The rules of arbitration by a permanent court of arbitration for sport are determined by the regulations of this court. On issues not regulated by the regulations of the sports arbitration court, such a court applies the norms of the Law of Ukraine “On Arbitration Courts” of 11.05.2004 No. 1701-IV and can determine its own rules of arbitration only to the extent that it does not contradict the principles of the organization and operation of the sports arbitration court, which are defined by the mentioned law.

Let us consider the general provisions for consideration of cases in a permanent arbitration court in accordance with Art. 29–57 of the Law of Ukraine "On Arbitration Courts" of 11 May 2004.

The place of arbitration proceedings in a permanent court of arbitration for sport is the location of this court. The place of arbitration proceedings in the court of arbitration for sport for the resolution of a specific dispute is determined by the arbitration agreement.

Consideration of cases in the court of arbitration for sport is conducted in the Ukrainian language, unless otherwise provided by the regulations of this court or the agreement of the parties. A party providing documents or written evidence in a language other than the language of the arbitration shall ensure that they are translated into the language or languages of the arbitration.

In the case if at least one-party objects to the open consideration of the case by the court of arbitration for sport on the grounds of maintaining and preserving commercial or banking secrets or ensuring the confidentiality of information, the case is considered in closed session.

The court of arbitration for sport and the arbitrator of this court are not entitled to disclose the information that became known to him during the arbitration without the consent of the parties or their legal successors. It is forbidden to demand from the arbitrator the provision of documents, and information that he possesses in connection with the arbitration proceedings, except for cases provided for by the laws of Ukraine.

The consideration of the case by the court of arbitration for sport begins with the issuance of the relevant decision and its delivery to the parties. Consideration of cases by the court of arbitration for sport is not limited by any terms, unless otherwise established by the regulations of this court or the arbitration agreement. During the consideration of the case by the sports arbitration court, deadlines may be set for providing explanations, submitting statements, documents, evidence on the case and taking other procedural actions.

At the beginning of the proceedings, the court of arbitration for sport must find out from the parties the possibility of ending the case with an amicable agreement and further contribute to the resolution of the dispute by concluding an amicable agreement at all stages of the sports process. The parties have the right to end the case by concluding a settlement agreement both before the start of arbitration and at any stage of it, before the decision is made. At the request of the parties, the court of arbitration for sport makes a decision to approve the settlement agreement. A settlement agreement can refer only to the rights and obligations of the parties regarding the subject of the dispute. The content of the settlement agreement is set forth directly in the decision of the sports arbitration court.

The parties and their representatives are participants in the arbitration proceedings. Questions regarding the participation of third parties and their procedural rights in arbitration proceedings are decided by the court of arbitration for sport in accordance with its regulations. The third party participates in the arbitration voluntarily.

The statement (claim statement) to the court of arbitration for sport must have the appropriate form and content. Thus, the statement (claim statement) is submitted in writing. In the statement (claim statement) submitted to the sports arbitration court, it must be stated:

– the name of the permanent court of arbitration for sport or the composition of the court of arbitration for sport for the resolution of a specific dispute;

– the date of the application submission (plaintiff's statement);

– the names and legal addresses of the parties who are legal entities, and/or the surname, first name, patronymic, date of birth, place of residence and place of work of the parties who individuals;

– the name and legal address of the representative of the applicant (plaintiff), if he is a legal entity, or the surname, first name, patronymic, date of birth, place of residence and place of work of the representative who is an individual, in cases where the application (claim) submitted by a representative;

– the content of the claim, the price of the claim, if the claim is subject to assessment;

– the circumstances under which the claims are substantiated, the evidence confirming them, the calculation of the claims;

– reference to the existence of an arbitration agreement between the parties and evidence of its conclusion;

– a list of written materials to be attached to the application (plaintiff);

– signature (of applicant) of the plaintiff or his representative with a reference to the document certifying the representative's authority.

Documents (added to the statement (claim statement)) confirming:

1) existence of an arbitration agreement;
2) the validity of claims;
3) authority of the representative;
4) sending a copy of the statement (statement of claim) to the other party (description of the attachment on sending the invoice, extract from the register of postal shipments, etc.).

The defendant must provide the court of arbitration for sport with a written response to the statement of claim. The response to the statement of claim is sent to the claimant and the court of arbitration for sport in the order and terms stipulated by the arbitration agreement in the court of arbitration for sport for

the resolution of a specific dispute or the regulations of the permanent sports arbitration court.

If the regulations of the court of arbitration for sport do not specify the deadline for submitting a response to a claim, as well as in the event of a case being considered by a court of arbitration for sport to resolve a specific dispute, a response to a claim shall be submitted no less than three days before the first meeting of the court that resolves the dispute. The defendant's failure to submit a response within the established time does not release him from further fulfilling the requirements of the court of arbitration for sport to provide a response to the claim. The consequences of failure to comply with the requirements of the court of arbitration for sport may be stipulated by the arbitration agreement of the parties in the court of arbitration for sport for the resolution of a specific dispute or by the regulations of the court of arbitration for sport or established by the composition of such a court.

The defendant has the right to file a counterclaim for consideration by the court of sports arbitration if such claim is subordinate to this court and may be subject to arbitration in accordance with the arbitration agreement. A counterclaim may be filed at any stage of the arbitration before a decision on the case is made. The court of arbitration for sport accepts a counterclaim for joint consideration with the original claim if both claims are mutually related and their joint consideration is appropriate, in particular, when they arise from the same legal relationship or when the claims under them can be counted. A counterclaim must comply with the above requirements applicable to applications (claims) submitted to the court of arbitration for sport. The party is obliged to provide a response to the counterclaim presented to it in the order and within the time limits stipulated by the arbitration agreement or the regulations of the court of arbitration for sport.

Evidence is important in the sports process. Thus, evidence is any factual data, on the basis of which the court of arbitration for sport establishes the presence or absence of circumstances justifying the claims and objections of the parties, and other circumstances that are important for the correct resolution of a sports dispute.

The means of proof are determined by the regulations of the sports arbitration court. In the sports arbitration court, to resolve a specific dispute, the means of proof are determined by an arbitration agreement. In the case of uncertainty about this issue in the regulations of the sports arbitration court, the means of proof shall be determined by the court considering the relevant case. The circumstances of the case, which by law must be confirmed by certain means of proof, cannot be confirmed by any other means of proof.

Each party of the arbitration proceedings must prove the circumstances to which it refers as the basis of its claims and objections. The court of arbitration

for sport has the right to require the parties to provide evidence necessary for a full, comprehensive and objective resolution of the dispute.

If the court of arbitration for sport considers it necessary to receive documents from enterprises, institutions, organizations that are not participants in the arbitration, it authorizes the parties or one of the parties to receive the relevant documents and submit them to the same court.

The parties must submit the evidence in originals or duly certified copies to the sports arbitration court. All collected written evidence together with the procedural documents of the parties (claim, response to the claim, etc.) and the court of arbitration for sport must be kept in the file in a stitched and numbered form.

Arbitral proceedings are conducted at a meeting of the court of arbitration for sport with the participation of the parties or their representatives, unless the parties have agreed otherwise regarding their participation in the meeting. The same court has the right to recognize the attendance of the parties at the meeting as mandatory.

