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Alternative means for resolving sports disputes

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Abstract:

The article discusses alternative methods for resolving sports disputes, emphasizing their significance in ensuring stability, justice, and reaching consensus among conflicting parties. It highlights the provision of a neutral and objective environment for peacefully and fairly resolving disputes, employing a descriptive-analytical approach to comprehend the actuality of these methods. The article illustrates how the diversity of interests and parties in the sports domain complicates conflicts, negatively impacting stability and trust in sports, hindering the achievement of desired sports and social objectives. Consequently, effective measures become imperative to resolve these disputes and avoid the perpetuation of sports problems and conflicts. The article concludes that these methods bolster confidence in the sports system and contribute to achieving stability and sustainable development within the sports realm. To promote their utilization and advancement, it suggests expanding their application scope, providing training and education on their benefits, and enhancing cooperation between international and national sports centers in dispute resolution. Additionally, the WIPO Center and FIFA Dispute Resolution Chamber offer effective and objective mechanisms for dispute resolution, issuing legally binding decisions on disputing parties, thereby enhancing confidence in the sports system, and facilitating stability and sustainable development in sports.

Keywords: Alternative methods, sports disputes, WIPO, FIFA Dispute Resolution Chamber, legal justice

الوسائل البديلة لفض المنازعات الرياضية

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ملخص:

تناولت الدراسة موضوع الوسائل البديلة لفض المنازعات الرياضية، حيث أكدت على أهمية هذه الوسائل في ضمان الاستقرار والعدالة، وتحقيق التوافق بين الأطراف المتنازعة من خلال توفير بيئة محايدة وموضوعية لحل النزاعات بشكل سلمي وعادل، كما تم اعتماد المنهج الوصفي التحليلي لفهم الواقع الفعلي لهذه الوسائل، وأظهرت الدراسة أن التعددية في المصالح والأطراف في المجال الرياضي تزيد من تعقيدات النزاعات والخلافات، مما يؤثر سلباً على الاستقرار والثقة في الرياضة، ويعيق تحقيق الأهداف الرياضية والاجتماعية المرجوة. لذا، يصبح من الضروري اتخاذ إجراءات فعالة لفض هذه النزاعات وتجنب تداول الخلافات والمشكلات الرياضية وتوصلت الدراسة هذه الوسائل تعزز الثقة في النظام الرياضي وتساهم في تحقيق الاستقرار والتنمية المستدامة في الرياضي ولتعزيز استخدام وتطوير هذه الوسائل، ينبغي توسيع نطاق تطبيقها، وتوفير التدريب والتثقيف حول فوائدها، وتعزيز التعاون بين المراكز الرياضية الدولية والوطنية في حل النزاعات، كما أن مركز الويبو وغرفة تسوية المنازعات للفيفا يوفران آليات فعالة وموضوعية لتسوية النزاعات وتصدران قرارات قانونية ملزمة على الأطراف المتنازعة، مما يعزز الثقة في النظام الرياضي ويسهم في تعزيز الاستقرار والتنمية المستدامة في الرياضة.

كلمات مفتاحية: الوسائل البديلة، النزاعات الرياضية، الويبو، غرفة تسوية النزاعات، العدالة القانونية

Introduction:

In the realm of sports, disputes and conflicts among involved parties often arise unavoidably, whether concerning laws and regulations or differing interpretations of events and situations. With the evolution and complexities of this field, there's a pressing need for effective mechanisms to resolve these disputes in ways that maintain the credibility of competition and sports justice.

Alternative dispute resolution methods in sports provide a flexible and multifaceted framework that allows for the resolution of disputes through diverse and impartial means, without the direct recourse to traditional judicial courts. These methods encompass a range of techniques and procedures, including mediation, arbitration, negotiation, and others, aimed at achieving harmony and consensus among conflicting parties.

Understanding the importance and features of these alternative methods contributes to improving the sports environment and enhancing trust among players and audiences, as well as reinforcing the concepts of justice and discipline.

Significance:

Alternative dispute resolution methods in sports are vital tools in promoting stability and sustainable development in sports on both the global and local levels. These methods significantly contribute to achieving justice and fairness, enhancing trust between conflicting parties, and ensuring stability and safety within the sports arena. Moreover, they contribute to building a culture of dialogue and cooperation, as well as reinforcing the concepts of respect and discipline among all stakeholders.

