

Role and place of sports arbitration in the system of alternative dispute resolution methods

Aliya Kalybaeva*

Doctor of Law, Professor
Jussup Balasagyn Kyrgyz National University
720033, 547 Frunze Str., Bishkek, Kyrgyz Republic
<https://orcid.org/0000-0002-3697-2560>

Chynara Turatbekova

Doctor of Law, Professor
Kyrgyz-Russian Slavic University
720000, 44 Kievskaya Str., Bishkek, Kyrgyz Republic
<https://orcid.org/0009-0009-4640-3028>

Galina Shin

PhD in Law
Osh City Court
723500, 318A Lenin Str., Osh, Kyrgyz Republic
<https://orcid.org/0009-0003-9944-8138>

Abstract. The relevance of this study is caused by the fact that the institution of sports arbitration occupies a key position in ensuring effective and fair resolution of disputes between participants in sport. The purpose of this study was to review the history of the establishment and development, as well as the significance of the Court of Arbitration for Sport and its practice, with a forecast of the development of analogous institutions in Kyrgyzstan. The study employed the hermeneutic, institutional, formal-legal methods, method of analysis. The study covered the specific features of the legal development of the Court of Arbitration for Sport (CAS) and the current problems of its functioning. The generalised conclusion is that a specialised arbitration institutions need to be developed for effective dispute resolution in the field of sport in Kyrgyzstan. The procedural aspects of dispute resolution were investigated on the example of CAS. Although CAS is often considered as an international court, it is not part of an international justice system that is formed with the participation of states or based on international law. The study analysed the existing points of view and opinions expressed by scientists on this issue. The analysis of different approaches helped to comprehend the complexity of this issue and consider possible ways to improve the procedures for consideration of sports disputes by specialised arbitration tribunal in Kyrgyzstan. The findings of this study may be of interest for the development of effective legislation aimed at regulating the activities of specialised arbitration courts in the field of sport in Kyrgyzstan

Keywords: international commercial court; Kyrgyz legislation; mediation; sports law; Court of Arbitration for Sport

Introduction

Currently, there is no system of legal norms in the field of sport that could provide uniform approaches to dispute resolution. At the international level (international and regional conventions, charters, and other acts of international law) and at the level of sports organisations (both international and national), including the bodies governing the Olympic Movement, no uniform rules governing dispute resolution procedures have been established. This was partly the reason for the creation of the Court of Arbitration for Sport

(CAS), headquartered in Lausanne, Switzerland. The world practice has not developed a unified approach to the resolution of sports conflicts of different nature, and there are no unified international norms in this area. Litigation in the national justice system is often time-consuming and costly for the parties to a dispute. In modern world of sport, there are many organisations with dispute resolution powers, operating both nationally and internationally. However, a key and most authoritative body stands out – CAS, which

Suggested Citation

Article's History: Received: 06.09.2024 Revised: 20.11.2024 Accepted: 23.12.2024

Kalybaeva, A., Turatbekova, Ch., & Shin, H. (2024). Role and place of sports arbitration in the system of alternative dispute resolution methods. *Social & Legal Studios*, 7(4), 103-110. doi: 10.32518/sals4.2024.103.

*Corresponding author



deals with the resolution of sports-related disputes. CAS is an institution independent of sports organisations that facilitates the resolution of sporting conflicts through arbitration or mediation using specific procedural rules adapted to the specificities of sport. The study of the legal and other aspects of this body is a significant subject of research, especially in the context of anti-doping.

As E. Ryall *et al.* (2020) argued, a strong foundation in legal norms and reasoning, especially in selection appeals, is essential for good governance and professionalism in sports. By understanding key legal principles, the likelihood of disputes and appeals can be reduced. To foster this understanding, dispute resolution services should disseminate arbitration decisions as educational resources for professional development. In parallel, I. Bantekas (2023) examined dispute resolution in professional tennis, identifying two main categories: regulatory and contractual. Regulatory disputes, such as those related to discipline, doping, or corruption, are typically handled by specific judicial and quasi-judicial bodies established by tennis organizations, like the International Tennis Federation's (ITF) international adjudication panel or independent tribunals. These entities possess arbitral qualities, with the ITF's independent tribunal's decisions constituting enforceable arbitral awards. The CAS has a limited appellate jurisdiction over decisions made by these entities.