The parties must be notified of the day, time and place of the meeting of the court of arbitration for sport no later than 10 days before such a meeting. The notification is sent or delivered in the manner determined by the regulations of this court.

During the hearing of the case, the court of arbitration for sport must ensure compliance with the principle of competition between the parties, equal opportunities and freedom for the parties in providing evidence and in proving their persuasiveness before the court.

The parties have the right to familiarize themselves with the case materials, make extracts from them, make copies, participate in the meetings of the sports arbitration court, provide evidence, participate in the examination of evidence, submit motions, give written and oral explanations, object to the motions and arguments of other participants in the arbitration. proceedings, file objections, exercise other rights in accordance with the arbitration agreement or the rules of the sports arbitration court.

If the parties have not agreed otherwise, the court of arbitration for sport may, at the request of any party, order the party to take such protective measures regarding the subject of the dispute as it deems necessary, taking into account the provisions of the civil and economic procedural legislation of Ukraine. court of arbitration for sport may require any party to provide adequate security for a claim in connection with such proceedings.

Failure to provide the evidence, other written documents or materials required by the sports arbitration court, failure to appear at the meeting of the same court by the parties or their representatives, who were duly notified of the case and the holding of the meeting, are not an obstacle to arbitration

proceedings and decision-making, if the reason for the failure to provide documents or non-appearance of the parties at the meeting is recognized by this court as disrespectful.

In order to correctly resolve the dispute, the court of arbitration for sport has the right to oblige the parties or one of the parties to order an expert examination to clarify issues that require special knowledge, on which the court issues a corresponding decision. The consequences of a party's failure to comply with these requirements are determined by the regulations of the sports arbitration court.

The meeting protocol of the court of arbitration for sport is kept only if there is an agreement between the parties on the keeping of the protocol or when the keeping of the protocol is provided for by the regulations of this court. With the consent of the arbitrators (arbitrator), the parties may appoint a secretary of the arbitration proceeding to keep the minutes. In his absence, the arbitrators can choose a secretary from the composition (except for the chairman) of the sports arbitration court, who will decide the dispute.

The decision of the court of arbitration for sport is made after an investigation of all the circumstances of the case by an arbitrator who considered the case alone, or by a majority vote of the arbitrators who are part of the sports arbitration court. The decision is announced at a meeting of the sports arbitration court. The court of arbitration for sport has the right to announce only the decisive part of the decision. In this case, if the parties did not agree on the deadline for sending the decision to them, the reasoned decision must be sent to the parties within a period that does not exceed five days from the date of the announcement of the decisive part of the decision. One copy of the decision is sent to each party.

In the case of a party's refusal to receive a decision of the court of arbitration for sport or its non-appearance without good reason at the meeting of the same court where it is announced, the decision is considered to have been announced to the parties, and a corresponding note is made on the decision, and a copy of such decision is sent to such party.

The decision of the court of arbitration for sport shall be in writing and signed by the arbitrator who considered the case alone, or by the full composition of such a court that considered the case, including the arbitrator who has a separate opinion. The arbitrator's separate opinion is expressed in writing and is attached to the decision of the sports arbitration court.

The decision of the permanent court of arbitration for sport is sealed with the signature of the head and the round seal of the legal entity – the founder of this court. The signatures of the arbitrators of the court of arbitration for sport to resolve a specific dispute on the decision of such a court are notarized.

The decision of the court of arbitration for sport must state:

– the name of the sports arbitration court;
– date of decision;
– the composition of such a court and the order of its formation;
– the place of arbitration;
– the parties, their representatives and other participants in the arbitration proceeding who participated in the consideration of the case by the sports arbitration court;
– a conclusion on the competence of the sports arbitration court, the scope of its powers under the arbitration agreement;
– a summary of the statement (plaintiff's statement), response to the statement (plaintiff's statement), statements, explanations, requests of the parties and their representatives, other participants in the arbitration proceedings;
– the established circumstances of the case, the grounds for the dispute, the evidence on the basis of which the decision was made, the content of the settlement agreement, if it was concluded by the parties, the reasons for which the court of arbitration for sport rejected the arguments, evidence, and petitions of the parties stated during the arbitration;
– a conclusion on the satisfaction of the application (claim) or on the rejection of the application (claim) in full or in partially for each of the stated requirements;
– the legal norms that were guided by the court of arbitration for sport when making a decision.

The conclusions of the sports arbitration court, contained in the decision on the case, cannot depend on the occurrence or non-occurrence of any circumstances.

If the claims are satisfied, the resolution part of the decision states:
– the party in whose favour the dispute is resolved;
– the party from which, according to the decision of the sports arbitration court, monetary sums must be collected and/or which is obliged to perform certain actions or refrain from performing certain actions;
– the amount of money to be recovered and/or the actions to be performed or from which the party must refrain from performing according to the decision of the sports arbitration court;
– the term of payment of funds and/or the term and method of performing such actions;
– the order of distribution between the parties of the costs related to the resolution of the dispute by the sports arbitration court;
– other circumstances that the court of arbitration for sport considers necessary to note.

It is worth noting that the parties to arbitration proceedings undertake to voluntarily comply with the decision of the sports arbitration court. Thus, the parties who referred the dispute to the court of arbitration for sport are obliged to voluntarily comply with the decision of this court, without any delays or reservations.

The parties and the court of arbitration for sport shall take all necessary measures to ensure the implementation of this court's decision.

The decision of the court of arbitration for sport is final and is not subject to appeal, except for the cases stipulated by the regulations of such a court, the arbitration agreement or the Law of Ukraine "On Arbitration Courts" of 05/11/2004 No. 1701-IV.

The decision of the court of arbitration for sport may be appealed by the parties, third parties, as well as persons who did not participate in the case, if such a court decided the issue of their rights and obligations to the competent court, in accordance with the jurisdiction and jurisdiction of cases established by law.

The decision of the court of arbitration for sport can be appealed and cancelled only on the following grounds:

– the case, on which the decision of the court of arbitration for sport was made, is not reported to this court in accordance with the law;

– the decision of the court of arbitration for sport was made in a dispute not provided for in the arbitration agreement, or this decision resolved issues that go beyond the arbitration agreement. If the decision of the court of arbitration for sport resolves issues that go beyond the scope of the arbitration agreement, then only that part of the decision that relates to issues that go beyond the scope of the arbitration agreement can be annulled;

– the arbitration agreement is declared invalid by a competent court;

– the composition of the sports arbitration court, which made the decision, did not meet the requirements of its regulations, the arbitration agreement or the Law of Ukraine "On Arbitration Courts" of 05/11/2004 No. 1701-IV;

– the court of arbitration for sport resolved the issue of the rights and obligations of people who did not participate in the case.

An application for annulment of the sports arbitration court's decision can be submitted to the competent court by the parties, third parties within three months from the date of the decision by such court, and by people who did not participate in the case, in the event that the court of arbitration for sport decided the issue of their rights and obligations – within three months from the day when they learned or should have learned about the decision of this court.

Cancellation of the sports arbitration court's decision by a competent court does not deprive a party of the right to appeal to the court of arbitration for sport again.