The Problem:

With the plurality of parties and interests in the sports field, it becomes challenging to avoid conflicts and disputes that may arise due to different interpretations of laws and regulations, or intense competition between teams and individuals. This leads to the disruption of competitions and sporting events, reducing the level of trust and credibility in sports, thus hindering the achievement of desired sports and social goals. Therefore, it becomes necessary to take effective measures to resolve these disputes and avoid the perpetuation of sports problems and conflicts. Here arises the question:

How can the use of alternative dispute resolution methods be enhanced in the sports field?

Previous Studies:

- Legal Liability for Injuries in Sports by Bardawil et al. (2021) discusses the concept of injuries in sports and their types, shedding light on the civil and criminal legal liabilities arising from them. It also addresses the legal methods of settling disputes related to sports injuries¹.
- "National Arbitration and Domestic Sports Dispute Resolution" by Abdel Salam (2018) discusses arbitration in sports and domestic sports dispute resolution. The study reviews the advantages and disadvantages of

¹ Bardoil, Shawki Abdel Mageed Obeidi. (2021). Civil and criminal legal responsibility for injuries, violence, aggression, and riots in stadiums and methods of dispute resolution therein. Al-Qalzam Journal of Political and Legal Studies, Issue 5, pp. 107-122.

arbitration, analyzes arbitration procedures in Sudanese law, and focuses on judicial oversight of arbitration decisions¹.

Methodology:

The study is based on the descriptive-analytical method, using description and analysis to interpret the actual reality of alternative dispute resolution methods in the sports field. It relies on a comprehensive range of sources, including primary and secondary sources, as well as specialized scientific publications in this field.

1. The evolution of sports dispute resolution mechanisms: Towards a more transparent and flexible justice.

The alternative dispute resolution mechanisms in the field of sports have significantly evolved over the years, as a result of changes in legal and social culture, and an increased demand for effective mechanisms for resolving disputes through non-traditional methods. Procedures and standards related to sports dispute resolution mechanisms are continuously improved to better meet the needs of increasing disputes. This includes updating laws and regulations governing dispute resolution processes, developing administrative procedures, adopting international standards, and utilizing technological advancements to enhance procedures².

Increased customization and flexibility in alternative dispute resolution mechanisms allow for specialized solutions and greater flexibility to meet the needs of each dispute. Procedures are continuously developed to be more effective in dealing with the diversity of sports disputes, including tailoring arbitration or mediation procedures to suit the nature of the dispute and the goals of the parties involved. Focusing on flexibility allows for adapting procedures and solutions to new developments and unique circumstances of each dispute, contributing to achieving effective and suitable resolutions for each case³.

In addition to enhancing transparency and credibility in sports dispute resolution processes, this involves implementing transparency standards, publishing decisions and evidence, using technology to record and publish arbitration and trial sessions, and developing mechanisms to assess the quality of decisions and ensure fairness and justice in the process. Legal experts and mediators provide ethical and legal guidance to ensure that the process is conducted transparently and reliably.

It is worth mentioning that the evolution of alternative dispute resolution mechanisms is due to several factors, including the increasing recognition of the flaws and challenges of traditional settlement methods, which may be costly and time-consuming. There is also an increase in legal complexities and advanced technologies that require a more flexible approach to dispute resolution⁴.

¹ Abdulsalam, Kamal Mohammed Al-Amin. (2018). National arbitration and the resolution of internal sports disputes. *Al-Adl Journal*, Vol. 20, Issue 52, pp. 47-100.

² Godin, P. D. (2017). Sport Mediation: Mediating High-Performance Sports Disputes. *Negotiation Journal*, 33(1), 25-51.

³ Pannullo, R. (2019). Facilitating change: Addressing the underutilization of mediation in professional sports. *Harv. Negot. L. Rev.*, 25, 103.

⁴ Al-Yazid, Ali, and Nawar, Shahrazad. (2021). "Mediation of the International Court of Arbitration in Sports Disputes." *Al-Tahaddi Journal*, Vol. 13, Issue 2, pp. 475-491.