A.F. da Silva and D. Mirante (2020) argue that while the CAS has become an essential factor in resolving sports disputes, there are still lessons to be learned in configuring the best arbitral option for sports conflicts. According to the researchers, sports arbitration has become a vital mechanism for resolving disputes in international sports, providing a harmonised and efficient system. However, ongoing challenges around independence and compliance with broader legal frameworks suggest the need for continued evolution and refinement of this specialised form of arbitration. P.D. Godin (2017) highlighted mediation as a valuable tool for efficiently managing and resolving intricate sports disputes. The SDRCC's mandatory mediation policy has demonstrated significant success, achieving a 46% overall settlement rate over 12 years, with voluntary mediations boasting a remarkable 94% settlement rate. Mediation has proven effective in securing stable and mutually agreeable settlements, while also fostering improved understanding and respect among parties, even when disputes couldn't be fully resolved. The findings of M. Diaconu *et al.* (2021) focus on the features of CAS judicial practice. The researchers' work establishes that judicial practice of CAS has changed considerably since the first judgement was handed down in 1998. Alongside existing international and national rules, CAS dispute resolution rules aim to effectively address the ubiquitous and ever-growing phenomenon of competition. Against this background, the paper briefly describes the current legal environment, followed by a chronological detail of the judgements handed down by CAS.

In this regard, the purpose of this study was to characterise sports arbitration as a key method of dispute resolution in the field of sport, as well as to identify the current challenges faced by Kyrgyzstan in regulating this alternative method of dispute resolution and to propose effective methods to address them.

Materials and methods

The study adopted a comprehensive methodological framework, incorporating philosophical, general scientific, and specialized scientific approaches. Philosophical methods, such as analysis and dialectics, allowed examining the basic principles and concepts underlying the functioning of the Court of Arbitration for Sport. General scientific methods, such as induction and deduction, were used to summarise and systematise the data obtained on the activities of the court. The systemic method was used for a comprehensive investigation of the role and place of sports arbitration in the system of alternative ways of dispute resolution. It helped to consider this issue in the context of the universal provision of solutions to disputes that arise in the field of sport, identifying the interrelationships and the influence of various factors on its establishment and development.

The issues related to the functioning of sports arbitration were investigated using the method of system analysis, determining the role and general understanding of the existence and development of this method of alternative dispute resolution in the field of sport. The method of analysis involved a careful study of scientific papers, theories and concepts concerning sports arbitration, its role and place among other ways of dispute resolution. This process entailed an extensive review of existing literature and an in-depth analysis of contemporary theoretical approaches and concepts pertaining to the structure and operation of a nation's tax system.

A hermeneutic approach was adopted to interpret legislative texts, leading to a more nuanced understanding of their legal ramifications. The method of logical analysis was used to identify the content and focus of regulations governing sports arbitration in the world and Kyrgyzstan. The institutional method seeks to understand sports law through the lens of societal institutions. It is vital to realise that these social institutions arise in response to relevant needs that originate in society. The application of the institutional method in combination with the systemic-functional and systemic-structural approaches helped to investigate what needs and social structures sports law provides. This approach also opened the possibility of comparing the fulfilment of sporting needs through institutions linked to state structures and those created by civil society. The application of the formal-legal method helped to analyse legal relations in the sphere of sport through the lens of statutory regulation. This method focused on the study of laws, rules, and regulations that define permissible and prohibited behaviour.

To fully comprehend and substantiate the issues, the study used the norms of various legal sources and judicial practice, namely: Federal Act on Private International Law (1987), Code of Sports-related Arbitration (2023), decisions of the Court of Arbitration for Sport (Blackshaw, 2013; McArdle, 2013; Arbitrations of CAS in Case No. 2018/A/5546, 2018). Furthermore, comments and explanations from experts in the field of law and sports arbitration were analysed to gain a better understanding of the legislation. This helped to clarify the interpretation of some ambiguous or controversial norms, as well as to assess the practical aspects of their application in real situations. This approach helped to identify possible inconsistencies or shortcomings that may affect CAS performance.

Results

The emergence of arbitration in the field of sport was caused by the fact that courts were slow to deal with sporting conflicts, often handing this responsibility over to sports organisations. As a result, specialised bodies were created, operating under their own rules. Nevertheless, the real impetus for the development of sports arbitration was not so much the formation of courts to resolve disputes in sport, but rather the desire of sport itself to have a global system of conflict resolution.