In the case that the sports arbitration court's decision is annulled in whole or in part due to the invalidity of the arbitration agreement by a competent court, or because the decision was made in a dispute that is not provided for in the arbitration agreement, or this decision resolves issues that go beyond the arbitration agreement, or the decision accepted in a case not under the jurisdiction of the sports arbitration court, the relevant dispute is not subject to further consideration in the courts of arbitration for sport.

Let us consider in more detail the process of implementing the decision of the sports arbitration court. As already mentioned, the decisions of the courts of arbitration for sport must be implemented by the obliged party voluntarily, in the manner and within the time limits established in the decision. If the deadline for its implementation is not established in the decision, the decision is subject to immediate implementation.

An application for the issuance of an executive document may be submitted to a competent court within three years from the date of the decision of the sports arbitration court. Such an application is subject to consideration by a competent court within 15 days from the date of its receipt by the court. The parties are notified of the time and place of the application consideration, but the non-appearance of the parties or one of the parties is not an obstacle to the judicial consideration of the application.

When considering an application for the issuance of an executive document, the competent court must request the case from the permanent sports arbitration court, which keeps the case, which must be sent to the competent court within five days from the date of receipt of the request. In this case, the deadline for deciding the application for the issuance of an executive document is extended to one month.

The decision to issue an executive document is sent to the parties within five days of its adoption.

The party in whose favour the enforcement document is issued receives it directly from the competent court.

After consideration by the competent court of the application for the issuance of an executive document, the case shall be returned to the permanent sports arbitration court.

A competent court refuses to grant an application for the issuance of an executive document if:

– on the day of making a decision on the application for the issuance of an executive document, the decision of the court of arbitration for sport was annulled by a competent court;

– the case on which the decision of the court of arbitration for sport was made is not reported to the court of arbitration for sport in accordance with the law;

– the established deadline for applying for the issuance of an executive document is missed, and the reasons for its omission are not recognized by the court as valid;

– the decision of the court of arbitration for sport was made in a dispute not provided for in the arbitration agreement, or this decision resolved issues that go beyond the arbitration agreement. If the decision of the court of arbitration for sport resolves issues that go beyond the scope of the arbitration agreement, then only that part of the decision that relates to issues that go beyond the scope of the arbitration agreement can be annulled;

– the arbitration agreement is recognized as invalid by a competent court;

– the composition of the sports arbitration court, which made the decision, did not meet the requirements of its regulations, the arbitration agreement, or the Law of Ukraine "On Arbitration Courts" of 11 May 2004 No. 1701-IV;

– the decision of the court of arbitration for sport contains methods of rights protection and protected interests that are not provided for by the laws of Ukraine;

– the permanently active court of arbitration for sport did not submit a relevant case at the request of the competent court;

– the court of arbitration for sport resolved the issue of the rights and obligations of people who did not participate in the case.

The decision of the competent court on the refusal to issue an executive document, if it has not been challenged in the appeal procedure, becomes legally binding after the expiry of the period for appeal. In the case of an appeal, the decision of the competent court becomes legally binding after consideration of the case by the appeal court.

The parties have the right within 15 days after the competent court has issued a decision on refusal to issue an executive document to appeal this decision. After the decision on the refusal to issue an executive document enters into force, the dispute between the parties may be resolved by a competent court in a general manner.

In case of failure to comply with the decision of the sports arbitration court, it is enforced voluntarily in the enforcement procedure. Thus, the decision of the sports arbitration court, which is not executed voluntarily, is subject to compulsory execution in accordance with the procedure established by the Law of Ukraine "On Enforcement Proceedings". An executive document issued on the basis of a decision of a court of arbitration for sport may be presented for enforcement within the time limits established by the Law of Ukraine "On Executive Proceedings".

It is important to preserve the materials of arbitration proceedings in courts of arbitration for sport. Thus, cases considered by a permanent court of sports arbitration must be kept in this court for 10 years from the date of the decision of this court.

Cases considered by the court of arbitration for sport for the resolution of a specific dispute, for which enforcement documents were issued, are kept in the competent court at the place of issuance of the enforcement document.

The regulations of the court of arbitration for sport may resolve issues related to covering the expenses of such a court for the storage of cases.

So, let us highlight the main aspects of the sports process in sports arbitration bodies:

– consideration of sports disputes in the internal jurisdictional bodies of physical culture and sports organizations and courts of arbitration for sport makes it possible to take into account the specifics of problems arising in the field of physical culture and sports when considering such cases, makes it possible to make decisions not only taking into account regulatory norms, but also taking into account customs that have developed in this or that type of sport, taking into account its peculiarities;

– in sports arbitration, arbitrators are independent of the parties to a sports dispute and ensure objective and qualified consideration of the case;

– sports arbitration does not depend on state bodies;

– consideration of cases in sports arbitration is characterized by economy and efficiency;

– the amount of arbitration fees of courts of arbitration for sport, as a rule, is lower than the amount of the state duty charged in courts of general jurisdiction;

– during the consideration of sports disputes, the principle of competition between the parties is actively used.

Thus, internal jurisdictional bodies of physical culture and sports organizations act as disciplinary bodies of federations for certain types of sports, and courts of arbitration for sport, as a rule, consider disputes as appeal bodies in relation to disciplinary bodies of physical culture and sports organizations.

Now we will consider the legal features of the organization and implementation of international sports arbitration.

International sports arbitration is also conducted on the basis of principles that are similar to those in domestic courts of arbitration for sport, but despite this, international sports arbitration has its own peculiarities.

International sports arbitration resolves disputes between subjects in the field of physical culture and sports at the international level. International courts of arbitration for sport in various variations are created and operate

within the framework of many international sports federations. They may have different names, but their essence remains the same – they are international courts of arbitration for sport.

As already mentioned, the work of the International sports arbitration is based on the application of the following arbitration procedures:

– ordinary arbitration procedure;
– appeals arbitration procedure;
– arbitration procedure in the ad-hoc chamber;
– advisory procedure;
– mediation procedure.

International courts of arbitration for sport, unlike domestic courts of arbitration for sport, are competent to resolve disputes related to: challenging the actions (inaction) and decisions of physical culture and sports organizations, related to the resolution of labour disputes, etc.

As a general rule, the decision of the International sports arbitration, adopted as a result of the consideration of a sports dispute, is final and not subject to appeal. A complaint against the decision made by it can be submitted within the limits of clearly defined grounds, such as:

– lack of awareness of the court dispute;
– violation of the dispute review procedure defined by the Rules of Court;
– violation of public order rules.

Participants in a sports dispute in the International sports arbitration are given the opportunity to choose arbitrators at their discretion from among the people included in the list of the Sports Arbitration.

Decisions of International Courts of arbitration for sport must be recognized and enforced in accordance with the New York Convention on the Recognition and Enforcement of Foreign Arbitration Courts of 1958[22].

International courts of arbitration for sport perform the role of a cassation body in relation to the members of one or another international sports federation.