Through technological advancements and increased awareness of the importance of alternative solutions, more comprehensive and effective options for resolving disputes have emerged. These options may include mediation, where neutral specialists assist parties in reaching an agreement acceptable to all. Alternative methods also include direct negotiations between parties and specialized committees responsible for settling disputes in various sports fields.

As flexible and diverse tools, alternative dispute resolution mechanisms offer greater flexibility for parties, allowing procedures to be tailored to the nature of the dispute and the preferences of the parties involved. They also offer cost and time advantages, making them an attractive option for individuals and institutions alike¹.

2. The diversity of dispute resolution methods in the sports field: A flexible response to evolving needs and challenges.

The diversity of available methods for resolving disputes in the sports field reflects a significant evolution in the approach and thinking regarding how to deal with conflicts². These methods include:

1.2 Arbitration:

Arbitration relies on an independent decision by a third party called the arbitrator, and this decision is binding on the parties³. Arbitration is a common method for settling disputes in sports. It depends on an agreement determined by the parties, where an arbitrator (or a panel of arbitrators) is selected to make a final decision on the dispute. This decision is binding on the parties and is considered a judicial ruling⁴.

Arbitrators are chosen based on their expertise in the sports and legal fields, and they can understand the technical and legal aspects associated with sports disputes. Choosing the right arbitrators ensures the provision of specialized and logical decisions that are suitable for the nature of sports disputes.

Arbitration is considered one of the methods that provide speed and efficiency in resolving disputes, as the decision is rendered within a predetermined timeframe agreed upon in advance, reducing the costs and lengthy procedures associated with traditional legal cases. Additionally⁵, arbitration is characterized by confidentiality and privacy, as details or decisions are not disclosed without the consent of the

¹ Kamenecka-Usova, M., & Palkova, K. (2017). Mediator's personality in specific legal disputes: sports related disputes and healthcare related disputes. *Acta Universitatis Danubius. Juridica*, 13(2).

² Blackshaw, I. (2006). Fair play on and off the field of play: settling sports disputes through the court of arbitration for sport. *The international sports law journal*, (3-4), 107-117.

³ Blackshaw, I. (2009). Settling Sports Disputes by Adr: Some Major Sports Dispute Resolution Bodies Modelled on the Court of Arbitration for Sport. *Disp. Resol. Int'l*, 3, 169.

⁴ Williams, D. A. (2005). Arbitration and Dispute Resolution. *NZL Rev.*, 119.

⁵ Kurua, I. (2024). The importance of arbitration in sports-practical and theoretical issues (Doctoral dissertation, Vilnius universitetas.).

disputing parties, maintaining the confidentiality of the dispute and preventing the leakage of sensitive information¹

2.2 Mediation:

Mediation is a dispute resolution process that relies on an independent mediator who assists the disputing parties in reaching peacefully agreed-upon solutions without the need for arbitration or litigation. The mediator facilitates dialogue between the disputing parties and guides and encourages them to negotiate and reach an agreement that satisfies all parties and serves their interests fairly.²

The success of mediation depends on the mediator's ability to provide a safe and comfortable environment for the parties to express their views and listen to each other objectively and neutrally. The mediator possesses the necessary skills for negotiation and dispute resolution, helping to identify the issues and common interests between the parties and suggesting constructive solutions³.

Mediation is considered an effective method for resolving disputes in the sports field⁴, as it allows for maintaining good relationships between the disputing parties and avoiding separation and excessive tensions. Additionally, mediation enables flexibility in identifying diverse and suitable solutions for each dispute, ensuring that the interests of all parties are met fairly and balancedly⁵.

3.2 Negotiation:

Negotiation is a process undertaken directly by the disputing parties without the need for a mediator where both parties exchange offers and proposals with the aim of reaching a mutual agreement that resolves the conflict in a manner that satisfies their common and individual interests⁶. The goal of negotiation is to find practical and acceptable solutions for both parties that can peacefully and amicably end the dispute⁷. The negotiation process involves several steps:

A. The parties begin the negotiation process by identifying their interests and demands through exploring the issues and problems that trigger the conflict between them.

B. Exchange of offers and proposals between the parties, where each party presents its proposals and demands and seeks possible concessions to reach an agreement.