CAS was officially established on 6 April 1983 during the International Olympic Committee (IOC) session in New Delhi on the initiative of IOC President Juan Antonio Samaranch and Vice President Kebe Mbaye. Although the IOC represented the arbitral tribunal as an independent body, the Swiss Supreme Court, in considering an athlete's complaint about the fairness and impartiality of the adjudication of cases, found that IOC's funding of CAS created doubts about the objectivity of decisions, especially when they involved the IOC or its affiliated organisations (IOC disappointed at decision of..., 2019). On the recommendation of the Swiss Supreme Court, IOC transformed CAS, making it fully independent legally, organisationally, and financially. This move reaffirms CAS as the premier sports justice institution where arbitration tribunals settle sports disputes. In addition to CAS, this system includes arbitration tribunals belonging to both international and national sports federations, as well as international and national public organisations governing the global sports movement. Notably, this system of sports justice has developed and operates independently of the conventional judicial system inherent in each state, as well as the international courts established by states. The principles underlying the system are therefore determined solely by a treaty requiring the agreement of all participants. Problems arise when it becomes clear that participants do not always agree with the rules, including voluntary acceptance of CAS jurisdiction, under which the system operates.

Doubts about the CAS have resulted from frequent recourse to state courts of general jurisdiction to challenge

its decisions, illustrated by the case of athlete and Olympic champion Claudia Pechstein, who was subjected to doping allegations and disqualification by the International Skating Union (McArdle, 2013). The organisations that govern the global sports and Olympic movement have a negative attitude towards complaints and lawsuits from athletes. International and national sports federations actually force athletes to accept the condition of mandatory consideration of all disputes by CAS, refusing to consider the possibility of appealing to state courts of general jurisdiction. This involves abandoning the constitutional right of access to justice and recognising the finality of CAS decisions, which are not subject to appeal. Although the Court of Arbitration for Sport (CAS) is often regarded as an international court, it is not part of the international justice system, which is formed with the participation of states or based on international law. Existing international courts established by states, such as the International Court of Justice (ICJ) of the United Nations or the European Court of Human Rights (ECHR), fulfil different functions (Taran & Hryha, 2024). They act not only as judicial bodies but also as interstate structures based on the application of international law. At the same time, it must be realised that not all athletes and national sports federations can afford costly litigation. Even if the case is heard by an *ad hoc* tribunal in another location, such as the venue of a sporting event or the Olympic Games, legally the decision is deemed to have been made in Lausanne.

This was introduced to guarantee the immunity of cases from the influence of other national jurisdictions, thereby ensuring legal stability and uniformity in decision-making. CAS decisions are final and can only be appealed in exceptional cases, usually involving procedural irregularities, to the Swiss Federal Court. An example of such an appeal is the case of José Paolo Guerrero (Arbitrations of CAS in Case No. 2018/A/5546, 2018). This ensures procedural and regulatory consistency in every case before the CAS. It follows from this fact that CAS aims to ensure its independence in handling cases (Table 1).

Table 1. Number of cases handled by the Court of Arbitration for Sport

Year	First consideration	Appeal	<i>Ad hoc</i>	Anti-doping	Mediation	Total
2019	107	493	00	5	4	609
2020	129	811	00	8	9	957
2021	147	796	115	29	9	996
2022	151	644	112	15	8	830
Total	1.551	7.721	1.161	75	105	9.695

Source: compiled by the authors of this study based on Court of Arbitration for Sport: Statistics (2022)

Administratively, CAS consists of two chambers located in Lausanne, Switzerland: the General Chamber of the Court of Arbitration, which acts as the first instance for the resolution of disputes, and the Appellate Arbitration Chamber, responsible for hearing appeals in cases previously heard by other bodies (e.g., sports federations). Furthermore, a CAS decision can be appealed if prescribed in the CAS statutes and the Code of International Sports Arbitration (Blackshaw, 2013). The approach to the consideration of each individual dispute is formed on an individual basis. The CAS Regulations make provision for four main types of procedures:

1. Conventional arbitration, which decides cases as first instance, such as commercial disputes involving sponsorship agreements, broadcasting rights, agents' and athletes' contracts;
2. Appellate arbitration, which deals with appeals against decisions of sporting bodies, compensation for breaches of contracts and rules, and disciplinary sanctions and anti-doping rules;
3. An *ad hoc* procedure used to quickly resolve disputes during major events such as the Olympic Games or the FIFA World Cup, allowing a case to be heard within 24 hours of its filing with CAS;

4. Mediation – an alternative dispute resolution method offered to the parties prior to the arbitration process, although it is rarely used in practice.