Thus, according to Art. 51 of Chapter XII “Implementation of football justice” of the Charter of the All-Ukrainian sports public organization “Football Federation of Ukraine”, approved by the III Congress of the Football Federation of Ukraine on 27 June 1996[23] (with subsequent changes and additions) Court of Arbitration for Sport (CAS) (Lausanne, Switzerland) has exclusive competence to consider all disputes within the scope of the

---

[22] Нью-Йоркська конвенція про визнання та приведення у виконання іноземних арбітражних судів 1958 р. URL: https://ips.ligazakon.net/document/

[23] Статуту громадської спілки «Федерація футболу України» від 16 червня 2017 року. URL: https://uaf.ua/files/biblioteka/ndocs_904%20(3).pdf.

activities of FIFA and UEFA, as well as appeals against the decisions of the Appeals Committee of the FFU, as a body of last resort.

International courts of arbitration for sport, as a rule, are established and operate at specialized sports non-commercial arbitration centres. At present, many specialized arbitration centres have been created and operate according to this scheme in the world. Among them, the most famous are:

– International Court of arbitration for sport at the International Sports Arbitration Council in the city of Lausanne, Switzerland;

– Chamber for Resolution of Sports Disputes of Great Britain;

– Belgian Centre for Sports Arbitration;

– Chamber for Resolution of Disputes in the Field of Sports in Italy;

– Australian National Sports Dispute Resolution Centre.

It is worth noting that appeals to the bodies of International Sports Arbitration, as well as to national ones, are carried out only in clearly defined cases, preferably by prior agreement between the parties to a sports dispute.

Today, the highest court in the field of sports is the International Court of Arbitration for Sport in the city of Lausanne (CAS). This court was created in 1984 under the International Olympic Committee (IOC).

The International Court of Arbitration for Sport in its activities is guided by the Statute of the International Court of Arbitration for Sports of 30 June 1984 and the Code of Sports Arbitration of 22 November 1994.

According to these documents, the International Court of Arbitration for Sport consists of 60 members, whose work is paid by the IOC. The annual budget of the International Court of Arbitration for Sport is approved by the President of the IOC. The seat of the International Court of Arbitration for Sport is Lausanne, Switzerland.

The main tasks of the International Court of Arbitration for Sport are to ensure the professional consideration of disputes arising in the field of sports, the low cost of arbitration and the relative speed of decision-making. Practically all international federations of Olympic sports and several international federations of non-Olympic sports have recognized the jurisdiction of this court.

Let us consider in more detail the activities of the International Court of Arbitration for Sport.

Thus, sports disputes in which a sports organization is one of the parties are subject to the jurisdiction of arbitration only if this is provided for by the statutes or regulations of the sports organization or a special arbitration agreement.

The main categories of cases considered by the International Court of Arbitration for Sport are:

– cases related to various economic issues (labour and sponsorship contracts, sale of rights to television broadcasts, transfer of sportsmen, etc.);

– disciplinary cases (violation of the rules of sports competitions, unethical behaviour of sportsmen, use of doping, etc.);

– cases related to organizational issues of sports (judgement of sports competitions, selection of athletes for participation in the largest international competitions, etc.).

The International Court of Arbitration for Sport consists of two chambers – The Ordinary Arbitration Division and The Appeals Arbitration Division.

The Ordinary Arbitration Division creates groups whose task is to resolve disputes resolved according to the ordinary procedure, and also performs other duties provided for by the procedure of the Regulations. A sports dispute arising from the provisions of an arbitration clause included in the contract, or when such a dispute is the subject of a later arbitration agreement, is referred to the Chamber of Ordinary Arbitration.

The Appeals Arbitration Division creates groups to resolve disputes (including doping disputes) concerning decisions of disciplinary courts or similar bodies of federations, associations or other sports organizations, provided that the statutes and regulations of these sports organizations or separate agreements provide for it. This chamber performs other duties provided for by the procedure of the Regulations.

Arbitration cases under the jurisdiction of the International Court of Arbitration for Sport shall be referred to the first or second chambers, according to their functions. It is worth noting that such a transfer of cases cannot be contested by the parties to the dispute as illegal.

The head of one or another chamber of the International Court of Arbitration for Sport may be suspended from participating in the case, if the circumstances allow to legitimately doubt his independence in relation to one of the parties to the arbitration case transferred to the chamber headed by him. He must immediately refuse to participate in a case referred to the chamber headed by him, if a sports organization to which he belongs participates as a party, or a member of the lawyer office, to which the head of the chamber also belongs, is an arbitrator, or adviser.

If the head of one of the two chambers is suspended from participating in the case, his functions are performed by the President of the International Court of Arbitration for Sport. The suspended head of the chamber also does not receive any information related to the activities of the International Court of Arbitration for Sport in this arbitration case.

The International Court of Arbitration for Sport includes two decentralized units created by the decision of the International Council of Arbitration for

Sport. One of these units is located in Sydney (Australia), the other in Denver (USA). Also, in the structure of the International Court of Arbitration for Sport, specialized structural subdivisions, called ad hoc chambers, are created for the prompt consideration of some sports disputes.

The structure of the International Court of Arbitration for Sport includes an office consisting of the Secretary General and secretaries who replace the Secretary General when necessary.

The task of the International Court of Arbitration for Sport is as follows: the appointment of an arbitration group that renders an arbitral decision on disputes in the field of sports, in accordance with the Regulations of the Code of International Sports Arbitration; supervision of the activity of the arbitration group and the relevant consideration of the case; creating the necessary conditions and infrastructure for the parties to consider their sports dispute.

The tasks of the arbitration group include:

– resolution of disputes submitted to it for consideration, with the use of ordinary arbitration proceedings;

– familiarization in the case of appeal arbitration proceedings with cases on disputes (including those related to the use of doping), which are within the competence of disciplinary courts or similar instances of sports federations, associations or other sports organizations to the extent that the statutes provide for it, regulations or arbitration agreements between these organizations;

– expressing one's opinion, which is not of a mandatory executive nature, at the request of the International Olympic Committee, international federations, national Olympic committees, associations recognized by the IOC, and the Organizing Committees of the Olympic Games.

The composition of the International Court of Arbitration for Sport must include at least 150 arbitrators, who are included for a four-year term in a special list published in the official publication. When forming the list of arbitrators, the International Sports Arbitration Council must include people with a legal education and generally recognized competence in the field of sports.

After their appointment, the arbitrators sign a declaration according to which they undertake to perform their functions personally, with complete objectivity and independence, as well as with respect for confidentiality.

The International Court of Arbitration for Sport is headed by the President. The Ordinary Arbitration Division and The Appeals Arbitration Division are headed by presidents and their deputies, respectively. The presidents of both chambers of the International Court of Arbitration for Sport are elected by the International Council of Arbitration for Sport. The President of the

International Court of Arbitration for Sport is simultaneously the President of the International Council of Sports Arbitration.

The working languages of the International Court of Arbitration for Sport are French and English. In the absence of agreement of the parties, the chairman of the group of arbitrators determines at the beginning of the procedure one of these two languages as the language of the arbitration, taking into account the circumstances related to the case. With the agreement of the group of arbitrators, the parties may choose another language. They inform the International Court of Arbitration for Sport about this. In this case, the group of arbitrators assigns all or part of the translation costs to the account of the parties.

The parties to the dispute may be represented by other people of their choice. The names, addresses, telephone and fax numbers of the people representing the parties to the dispute shall be communicated to the Office of the International Court of Arbitration for Sport, the other party of the dispute and the group of arbitrators as soon as it is established.