¹ Shabalina, E. A. (2018). The use of mediation procedure in dispute resolution processes of the UEFA Financial Control Body and the Court of Arbitration for Sport

² Noshadha, S., & Kushnir, Z. (2020). Mediation as an alternative method of resolving disputes before applying to international sports arbitration courts. *НАУКА В ОЛИМПИЙСКОМ СПОРТЕ* № 1, 2020, 76.

³ Sandu, C. (2015). ADR in Sport Disputes: Should Mediation be Used over Arbitration? *Conflict Studies Quarterly*, (11).

⁴ McArdle, D. (2014). *Dispute Resolution in Sport: Athletes, law and arbitration*. Routledge.

⁵ Blackshaw, I. (2022). Mediating sports disputes. In *Handbook on International Sports Law* (pp. 242-265). Edward Elgar Publishing.

⁶ Anderson, J. (2016). Arbitration, negotiation and contracts in sport. In *Research Handbook of Employment Relations in Sport* (pp. 149-173). Edward Elgar Publishing.

⁷ Epstein, A. (2002). Alternative Dispute Resolution in Sport Management and the Sport Management Curriculum. *J. Legal Aspects Sport*, 12, 153.

C. Negotiation and discussion during this stage involve discussing and evaluating the offers presented, identifying points of agreement, and determining those that need modification or concession.

D. Reaching an agreement after multiple rounds of negotiation and discussion, a final agreement is reached that meets the interests of the parties and resolves the dispute conclusively.

Negotiation relies on effective communication skills and the ability to negotiate constructively and sustainably. Success in negotiation requires the ability to understand the other party's positions and clearly express one's interests, as well as the ability to negotiate in good faith and build trust between the parties.

4.2 Special Committees

The special committees represent one of the means of dispute resolution in the sports field, formed temporarily to analyze conflicts and make decisions based on the evidence presented. These committees usually consist of a specialized team of experts in sports and legal fields¹, selected based on their experience and competence in their respective areas. The role of special committees includes several important aspects², including:

A. Special committees' study and comprehensively analyze the disputes brought before them by reviewing the facts and evidence presented by the parties involved.

B. Based on the analysis and study, the committees make binding decisions to resolve the dispute fairly and balancedly, ensuring the application of laws and regulations applicable in the sports field.

C. Special committees aim to ensure justice in dispute resolution by issuing decisions based on evidence and laws, while considering the rights and interests of the conflicting parties.

It is worth mentioning that special committees are considered an effective means of dispute resolution in the sports field, providing a neutral and independent environment for conflict resolution, and contributing to achieving justice and sports integrity. The success of special committees depends on the competence of their members and providing the necessary guarantees to ensure the transparency and integrity of the arbitration process.

5.2 International Sports Arbitration:

International sports arbitration is considered one of the most important methods for settling sports disputes between parties from different countries. It involves the use of independent arbitrators or a panel of arbitrators who issue binding decisions to resolve the disputes. International sports arbitration is one of the most common

¹ Sanusi, S., Lubis, E., & Semendawai, A. H. (2023). THE EXISTENCE OF ARBITRATION INSTITUTIONS FOR PERFORMANCE SPORTS ATHLETE DISPUTES (BAORI, BAKI, NDRC) IN THE PERSPECTIVE OF JUSTICE. INTERNATIONAL JOURNAL OF SOCIAL, POLICY AND LAW, 4(3), 132-141.

² Yurlov, S. (2015). RESOLUTION OF SPORT DISPUTES ARISING OUT OF SPORT COMPETITIONS. International Sports Law Review Pandektis, 11.

methods used in sports dispute resolution, especially in cases related to game rules and international sports federation regulations¹.

International sports arbitration has several important aspects. The participating arbitrators ensure their independence and neutrality, aiming to make decisions based on evidence and laws without external influence. These arbitrators are selected based on their expertise and specialization in law and sports, ensuring their comprehensive understanding of sports dispute details. International sports arbitration also features complete confidentiality, with session details or decisions disclosed only with the consent of the disputing parties. The decisions issued are binding on the parties involved and are enforced according to international and local laws.

During sports arbitration sessions, arbitrators review the facts and evidence presented by the parties and make decisions regarding the dispute based on the laws and regulations applicable in the sports field. Arbitral awards are binding and can only be appealed in specific cases defined by the law².