Under this procedure, CAS is supposed to act as a mediator, helping the parties to reach an agreement on the best way to resolve the dispute. CAS provides appropriate recommendations, which have an advisory nature and are not binding on the parties. CAS rules ensure the confidentiality of the first instance process, but usually the decisions and outcomes of cases are made publicly available because of the public interest and significance of the disputes. However, in an appeal procedure, the judgement is usually published unless the parties agree to keep the information confidential. Notably, most participants in the football world prefer to resolve their conflicts according to the statutes and rules established within the football bodies. An example here is the case of Real Madrid footballer Pepe attacking a player of the Getafe team during a Spanish championship match (Pepe considers future..., 2009). The Portuguese was suspended for nine matches by the Spanish League for his undignified behaviour, but did not face criminal or administrative liability, as is typical of many professional footballers in such situations.

As for the CAS process itself, each party makes an upfront contribution to cover the costs of their witnesses, experts, and interpreters. If the expert is invited by a panel of arbitrators, the costs of the expert's services shall be determined by the panel separately. In CAS hearings, it is not excluded that third parties may be involved, either at the request of the respondent or on the third parties' own initiative. However, the basic prerequisite is the existence of an arbitration agreement between the third party and the disputing party, as well as the written consent of the parties to its participation. If the involvement of a third party is necessary for the case, the defendant should indicate this in their appeal, providing evidence of the need for involvement. Furthermore, the defendant must send a copy of the appeal to the alleged third party through the clerk's office (Blackshaw, 2013). The CAS arbitration process typically involves four steps:

- written enquiry;
- verbal investigation (if necessary by decision of the arbitral tribunal);
- expedited procedure (at the request of the parties, the rules of which are determined by the arbitrators themselves);
- decision-making.

The written stage includes, firstly, providing the parties with a document where they can set out their requests not included in the statement of claim or response; secondly, if the circumstances require, a denial and an objection to the denial by the opposing party. Thereafter, a party may not submit new requests without the consent of the other party. During the proceedings, the parties present their arguments that they believe will help prove their case and also identify witnesses and experts to be questioned. The oral procedure is a court hearing in which arbitrators listen to the arguments of the parties, witnesses, and experts and their presentations, with the defendant appearing after the plaintiff (Baturin & Moroz, 2024). After the parties have finished their presentations, the arbitrators shall render a decision, which shall be made either by majority vote or by a single vote. The arbitral award must be properly written, clearly reasoned, dated, and signed, and only one signature

of the presiding officer of the arbitral tribunal is sufficient. The document shall state the final amount of court costs as determined by the administrative service, indicating which party bears the costs or how the amount is divided between the parties. The judgement is final and not subject to appeal, and its execution is mandatory.

Despite all the above-mentioned advantages of CAS dispute resolution, it is still controversial to limit the absolute right of citizens to judicial defence prescribed in national laws. On the one hand, charters and other constituent documents may establish rules of behaviour for participants in sports legal relations. Nevertheless, sports organisations are also members of public associations (e.g., athletics associations, sports federations), which operate on the territory of the country following its constitution and laws. Thus, the best-known sports dispute resolution body in the world is the Court of Arbitration for Sport in Switzerland. International experience shows that the best approach to the establishment of such an arbitral tribunal is the establishment of a specialised non-profit arbitration centre, which acts as its platform. Considering the specific features of sports relations, such specialised arbitration can only function effectively within the sports industry itself. The characteristic of legal relations formed in the context of professional sport is unique and specific due to regulation according to the statutes and regulations of sports organisations. The key aspects of professional sport and achievements in this field at the national level should be clearly defined by a legislative act that also regulates the resolution of disputes in these areas through permanent arbitration.

Discussion

The study of legal issues related to the role and significance of sports arbitration in the field of alternative dispute resolution in the Kyrgyz Republic is a significant topic in the field of legal science, which has many aspects that require in-depth analysis and research. Thus, R. Sroka (2022) addressed the number of arbitrators present at meetings with the parties, their active involvement in the meetings, whether the meetings were held without their participation and what their role was if they were present. While there is some agreement with this thesis, the processes and methods of alternative dispute resolution, including sports arbitration tribunals, vary in the nature and level of control over the proceedings or decision-making, the formality of the process and its formality, and the role of third parties in the hearing of evidence. The study by V. Nehra (2022) provides a broader overview of court cases, considering them as the implementation of specific processes into existing practice. This includes harmonising different settlement methods for different scenarios or, more precisely, having the parties consider approaches to selecting a dispute resolution method. It is worth agreeing that the parties are free to choose their arbitrators or lawyers to resolve the dispute through arbitration or litigation, which is fully consistent with the concept of alternative dispute resolution (Ryskaliyev *et al.*, 2019).