The Office makes and transmits the notices that the International Court of Arbitration for Sport or a group of arbitrators appoints to the parties to the dispute. Notices and warnings shall be in French or English and shall be sent to the addresses specified in the request for arbitration, appeal, or request for consultations, or to any other address specified in the course of the dispute. Verdicts, rulings and other decisions of the International Court of Arbitration for Sport and the group of arbitrators are transmitted in such a way that there is evidence of their receipt by the parties to the dispute.

Each arbitrator must be and remain independent from the parties of the dispute and must immediately declare all circumstances that may compromise his independence in relation to the parties or one of them.

Let us consider the main provisions of the usual arbitration procedure.

Thus, the party intending to apply to the International Court of Arbitration for Sport submits a petition that includes the following data:

– a brief description of the facts and legal grounds, including a description of the issues submitted to the court for the purpose of making a decision;

– claims of the plaintiff party;

– a copy of a contract containing an arbitration clause or a copy of a document providing for arbitration;

– all necessary information relating to the number and method of selection of one or more arbitrators, especially if the arbitration clause provides for three arbitrators, the name and address of the arbitrator selected by the claimant from among the people appearing on the list of the International Court of Arbitration for Sport.

When submitting a petition, the plaintiff makes the contribution provided for by the Regulations.

The office notifies the defendant about the filed complaint and asks the parties, if necessary, about the law applicable to the substance of the dispute, about the parties' choice of one or more arbitrators from the list, and about the response to the arbitration application.

The response to the arbitration application must contain:

– a brief description of defence arguments;

– objection to the ineligibility of consideration of the arbitration application (objection to the consideration of the case, based on its non-jurisdiction of this court);

– counterclaim.

A group of arbitrators must be established for arbitration. The group may consist of one or three arbitrators. If the arbitration condition does not specify the number of arbitrators, the president of the chamber makes a decision taking into account the essence of the dispute and the complexity of the case.

The parties of the dispute agree on the procedure for appointing arbitrators. In the absence of agreement, arbitrators are appointed as follows:

– if according to the arbitration clause or the decision of the chamber president, there is a place of appointment of one arbitrator, the parties to the dispute appoint him by mutual agreement within a period of twenty days established by the office after receiving the petition. In the absence of an agreement within this period, the president of the chamber himself appoints an arbitrator;

– if according to the arbitration clause or the decision of the president of the chamber there is a place of appointment of three arbitrators, the plaintiff party appoints one arbitrator in the request or within the time limit established at the time of the decision according to the number of arbitrators, and the defendant party appoints the arbitrator within the time limit established by the office at the time of receipt of the request. In the absence of such appointments, the president of the chamber makes appointments on behalf of the parties. The two arbitrators appointed in this way shall be elected by mutual consent of the chairman of the group of arbitrators within the term established by the office. In the absence of agreement before the appointed term, the president of the chamber appoints the head of the group on behalf of the two previously selected arbitrators.

The president of the chamber transfers the file to the group of arbitrators, and then the group of arbitrators can try to resolve the dispute by conciliation. Any settlement agreement may be subject to arbitration if it results in an agreement between the parties.

The arbitration procedure in The Ordinary Arbitration Division is divided into written and oral investigation.

Thus, the procedure includes a written inquiry if the group of arbitrators deems it necessary. As soon as the dossier is received, the chairman of the arbitrators' group establishes the rules of procedure for the written investigation, if it will take place. The procedure includes a memorandum, a counter-memorandum and, if the circumstances require it, objections and objections to the objections of the opposite party. In the memorandum and counter-memorandum, the parties may formulate requests that were not included in the complaint or in the response. After that, the party can no longer present new requests without the consent of the other party.

The parties submit together with their business papers all the documents from which they wish to benefit. Once the business papers have been exchanged, the parties may no longer submit documents without mutual consent or, in exceptional circumstances, without the permission of the group of arbitrators.

In their business papers, the parties name the witnesses and experts they want to hear and set out all the circumstances of the case.

When the exchange of business papers is finished, the chairman of the group of arbitrators sets the rules of the oral investigation and the court session date. Oral investigation includes a court session, during which a group of arbitrators listens to the parties, witnesses and experts, as well as the closing court speeches of the parties; the responding party has the last word.

The head of the group of arbitrators leads the debates and ensures that they are concise, limited to the topic of the presented written documents and relate directly to the case. Debates take place behind closed doors, unless the parties agree otherwise. The debate is recorded. Any person being heard can use an interpreter at the expense of the party who requested it.

The parties may invite and request that the witnesses and experts named in their business papers be heard.

Before hearing a witness, expert or interpreter, a group of arbitrators calls on that person to tell the truth under penalty of perjury.

After the oral hearing, the parties may no longer submit written documents unless directed to do so by the group of arbitrators.

The group of arbitrators shall render its decision in accordance with the provisions of the law chosen by the parties or, in the absence of such choice, in accordance with the provisions of Swiss law. The parties may allow a group of arbitrators to render a decision based on the requirements of fairness.

The arbitral decision is made by a majority of votes, and in the absence of a majority – by one chairman of the group of arbitrators. The arbitration

decision must be in writing, motivated, dated and signed. One signature of the chairman of the group of arbitrators is sufficient.

The arbitration decision is final and binding. It is not subject to any appeal in accordance with the fact that the parties do not reside and do not have a place of official registration in Switzerland and have unequivocally waived the challenge of such a decision in the arbitration agreement or in the agreement concluded later, namely at the beginning of the procedure.

Let us consider the main provisions of the arbitration appeal procedure.

Thus, a party may appeal a decision of a disciplinary court or a similar instance of a federation, association or other sports body, if the statutes or regulations of the aforementioned sports organizations provide for it or if the parties have concluded a separate arbitration agreement, as well as on the condition that the plaintiff has exhausted legal options, previous appeals, which he had at his disposal in accordance with the statutes and regulations of these sports organizations.

The appellant submits to the International Court of Arbitration for Sport an appeal statement, which consists of the following:

– a copy of the contested decision;

– claim of the appellant;

– the name of the arbitrator chosen by the appellant from the list of arbitrators;

– if necessary, a reasoned request to suspend the execution of the decision;

– a copy of the provisions of the statute, regulation or contract, which provides for the possibility of an appeal to the International Court of Arbitration for Sport.

When submitting a petition, the appellant makes a monetary contribution in accordance with the Regulations.

If there is no deadline for filing an appeal established by the statutes or rules of federations, associations, other sports organizations or contracts concluded previously, the deadline for filing an appeal is determined on the 21st day from the day of notification of the decision that is the subject of the appeal.

An appeal shall be submitted to a group of three arbitrators, except when the appellant notifies at the time of filing the appeal that the parties have agreed to resort to the assistance of one arbitrator, or if the president of the chamber considers that the appeal becomes temporary and should be referred to a single arbitrator.

10 days after the end of the appeal period, the appellant shall submit to the International Court of Arbitration for Sport a memorandum containing a description of the facts and legal grounds underlying the appeal and

accompanied by all documents and evidence on which he intends to rely. In the absence of the above-mentioned, the appeal is considered as withdrawn.