International sports arbitration is considered an effective means of resolving disputes in the sports field, providing a rapid and efficient mechanism for settling disputes in a fair and binding manner. This mechanism is characterized by its flexibility and confidentiality, making it the preferred option for many disputing parties in the international sports environment³.

3. The role of WIPO (World Intellectual Property Organization) and the Dispute Resolution Chamber in achieving sports safety and ensuring legal justice.

The WIPO (World Intellectual Property Organization) Arbitration and Mediation Center, and the Dispute Resolution Chamber concerning Intellectual Property, constitute key efforts in achieving sports safety and ensuring legal justice in the field of sports, particularly concerning intellectual property and sports-related disputes⁴. We will address each of them in detail as follows:

3.1 The role of the World Anti-Doping Agency (WADA) in promoting sports integrity and ensuring legal fairness.

The World Intellectual Property Organization Arbitration and Mediation Center (WIPO Center) is an international organization established in 1994 and is considered part of the United Nations system. The center aims to provide effective and objective mechanisms for settling intellectual property disputes at both national and international levels.

Established under the WIPO Arbitration and Mediation Rules adopted by the WIPO member states' conference in September 1994, the WIPO Center is an independent institution with international legal personality, headquartered in Geneva, Switzerland.

¹ Blackshaw, I. (2003). The Court of Arbitration for sport: an international forum for settling disputes effectively'within the family of sport'. Ent. L., 2, 61.

² Rishiswar, A. (2021). International Sports Arbitration. Indian JL & Legal Rsch., 3, 1.

³ Kaufman, S. A. (1995). Issues in international sports arbitration. Bu int'l Lj, 13, 527.

⁴ Blackshaw, I. (2013). Adr and Sport: Settling Disputes Through the Court of Arbitration for Sport, the FIFA Dispute Resolution Chamber, and the WIPO Arbitration & Mediation Center. MARq. SportS l. rev., 24, 1.

The center is managed by a council composed of representatives from WIPO member states, including representatives from various countries elected for specified terms. The council sets the general policies and procedures for the center's operations, in addition to selecting the center's director-general¹.

The WIPO Center is one of the prominent international organizations in the field of intellectual property dispute resolution, trusted by many disputing parties worldwide.

The WIPO Center aims to provide effective and objective mechanisms for settling intellectual property disputes, offering arbitration and mediation services to disputing parties globally, as well as enhancing the international community's understanding of the role of arbitration and mediation in intellectual property dispute resolution.

The center contributes to promoting sports integrity and ensuring legal fairness in several aspects:

A. Settling Intellectual Property Disputes: The WIPO Center works to provide effective and objective mechanisms for settling disputes arising from intellectual property in sports. It assists in resolving disputes between disputing parties, whether commercial in nature or relating to intellectual property rights such as trademarks and copyrights.

B. Providing Arbitration and Mediation Mechanisms: The WIPO Center offers arbitration and mediation services, allowing disputing parties the opportunity to resolve disputes peacefully and effectively. The center's role is to provide a neutral and objective environment for parties to negotiate and make decisions.

C. Enhancing Legal Fairness: The WIPO Center contributes to achieving legal fairness by applying laws and procedures objectively and fairly. It ensures respect for the rights of disputing parties and the application of principles of justice in dispute resolution.

D. Promoting Sports Integrity: By providing effective mechanisms for dispute resolution, the WIPO Center contributes to promoting sports integrity by resolving disputes that may negatively impact the course and continuity of sports competitions.

Overall, the WIPO Center works to provide a conducive environment for achieving safety and justice in sports by settling intellectual property disputes in an objective and neutral manner, thus supporting the stability of the sports environment and enhancing confidence in it .

2.3 The role of the FIFA Dispute Resolution Chamber in achieving sports integrity and ensuring legal fairness.

The FIFA Dispute Resolution Chamber is a body affiliated with the International Federation of Association Football (FIFA), established to settle disputes related to sports according to international sports regulations and laws. The chamber was founded in 2001 as part of FIFA's efforts to provide an effective and fair means of

¹ Halbert, D. J. (2006). The World Intellectual Property Organization: Past, Present and Future. J. Copyright Soc'y USA, 54, 253

² May, C. (2006). World Intellectual Property Organization (WIPO): Resurgence and the Development Agenda. Routledge.

resolving disputes that arise between clubs, players, player agents, and other parties¹ in the sports industry.