Alternative dispute resolution methods such as arbitration and mediation have been criticised on various grounds, which will be discussed below. According to A. Duval (2022) and S. Fatima (2022), court decisions can serve as precedents and be of great value to the public. However, the requirement of confidentiality in alternative dispute resolution methods denies the public the opportunity to learn

of mistakes made or breaches of duty by defendants whose fault stays hidden from public view. A second criticism of alternative dispute resolution methods, particularly in the context of CAS, relates to their deformation and distortion. According to N. Akhtar *et al.* (2023), there is a concern that these new methods, although an important avenue, may lose their identity and become distorted when integrated into the conventional justice system. In a movement to reduce professionalism in conflict resolution, competition between professional and non-professional actors has emerged for power over standards, ethics, certification, and quality assurance. A criticism of alternative dispute resolution processes is that they do not, according to some researchers, provide a level playing field for negotiation (Nuryshchenko, 2024). According to M. Diaconu *et al.* (2021), alternative dispute resolution methods are not a suitable platform for those in a subordinate position. People belonging to certain social classes, ethnic groups or a particular gender face inequalities when their cases are heard through alternative procedures, as independent third parties may be biased and unable to make neutral judgements (Rexhepi *et al.*, 2024).

In modern world, where litigation can be lengthy and costly, alternative methods offer parties the opportunity to resolve disputes quickly and efficiently without having to go through complex and costly court processes. Furthermore, arbitration and mediation can provide more flexible and personalised dispute resolution, considering the specifics of each case and the needs of the parties. This can lead to fairer and more satisfactory solutions that are not always possible through conventional litigation. Thus, despite criticisms, alternative dispute resolution methods have their advantages, and their use can be an effective tool for achieving justice and resolving conflicts in society. In some cases, alternative dispute resolution methods may take longer than the conventional court system (Rašljanin, 2023). Proceeding from this thesis, it is worth agreeing that if alternative methods of dispute resolution take longer than litigation, the effectiveness of this system will be questioned, as their introduction was intended to save time for the parties among other benefits. H. Xiang (2022) emphasises that as sport develops and social expectations for sports arbitration increase, CAS mechanisms and rules are constantly evolving and improving. In parallel, G. Schmidt *et al.* (2021) suggest that CAS rules will face a variety of challenges and complexities in the future. The above positions can be debated, as CAS is currently actively building up experience in arbitration cases and improving its own processes and rules to meet the needs and promote the development of international legalisation of sport.

C.L. Goh and J. Anderson (2022) raise the issue of the significance of creating a suitable legal framework for the integration of AI technologies into arbitration dispute resolution. According to J. Waihenya (2022), there is a prospect that the application of artificial intelligence technology can bring significant benefits to society as a whole. A. Agus *et al.* (2023) showed that the implementation of machine learning technologies can substantially improve the efficiency and quality of the arbitration process. It is worth agreeing that this helps to ensure the safety and reliability of the application of artificial intelligence technology in the context of arbitration dispute resolution, which provides the parties involved in the arbitration process with the necessary level of protection. However, the application of artificial intelligence in arbitration procedures also entails a series of challenges

and risks that require attention. These include data security issues, the need for qualifications in the use of artificial intelligence, and ethical considerations relating to decision-making and its impact on human rights (Horislavska, 2023).

T. Shinohara (2023) found that the Court of Arbitration for Sport can verify compliance with the rules and regulations governing various sports by anti-discrimination standards approved by the relevant bodies, considering the interpretation provided by international human rights organisations. This may be the case where applicants explicitly point to these documents as the applicable law in their claims. In agreement with this view, it should be added that if the parties have not decided on the applicable law, the arbitrators of the Court of Arbitration for Sport also have the right to decide for themselves on the application of international human rights instruments as a normative instrument, if they deem it appropriate. This aspect underlines the significance that the Court of Arbitration for Sport plays in the protection of human rights in the context of the sporting community. M. Mahrous and A. Al-Maamari (2022) address the unique features of the arbitration process conducted by the Court of Arbitration for Sport, which gives it full jurisdiction over relations between international sports organisations and athletes, with its decisions being final and binding on all parties concerned. However, it is difficult to objectively assess the extent to which CAS has developed its own body of substantive law, as this court does not function as an appellate body with a rigid system of legal priorities, and each of its decisions is made on the basis of the unique circumstances of a particular case. This decision-making process, which incorporates elements of both civil and common law systems, has its own degree of subjectivity. The approach taken by CAS aims to prevent suspicions of unfairness by applying a compromise approach that considers the policies of national governments and their judicial systems. This approach is directly related to the fact that the principles recognised by CAS are consistent with the generally recognised principle of fairness.