If there are no grounds for refusing the appeal, the International Court of Arbitration for Sport take all necessary measures to conduct the arbitration. For this purpose, the office notifies about the appeal of the defendant, and the president of the chamber begins to create a group of arbitrators. If necessary, the execution of the contested decision is suspended.

If the parties have not agreed to resort to the assistance of one arbitrator or if the president of the chamber believes that the appeal is of a temporary nature and is subject to consideration by one arbitrator, the defendant shall appoint one arbitrator 10 days after receiving the appeal. If the defendant does not appoint an arbitrator during this term, the president of the chamber starts appointing an arbitrator on behalf of the defendant.

If the parties have agreed to use a single arbitrator, or if the President of the Chamber considers that the appeal should be referred to a single arbitrator, the President of the Chamber shall appoint such arbitrator at the time of receipt of the appeal.

If the assistance of three arbitrators is to be resorted to, the president of the chamber shall appoint the chairman of the group of arbitrators at the time of the appointment of the arbitrator by the respondent. Arbitrators appointed by the parties are considered appointed only after their approval by the president of the chamber. When a group of arbitrators is created, the office confirms the creation of the group and sends the dossier to the arbitrators.

20 days after receiving the motivation of the claim, the defendant submits an answer to the International Court of Arbitration for Sport, which must contain:

– a description of defence arguments (objections to claims);

– objection of ineligibility (objection against the consideration of the case, based on its lack of jurisdiction of this court);

– all documents and evidence to which the defendant intends to refer.

A group of arbitrators considers the circumstances of the case with full powers. As soon as the dossier has been submitted, the chairman of the arbitration group determines the rules of the court session for hearing parties, witnesses and experts, as well as court speeches. He may request access to the file of the disciplinary court or similar authority that made the decision that was the subject of the appeal.

The group of arbitrators rule in accordance with the regulations and legal rules chosen by the parties, or in the absence of such a choice, in accordance with the law of the country in which the federation, association or other sports organization is located.

The decision is made by a majority of votes, and in the absence of a majority – by the head of the arbitration group. The decision must be made in writing, motivated, dated and signed. One signature of the chairman of the arbitration group is sufficient. An arbitration group can inform the parties about the content of the decision before its motivation. The decision is binding from the moment of written information about its content.

The decision finally ends the dispute. It is not subject to any appeal in accordance with the fact that the parties do not reside and have no official registration in Switzerland and have unequivocally waived the appeal in the arbitration agreement or in the agreement concluded later, namely at the beginning of the procedure. The content of the decision must be brought to the attention of the parties 4 months after the appeal statement is received. This term can be extended by the president of the chamber at the motivated request of the chairman of the arbitration group. The decision or summary concluding the proceedings is published by the Court of Arbitration for Sport, unless the parties have agreed that the arbitration remains confidential.

It should be noted that, based on the specific circumstances, the chairman of the arbitration group, or in his absence the president of the relevant chamber, after consultation with the parties, may appoint a different place for hearings than Lausanne.

Let us consider the arbitration procedure in the ad hoc Chamber.

To consider sports disputes that may arise during the Olympic Games and other major international sports competitions, the International Court of Arbitration for Sport creates an ad hoc chamber (for each specific case), which must resolve the sports dispute by issuing a final decision.

Ad hoc chambers carry out their activities on the basis of arbitration regulations, which are approved by the International Sports Arbitration Council when creating chambers for one or another type of competition.

Despite the fact that the ad hoc chamber is created for a specific period of time that coincides with the timing of sports competitions, it is a structural unit of the International Court of Arbitration for Sport. Unlike the permanent structures of the International Court of Arbitration for Sport (The Ordinary and The Appeals Arbitration Division), it hears both first-instance and appeal cases. The ad hoc chamber consists of a certain number of arbitrators, a special list of which is officially published before the opening of the Olympic Games. This list includes only those arbitrators who are included in the general list of arbitrators of the International Court of Arbitration for Sport. All arbitrators named in the special list are obliged to be constantly present at the respective Olympic Games.

Before the start of the Olympic Games, each of these arbitrators must sign a declaration of independence and indicate all objectively existing

circumstances that may call this independence into question. The candidacy of each arbitrator may be rejected by one of the parties to the dispute, if there are circumstances that make it possible to question his independence. No arbitrator may act as counsel for any party to the dispute or third party interested in the resolution of the dispute by the ad hoc chamber. The activities of the ad hoc chamber are managed by its president (appointed by the bureau of the International Sports Arbitration Council from among its members) and secretary (appointed by the International Court of Arbitration for Sports and under the direct authority of its Secretary General).

The language of the ad hoc chamber is English or French (as decided by the president of the chamber). Any individual or legal entity who intends to apply to the ad hoc chamber must submit a written statement of claim to the secretary, having previously received a standard form from him.

The statement of claim must contain:

– a copy of the contested decision (if necessary);

– a brief description of the facts and legal means justifying the claim;

– claims of the plaintiff;

– a request for a postponement or the adoption of any other temporary measure that requires an urgent appointment (if necessary);

– all explanations useful for substantiating and clarifying the competence of the ad hoc chamber in a specific case;

– the plaintiff's address at the venue of the Olympic Games and (if necessary) a fax number, e-mail address, at which the plaintiff can be found in connection with the progress of the case.

The filing of a claim is the basis for the appointment by the president of the chamber of an ad hoc arbitration group, called to resolve a sports dispute, consisting of three arbitrators, one of whom is the chairman. In exceptional cases, the president of the ad hoc chamber may appoint a sole arbitrator to consider the claim. In the event that a case (or part of it) is referred to the International Court of Arbitration for Sport, the arbitration group of the ad hoc chamber may, including in the absence of relevant demands from the parties to the dispute, determine the necessary temporary measures that must be in place until the International Court of Arbitration for Sport makes a contrary decision.

During the consideration of the case, the arbitration group studies the materials of the claim statement, conducts hearings of the parties, carries out the necessary investigative actions, involving experts for this, requests documents, various material or other evidence.

After receiving the necessary and sufficient information, the arbitration group holds its meeting to make a decision even in the absence of the parties to the dispute.

According to the specific circumstances of the case, the arbitration group of the Chamber of ad hoc may:

– make a final decision on the case;

– transfer the case to one of the permanent chambers of the International Court of Arbitration for Sport in accordance with the Code of Sports Arbitration;

– to make a decision on a certain part of disputed issues, and to transfer the unresolved part of the dispute to one of the permanent chambers of the International Court of Arbitration for Sport.

The arbitration group renders its decision within 24 hours of the claim filing. As an exception, this term can be extended by the president of ad hoc chamber. The arbitration decision is adopted by a majority vote of the arbitrators, and in its absence – by the chairman of the arbitration group. The decision is motivated, drawn up in writing, dated and signed by the head of the arbitration group. Before signing the arbitration decision, it is reviewed by the president of the ad hoc chamber, who can make changes to it regarding its form. The arbitral decision is notified to the parties immediately and becomes legally binding upon announcement. It is subject to immediate execution and cannot be appealed.

The services of the ad hoc chamber of the International Court of Arbitration for Sport are provided free of charge. The parties must bear their own costs, including the costs of lawyers, experts, witnesses and interpreters.

It is also necessary to pay attention to such an institution of the sports process as the mediation arbitration procedure.