The mission of the FIFA Dispute Resolution Chamber is to resolve sports disputes peacefully and fairly, facilitating the process in a manner that ensures fairness and impartiality for all parties. This is achieved through specific procedures, **including:**

A. Complaint Submission: The chamber receives complaints related to various disputes in the sports field, such as contracts between clubs and players or legal terms of transfers.

B. Examination and Investigation: The complaint is examined, evidence is collected, and relevant information is gathered from the involved parties to fully and accurately assess the situation.

C. Legal Sessions: Legal sessions are held to discuss the dispute with the presence of the arbitrator and the disputing parties, where arguments from both sides are heard and evidence is considered.

D. Decision Making: After studying the evidence and arguments presented, the arbitrator issues the final decision regarding the dispute, which is then communicated to the parties.

E. Decision Implementation: The decision issued by the chamber is binding on the parties involved and is enforced according to international and local sports laws and regulations.

The FIFA Dispute Resolution Chamber is considered an important tool in achieving sports integrity and ensuring legal fairness, as it contributes to providing a neutral and objective environment for resolving disputes between different parties in the sports field.

It is worth mentioning that the FIFA² Dispute Resolution Chamber plays a vital role in achieving sports integrity and ensuring legal fairness. The chamber aims to settle sports-related disputes in a fast and effective manner, providing a fair and neutral environment for dispute resolution, thereby ensuring issues are addressed objectively and in accordance with international sports laws and regulations. Additionally, the chamber issues legally binding decisions on disputing parties, which are enforced according to prescribed procedures, enhancing trust among various parties in the sports system and contributing to stability and sustainable development in sports³.

¹ Sanders, B. (2023). Play on? An Evaluation of FIFA's Legal Regime and Its Foundation in Alternative Dispute Resolution. *Vand. J. Transnat'l L.*, 56, 283.

² Mironi, M. (2017). The promise of mediation in sport-related disputes. *The International Sports Law Journal*, 16, 131-154.

³ Bank, S. A. (2020). FIFA, forced arbitration, and the US soccer lawsuits. *J. Legal Aspects Sport*, 30, 1.

Conclusion:

Sports require alternative dispute resolution mechanisms as a fundamental key to maintaining stability and justice. Sports organizations should be encouraged to adopt these mechanisms and provide support for dispute resolution centers. The use of these methods should be expanded to encompass all sports activities, contributing to enhancing trust, stability, and achieving desired sports and social objectives.

Results:

- Dispute resolution mechanisms in sports reflect the evolution of legal and social culture, leading to providing more suitable and effective solutions.
- Increased allocation and flexibility in alternative dispute resolution mechanisms allow for specialized solutions and greater flexibility to meet the needs of each dispute.
- Focusing on flexibility allows for adapting procedures and solutions to new developments and unique circumstances of each dispute.
- The WIPO Center provides effective and objective mechanisms for settling intellectual property-related disputes in sports, contributing to achieving sports integrity and ensuring legal fairness.
- The FIFA Dispute Resolution Chamber resolves sports disputes peacefully and fairly, contributing to providing a neutral and objective environment for resolving disputes between different parties in the sports field.
- Both the WIPO Center and the FIFA Dispute Resolution Chamber issue legally binding decisions on disputing parties, enhancing trust in the sports system, and contributing to stability and sustainable development in sports.

Recommendations:

- Expand the use of alternative dispute resolution mechanisms in sports and encourage sports organizations to adopt them as a primary means of dispute resolution.
- Enhance training and education about alternative dispute resolution methods to contribute to enhancing understanding and legal culture in the sports field.
- Develop a clear legal framework and flexibility in international sports regulations to enhance trust in dispute resolution mechanisms and achieve more legal justice.
- Encourage disputing parties in the sports field to resort to specialized dispute resolution centers such as the WIPO Center and the FIFA Dispute Resolution Chamber.
- Enhance transparency and impartiality in sports dispute resolution processes to ensure the issuance of fair and binding decisions.
- Enhance cooperation between international and national dispute resolution centers to exchange experiences and develop best practices in the field of sports dispute resolution.

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