In conclusion, the CAS stands as a vital institution in the realm of sports, providing an impartial and qualified forum for resolving disputes. Its steadfast dedication to fairness and justice has had a profound impact on sports governance and legal frameworks. By safeguarding the spirit of sporting competition and integrity, the CAS offers athletes and organizations a dependable mechanism for conflict resolution. With its specialized composition of arbitrators and extensive jurisdiction, the CAS remains a cornerstone in ensuring a level playing field and upholding the principles of transparency and fairness in sports. As the sports industry continues to evolve and become increasingly complex, the CAS will continue to be at the forefront of resolving disputes and maintaining integrity in sporting events. His constant adherence to the principles of fairness and neutrality, as well as its extensive experience, provides a robust dispute resolution mechanism for athletes and stakeholders, while upholding the core values of sporting etiquette. In fact, CAS acts as a catalyst for equality in the dynamic arena of sports law, fostering an atmosphere of trust and responsibility among all participants.

Conclusions

In modern sports arbitration, the fundamental principles associated with arbitration must be adhered to. Among such principles, it is essential to consider the condition of voluntary consent of the parties to submit the dispute to

arbitration. If there is no such consent, the case cannot be heard before a sports tribunal. In the world of sport today, the conventional view of an arbitration agreement as a special document signed by both parties has been replaced by what is known as an “exclusive” arbitration agreement. This represents a kind of “caveat” included in the corporate (regulatory) norms adopted by both international and national sports federations. In fact, athletes lose the opportunity to take part in competitions held under the auspices of the relevant federation if they do not agree to have disputes arising heard by a specialised sports arbitration tribunal.

The modern sporting context is dominated by international sports organisations and CAS, which has the power to try athletes without their consent. CAS is currently the most authoritative and professional independent arbitration body authorised to resolve disputes of a diverse nature arising not only in the field of sport, but also in any other activity related to it. A court dedicated to resolving disputes in the field of sport has certain unique characteristics. Apart from the conventional advantages that make arbitrations attractive, such as cost-effectiveness, speed of resolution, review of the dispute by a professional participant in the relevant

relationship, one of the key functions of CAS is to provide legal advice on matters not directly related to dispute resolution.

Since its inception, CAS has gained the recognition and trust of the international sporting community. Although it is a non-state dispute resolution body, its effectiveness is evident in its prompt and competent handling of cases and fair judgements. Legal relations in the sphere of professional sport have unique features, as they are regulated according to the charters and rules of sports organisations. In this regard, the establishment of a specialised arbitration centre in Kyrgyzstan, a permanently functioning court in the field of sport, is appropriate. It is necessary to develop a legislative act that will define the main aspects of professional sport and high-level sports activities at the national level, including the regulation of dispute resolution procedures in these areas using permanent arbitration.

Acknowledgements

None.

Conflict of interest

None.