The mediation procedure of the International Court of Arbitration for Sport is a non-coercive and informal procedure based on a mediation agreement, in which each party undertakes, in the course of negotiations with the other party and with the help of a mediator, to show good will in order to achieve a resolution of the sports dispute that has arisen. In such a procedure, the International Court of Arbitration for Sport acts as a mediator, but with somewhat reduced competence.

Thus, the mediation of the International Court of Arbitration for Sport provides for the decision of arbitration cases only in accordance with the usual procedure (cases of The Ordinary Arbitration Division). That is, the decision made by the internal jurisdictional body of the sports organization cannot be the subject of mediation procedures. Similarly, it is not allowed to use such procedures to resolve sports disputes related to the use of prohibited substances and drugs (doping) by sportsmen, as well as disputes related to the imposition of disciplinary sanctions on a sportsman.

An agreement on mediation should be understood as an agreement under which the parties agree to resolve sports disputes that have already arisen

between them or may arise in the future, with the involvement of mediators. The mediation agreement can be drawn up in the form of a clause on mediation, included in the contract, or in the form of a separate agreement.

The party intending to resort to the mediation procedure sends a written application to the Office of the International Court of Arbitration for Sport. At the same time, it must send a copy of the statement to the other party.

The application must contain data necessary for the identification of the parties and their representatives (name, address, telephone and fax numbers); it is accompanied by a copy of the mediation agreement and a brief description of the nature of the sports dispute.

When submitting an application, the relevant party is charged according to the administrative costs established by the Office. In the case of non-payment of the specified costs, mediation proceedings are not opened. The parties bear their own mediation costs. In the absence of other agreements between the parties, the full mediation costs, including the salary of court officials, costs and fees of the mediator, calculated according to the staff schedule of the court, participation in expenses and payments, expenses for inviting witnesses, experts and interpreters are reimbursed by the parties in equal shares. The Office of the International Court of Arbitration for Sport may require the parties to deposit an appropriate amount as an advance for mediation. The initiation date of the mediation procedure is the date of receipt of the application for mediation at the Office of the International Court of Arbitration for Sport.

The Office of the International Court of Arbitration for Sport immediately notify the parties of the date of the mediation procedure commencement. It sets a deadline for the other party to pay the appropriate administrative costs.

The International Council of Arbitration for Sport establishes a list of mediators selected from among the arbitrators included in the list of the International Court of Arbitration for Sport or not included in this list. People appointed by the council appear on the list of mediators for four years, after which the list shall be subject to review. If the parties have not agreed on the appointment of a specific person as a mediator, the mediator is selected by the President of the International Court of Arbitration for Sport from the list of mediators and appointed after consultation with the parties. Having agreed to his appointment, the mediator undertakes to allocate the necessary time to the mediation procedure so that it can be carried out immediately. The mediator must be and remain independent of the parties. He is obliged to make public any circumstances that may cast doubt on his independence from the parties or from one of them. Despite this, the parties, who are informed about this in a mandatory manner, can authorize the mediator to continue to fulfil his mission, for which they sign the relevant statement individually or jointly.

If one of the parties objects to the appointed mediator or the latter withdraws of his own free will, believing that he will not be able to bring the case to the conciliation of the parties, he notifies the President of the International Court of Arbitration for Sport, who takes steps to replace him after consultation with the parties.

The parties may use the services of a representative or an assistant during meetings with the mediator. In the case of appointing a representative, the party must inform the other party and the International Court of Arbitration for Sport about the data for his identification. The representative must have the authority to independently resolve the dispute without referring to the person being represented.

The parties agree among themselves on the terms of the mediation procedure. In the absence of such an agreement, the mediator himself makes the appropriate decision. The mediator establishes the methods and terms within which each party presents to him and the other party a brief description of the dispute, which must contain the following data:

– a brief description of the facts and legal remedies, including the essence of the issues raised before the mediator for their decision;

– a copy of the mediation agreement.

The parties must cooperate with the mediator in a spirit of goodwill and ensure that he is free to perform his duties in order to quickly resolve the dispute. The mediator can make any offers for this. If necessary, he can meet with any party separately. The mediator's main role is to facilitate the settlement of disputed issues in the way he sees fit. To do this, he defines the issue that is the subject of the dispute, helps the parties in the discussion and offers appropriate solutions.

However, the mediator cannot impose his decision on the parties. The mediator, the parties, their representatives and consultants, any experts and other people present at the meetings of the parties shall not transfer to a third party any information obtained during the mediation procedure, except when required by law. The parties undertake under their own responsibility not to compel the mediator to disclose files, reports or other documents or to act as a witness during any arbitration or court proceedings. Any information received from any party may not be disclosed to another party without its consent. Meetings of mediation procedure participants cannot be subject to any kind of registration. At the end of the mediation procedure, all case materials are returned to the people who presented them, while copies of the documents are not kept.

In the further conduct of any arbitration or court proceedings, the parties undertake not to refer to:

– any opinion or proposal formulated by one of the parties regarding the possible settlement of the dispute;
– consent of one of the parties, made during the mediation procedure;
– all documents, notes or other information obtained during the mediation procedure;
– all proposals made by the mediator or any opinions expressed by him;
– the fact that some party has shown readiness to accept some offer.

Each party or mediator may terminate the mediation process at any time:
– signing of the agreement between the parties;
– by a written statement of the mediator, if he considers the continuation of the mediation inexpedient;
– a written statement of one or all parties stating that the mediation procedure has been completed.

The reached agreement is fixed in writing by the mediator and signed by him and the parties. Each party receives a copy of the agreement. In specific cases, the party may apply to the relevant arbitration or court authority. A copy of the agreement is sent to the Office of the International Court of Arbitration for Sport and kept there.

In the case that the dispute cannot be resolved through mediation, the parties may resort to arbitration, if there is an arbitration agreement between them or a corresponding provision in another document. An arbitration clause may be included in a mediation agreement. In this case, an expedited trial may apply. In the case of mediation failure, the mediator shall not agree to be appointed as an arbitrator in arbitration proceedings involving parties involved in the same dispute.

The International Court of Arbitration for Sport also carries out consulting activities. The International Olympic Committee, international sports federations, national Olympic committees, associations recognized by the IOC and the Organizing Committees of the Olympic Games may refer to the International Court of Arbitration for Sport for advice on any legal matter relating to the practice of sport, the development of sport or any activity related to sports.

The above-mentioned subjects in the field of physical education and sports send a request to the International Court of Arbitration for Sport with all the necessary materials for consultation. When a request is received, the president of the International Court of Arbitration for Sport determines to what extent it can become the subject of an arbitration opinion. If necessary, the president starts forming an arbitration group of one or three arbitrators and appoints its chairman, and forwards the request to the arbitration group. Before expressing its opinion, the arbitration group may request additional information. The opinion of the arbitration group may be published with the consent of the

person who made the request. The opinion does not have the status of an arbitration decision and is not binding.

CONCLUSIONS

So, it can be stated that in the field of physical culture and sports, its own court system is successfully functioning, which has its own complex hierarchy, which is primarily formed by sports federations, which, in turn, also have a multi-level character (international, national federations).

Currently, the highest court in the field of sports is the International Court of Arbitration for Sport in the city of Lausanne.

As a rule, all arbitration institutions that consider sports disputes are specialized sports non-commercial centres where arbitration courts are established and operate.

The specificity of physical culture and sports activities requires the resolution of controversial issues in the shortest possible time. Therefore, such specialized sports courts are designed to quickly consider sports disputes, since appeals to courts of general jurisdiction can take a long time.

Disciplinary (appeal) committees are part of the sports federations as internal jurisdictional bodies, which are authorized by the statutes or regulations of the federations to consider in a pre-trial procedure all disputes related to their sphere of competence.

The sportsman, as the main subject of the sports field, has the right to appeal the decisions of sports organizations. At the same time, controversial issues may also arise between business entities in the field of physical culture and sports, between sports organizations, etc. Therefore, a system of arbitration courts, which are sports arbitration bodies, has been created and is functioning in this area. Such bodies are divided into national and international. Basically, their functions are similar, but international ones mainly play the role of last resort in a sports dispute. Decisions of such arbitration courts are binding on the parties to a sports dispute.

SUMMARY

The paper covers the sports law fundamental provisions. The main emphasis is on sports jurisdiction. It is noted that sports law is a fairly new branch of law requiring a complex approach to the interpretation of legal phenomena constituting the subject of this field. Various institutional mechanisms for resolving sports disputes are analyzed. A proper understanding of the subject of this paper requires the mastery of such blocks of legal issues as the peculiarities of consideration of sports disputes in bodies of general sports jurisdiction and the procedure for consideration of cases in bodies of special sports jurisdiction. In this work we are talking about such

institutes of sports law as the institute of legal protection of subjects of sports law and the institute of sports process and dispute resolution in the field of physical culture and sports.

Within the paper framework the concept of physical culture and health and sports activities is understood as a generalized the concept of physical and recreational and sports activities should be understood as a set of creative, universal, purposeful measures, during which objects, processes and phenomena of natural and social origin, based on the combination of private and public interests, can be changed and can be carried out professionally by the subjects of the sphere of physical culture and sports for the development of physical culture and are aimed at ensuring the motor activity of people in order to harmonize, primarily physical, development and conduct of a healthy lifestyle to identify and a unified comparison of people's achievements in physical, intellectual and other preparedness by conducting physical and recreational and sports events and ensuring appropriate preparation for them.

It is emphasized that the issues of sports jurisdiction are directly related to such sports law institutes as institute of legal protection of sports law subjects and institute of sports process and the settlement of disputes in the field of physical culture and sports.

It is summarized that the sportsman, as the main subject of the sports field, has the right to appeal the decisions of sports organizations. At the same time, controversial issues may also arise between business entities in the field of physical culture and sports, between sports organizations, etc. Therefore, a system of arbitration courts, which are sports arbitration bodies, has been created and is functioning in this area. Such bodies are divided into national and international.

References

1. Апаров А. М. , Онищенко О. М. *Господарське право України: навчальний посібник з основ теорії, практики та проблематики навчальної дисципліни (ключові пояснення, тлумачення, рекомендації)*. Київ : Видавничий дім «Кий», 2022. 528 с.

2. Конституція України від 28 червня 1996 року. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

3. Справа Ващук В. В. проти ЗАТ «ФК «Динамо Київ» стосовно фальсифікації клубом його підпису на трудовому контракті від 4 листопада 2002 року. URL: http://www.ua-football.com/ukrainian/news/3E290625.html.

4. Справа Жадсона ФК «Шахтар» проти на соціальної мережі orkut, яка створена компанією Google щодо неправомірного використання

свого образу в соціальній мережі URL: http://prosport-ru.tsn.ua/sport/futbolist-shahtera-podal-v-sud-na-sotsialnuyu-set.html.

5. Регламент ФІФА по агентам гравців від 29 жовтня 2007 року. URL: http://pfl.ua/docs/FIFA_Regl_agent.pdf.

6. Дисциплінарні правила ФФУ від 11 червня 2009 року. URL: http://pfl.ua/docs/FFU_Disc_rules_2009.pdf.

7. Про Конституційний Суд України. Закон від 13 липня 2017 року. *Відомості Верховної Ради України*. 2017. № 35. Ст. 376.

8. Господарський процесуальний кодекс України від 6 листопада 1991 року. *Відомості Верховної Ради України*. 1992. № 6. Ст. 56.

9. Кодекс адміністративного судочинства України від 6 липня 2005 року. *Відомості Верховної Ради України*. 2005. № 35–36, № 37. Ст. 446.

10. Цивільний процесуальний кодекс України від 18 березня 2004 року. *Відомості Верховної Ради України*. 2004. № 40–41, 42. Ст. 492.

11. Кримінальний процесуальний кодекс України від 13 квітня 2012 року. *Відомості Верховної Ради України*. 2013. № 9–10, 11–12, 13. Ст. 88.

12. Кодекс України про адміністративні правопорушення від 7 грудня 1984 року. URL https://zakon.rada.gov.ua/go/80731–10.

13. Про третейські суди : Закон України від 11 травня 2004 року. *Відомості Верховної Ради України*. 2004. № 35. Ст. 412.

14. Постанова Одеського окружного адміністративного суду від 20 серпня 2010 року у справі № 2а-3377/10/1570 за адміністративним позовом Овідіопольського районного управління юстиції Одеської області до Громадської організації «Федерація футболу Овідіопольського району» про примусовий розпуск (ліквідацію) громадської організації. URL: http://reyestr.court.gov.ua/Review/11100084.

15. Рішення господарського суду Житомирської області від 16 червня 2011 року у справі № 16/5007/61/11, за позовом Головного управління у справах сім’ї молоді та спорту Житомирської обласної державної адміністрації до Житомирської обласної спортивної громадської організації «Житомирська обласна Федерація футболу» про визнання недійсним договору № 4-сп від 18.03.2011 р. URL: http://reyestr.court.gov.ua/Review/16284348.

16. Рішення Деснянського районного суд м. Києва від 28 лютого 2011 року у справі № 2-453, про спростування відомостей, що не відповідають дійсності, і порочать честь, гідність і ділову репутацію позивача, та відшкодування моральної шкоди. URL http://reyestr.court.gov.ua/Review/16049823.

17. Статуту громадської спілки «Федерація футболу України» від 16 червня 2017 року. URL https://uaf.ua/files/biblioteka/ndocs_904%20(3).pdf.

18. Дисциплінарні правила Федерації футболу України від 11 червня 2009 року. URL http://pfl.ua/docs/FFU_Disc_rules_2009.pdf.

19. Регламент роботи Апеляційного Суду Автомобільної Федерації України від 12 вересня 2017 року. URL https://s1.fau.ua/new/documentsubgroup/45/files/2012.09.2017).pdf

20. Нью-Йоркська конвенція про визнання та приведення у виконання іноземних арбітражних судів 1958 р. URL https://ips.ligazakon.net/document/.

Information about the author:
Aparov Andrii Mykolaiovych,
Doctor of Law, Professor,
Professor of Law and Methodology
of Teaching Jurisprudence Department
Sumy State Pedagogical University named after A. S. Makarenko
87, Romenska str., Sumy, 40002, Ukraine