References

- [1] Agus, A., Sudirman, S., Umar, W., & Rustan, A. (2023). The use of artificial intelligence in dispute resolution through arbitration: The potential and challenges. *SASI*, 29(3), 570-578. doi: 10.47268/sasi.v29i3.1393.
- [2] Akhtar, N., Nadeem, S.A., & Habib, R.I. (2023). Alternative dispute resolution: Concept, criticism and future of arbitration and mediation. *Global Legal Studies Review*, 8(2), 36-42. doi: 10.31703/glsr.2023(VIII-II).05.
- [3] Arbitrations of CAS in Case No. 2018/A/5546 “José Paolo Guerrero v. Fédération Internationale de Football Association (FIFA) & CAS 2018/A/5571 World Anti-Doping Agency (WADA) v. FIFA & José Paolo Guerrero”. (2018, July). Retrieved from <https://jurisprudence.tas-cas.org/Shared%20Documents/5546,%205571.pdf>.
- [4] Bantekas, I. (2023). The resolution of professional tennis disputes. *Journal of International Dispute Settlement*, 14(4), 488-503. doi: 10.1093/jnlids/idad010.
- [5] Baturin, M., & Moroz, S. (2024). AIFC court: Theory and practice. *Revista Juridica Portucalense*, 35, 602-618. doi: 10.34625/issn.2183-2705(35)2024.ic-28.
- [6] Blackshaw, I.S. (2013). CAS 92/A/63 GUNDEL v FEI. In J. Anderson (Eds.), *Leading cases in sports law* (pp. 65-74). Hague: T.M.C. Asser Press. doi: 10.1007/978-90-6704-909-2_4.
- [7] Code of Sports-related Arbitration. (2023, February). Retrieved from https://www.tas-cas.org/fileadmin/user_upload/CAS_Code_2023_EN.pdf.
- [8] Court of arbitration for sport: Statistics. (2022). Retrieved from https://www.tas-cas.org/fileadmin/user_upload/CAS_statistics_2022.pdf.
- [9] da Silva, A.F., & Mirante, D. (2020). Mandatory arbitration as a possible future for sports arbitration: The Portuguese example. *International Sports Law Journal*, 20, 180-190. doi: 10.1007/s40318-020-00172-w.
- [10] Diaconu, M., Kuwelkar, S., & Kuhn, A. (2021). The court of arbitration for sport jurisprudence on matchfixing: A legal update. *International Sports Law Journal*, 21, 27-46. doi: 10.1007/s40318-021-00181-3.
- [11] Duval, A. (2022). Lost in translation? The European convention on human rights at the court of arbitration for sport. *International Sports Law Journal*, 22, 132-151. doi: 10.1007/s40318-022-00221-6.
- [12] Fatima, S. (2022). Alternative dispute resolution in the light of arbitration. *Pakistan Journal of Social Research*, 4(3), 831-838. doi: 10.52567/pjsr.v4i03.777.
- [13] Federal Act on Private International Law. (1987, December). Retrieved from https://www.fedlex.admin.ch/eli/cc/1988/1776_1776_1776/en.
- [14] Godin, P.D. (2017). Sport mediation: Mediating high-performance sports disputes. *Negotiation Journal*, 33(1), 25-51. doi: 10.1111/nej.12172.
- [15] Goh, C.L., & Anderson, J. (2022). [The credibility of the court of arbitration for sport](#). *Harvard Journal of Sports and Entertainment Law*, 13(2), 233-264.
- [16] Horislavska, I. (2023). Correlation of mediation as an alternative way to protect civil rights and interests and tort liability. *Law. Human. Environment*, 14(1), 23-36. doi: 10.31548/law/1.2023.23.
- [17] IOC disappointed at decision of Swiss Federal Tribunal. (2019, January). Retrieved from <https://olympics.com/ioc/news/ioc-disappointed-at-decision-of-swiss-federal-tribunal>.
- [18] Mahrous, M., & Al-Maamari, A. (2022). Sports arbitration procedures and rules in Jordanian legislation compared to the Court of Arbitration for Sports (CAS). *Mediterranean Journal of Social Sciences*, 13(3), 53-61. doi: 10.36941/mjss-2022-0023.
- [19] McArdle, D. (2013). CAS 2009/A/1912-1913 Pechstein v International Skating Union. In *Leading cases in sports law* (pp. 209-225). Hague: T.M.C. Asser Press. doi: 10.1007/978-90-6704-909-2_13.

-
- [20] Nehra, V. (2022). *Sports arbitration in Qatar*. Retrieved from <https://www.alhababi.qa/search?search=Sports+arbitration+in+Qatar>.
- [21] Nuryshchenko, R. (2024). Genesis, current status, and prospects for the development of the institution of negotiation in Ukraine. *Law Journal of the National Academy of Internal Affairs*, 14(3), 78-86. doi: 10.56215/naia-chasopis/3.2024.78.
- [22] Pepe considers future in football after “losing control” against Getafe. (2009). Retrieved from <https://www.theguardian.com/football/2009/apr/23/pepe-real-madrid-getafe-video>.
- [23] Rašljanin, I. (2023). Lex sportiva and the Court of the Arbitration for Sport. *SCIENCE International Journal*, 2(3), 85-89. doi: 10.35120/sciencej0203085r.
- [24] Rexhepi, B.R., Daci, E., Mustafa, L., & Berisha, B.I. (2024). Analysis of the effectiveness of freelance exchanges and their demand among corporate customers in the context of tax regulation. *Scientific Bulletin of Mukachevo State University. Series “Economics”*, 11(1), 60-70. doi: 10.52566/msu-econ1.2024.60.
- [25] Ryall, E., Cooper, J., & Ellis, L. (2019). Dispute resolution, legal reasoning and good governance: Learning lessons from appeals on selection in sport. *European Sport Management Quarterly*, 20(5), 560-576. doi: 10.1080/16184742.2019.1636400.
- [26] Ryskaliyev, D.U., Zhapakov, S.M., Apakhayev, N., Moldakhmetova, Z., Buribayev, Y.A., & Khamzina, Z.A. (2019). Issues of gender equality in the workplace: The case study of Kazakhstan. *Space and Culture, India*, 7(2), 15-26. doi: 10.20896/saci.v7i2.450.
- [27] Schmidt, G., Ribeiro, N., & Ferreira, D. (2021). [The Brazilian Center for Arbitration and Mediating \(CBMA\) as an appellate sports arbitration institution](#). *Brazilian Journal of Alternative Dispute Resolution*, 3(6), 93-108.
- [28] Shinohara, T. (2023). Human rights in sports arbitration: What should the Court of Arbitration for Sport do for protecting human rights in sports? *Liverpool Law Review*, 45, 185-207. doi: 10.1007/s10991-023-09352-8.
- [29] Sroka, R. (2022). Financial fair play and the Court of Arbitration for Sport. *Journal of Global Sport Management*, 9(2), 285-304. doi: 10.1080/24704067.2022.2032258.
- [30] Taran, O., & Hryha, M. (2024). Application of international humanitarian law by the European Court of Human Rights. *Scientific Journal of the National Academy of Internal Affairs*, 29(2), 9-17. doi: 10.56215/naia-herald/2.2024.09.
- [31] Waihenya, J. (2022). [Reflections on the unfolding significance of sports mediation](#). *Alternative Dispute Resolution*, 10(3), 153-166.
- [32] Xiang, H. (2022). [The development and evolution of the Court of Arbitration for Sport and the Code of Sports Related Arbitration](#). *International Sports Law Review Pandektis*, 14(1-2), 45-60.

Роль і місце спортивного арбітражу в системі альтернативних способів вирішення спорів

Алія Калибаєва

Доктор юридичних наук, професор
Киргизький національний університет імені Юсупа Баласагіна
720033, вул. Фрунзе, 547, м. Бішкек, Киргизька Республіка
<https://orcid.org/0000-0002-3697-2560>

Чинара Туратбекова

Доктор юридичних наук, професор
Киргизько-російський слов'янський університет
720000, вул. Київська, 44, м. Бішкек, Киргизька Республіка
<https://orcid.org/0009-0009-4640-3028>

Галина Шин

Кандидат юридичних наук
Ошський міський суд
723500, вул. Леніна, 318А, м. Ош, Киргизька Республіка
<https://orcid.org/0009-0003-9944-8138>

Анотація. Актуальність цього дослідження зумовлена тим, що інститут спортивного арбітражу посідає ключове місце у забезпеченні ефективного та справедливого вирішення спорів між учасниками спортивної діяльності. Метою цього дослідження був огляд історії становлення та розвитку, а також значення Спортивного арбітражного суду та його практики, з прогнозом розвитку аналогічних інституцій у Киргизстані. У дослідженні використано герменевтичний, інституційний, формально-юридичний методи, метод аналізу. У дослідженні висвітлено особливості правового розвитку Спортивного арбітражного суду (САС) та сучасні проблеми його функціонування. Узагальнений висновок полягав в тому, що для ефективного вирішення спорів у сфері спорту в Киргизстані необхідно розвивати спеціалізовані арбітражні інституції. Процедурні аспекти вирішення спорів були досліджені на прикладі Спортивного арбітражного суду (CAS). Хоча CAS часто розглядається як міжнародний суд, він не є частиною міжнародної системи правосуддя, яка формується за участю держав або ґрунтується на міжнародному праві. У дослідженні було проаналізовано існуючі точки зору та думки, висловлені науковцями з цього питання. Аналіз різних підходів допоміг зрозуміти складність цього питання та розглянути можливі шляхи вдосконалення процедури розгляду спортивних спорів спеціалізованим арбітражним судом у Киргизстані. Результати дослідження можуть становити інтерес для розробки ефективного законодавства, спрямованого на регулювання діяльності спеціалізованих третейських судів у сфері спорту в Киргизстані

Ключові слова: міжнародний комерційний суд; законодавство Киргизстану; медіація; спортивне право; Спортивний арбітражний суд