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## WAIVER TO APPLY THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN THE RESOLUTION OF DISPUTES IN THE COURT OF ARBITRATION FOR SPORT (CAS)

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The subject. Sports legal relations, as having a private legal nature, and assuming “horizontal” inter-subject relations by default, do not imply the extension to them the guarantees provided by international acts in the field of human rights protection in order to protect the individual in “vertical” interaction with public subjects. However, this doctrinal approach is still questioned by sports actors, who make attempts to refute it through the involvement of certain norms of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (Articles 6 and 8, mostly) as arguments in sports disputes. An additional incentive for this is the location of international and continental sports federations, their jurisdictional bodies and the Court of Arbitration for Sport (CAS) in the national legal orders that recognize the application of the mentioned ECHR.

The purpose of the study. The prospects of arguments in the resolution of sports disputes based on the requirements of the literal use of the norms of the ECHR are considered in this article.

Methodology. Methods of analysis and comparison based on the CAS practice.

The main results of research and the field of their application. The use of only certain meanings of part 1 of Article 6 of the ECHR in sports justice is forced to be taken into account by CAS due to the prospect of appealing decisions to the Swiss Federal Tribunal.

Conclusions. The norms of the ECHR generally do not apply in sports justice.

## 1. Introduction.

Consistent justification in the practice of the Court of Arbitration for Sport (hereinafter – arbitration for sport, arbitration, CAS), the jurisdictional bodies of international and continental sports federations (hereinafter – sports federations, federations, sports regulators) of the private law nature of sports liability [1, p. 3–28] is aimed at removing legal relations, one party of which is a sports federation registered in countries that recognize the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – ECHR, Convention), from its application as guarantees of “vertical” protection individuals from state abuses. Direct or indirect recognition by the subject of the normative acts of the federation may entail legal consequences in the form of disputes and sports (disciplinary) liability [2, p. 24–45]. Legal relations arising from affiliation with a sports regulator are consistently recognized in arbitration practice as “horizontal” relations, for which the ECHR cannot be intended.

In one of the disputes, the tribunal, in response to the athlete’s argument that recordings of negotiations are illegally obtained evidence in violation of her fundamental and procedural rights, in particular, violation of her right to private life, replied, that the interest in establishing the truth must prevail over the interest athletes to ensure that the secret recordings are not used against her in the present proceedings.<sup>1</sup> The presumption of overriding public interest of the federation in establishing sporting liability for anti-doping violations was previously confirmed by the arbitration with reference to the practice of the Swiss Federal Tribunal<sup>2</sup>: in the precedent of a doping case involving horses... it was established

that the infringement of the private interests of athletes – such as personal rights – by a sports federation is legitimate in principle and justified by the overwhelming interest of the international fight against doping in sport and, more generally, the protection of the welfare of horses as animals.<sup>3</sup> When faced with a potential intrusion into the sphere of personal rights, arbitration resorts to weighing “public” (personified by specific regulation of the federation, for example, anti-doping regulations) and “private” (based on the personal rights of the subject of the sport) interests. Therefore, CAS, regardless of the position of the arbitrators on a particular dispute, must maintain immunity from testing sports legal relations for literal compliance with the fundamental rights and freedoms presented in the provisions of the ECHR, and conducting its own test for compliance with guarantees, which to a certain extent coincide with the provisions of Part 1 Art. 6 of the Convention, but are not the result of its application.

## 2. The limited use of certain meanings of Part 1 Art. 6 ECHR, taking into account the specifics of sports justice.

The thesis presented earlier in the introduction is based on the previous consistent practice of arbitration on the admissibility of extending guarantees consistent with the provisions of Part 1 of Art. 6 of the Convention, on sports subjects: according to Part 1 of Art. 6 ECHR, everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of his civil rights and obligations. The exclusion of any external review (whether by an arbitration court<sup>4</sup>) of disciplinary decisions taken by federation bodies would be contrary to fundamental law, since such bodies do not meet these requirements.<sup>5</sup> Please note that the arbitration is not

<sup>1</sup> Arbitration CAS 2016/O/4481 International Association of Athletics Federations (IAAF) v. All Russia Athletics Federation (ARAF) & Mariya Savinova-Farnosova, award of 10 February 2017, para. 106. <https://jurisprudence.tas-cas.org/Shared%20Documents/4481.pdf> (date of access: 20.10.2023).

<sup>2</sup> The highest court in Switzerland that hears appeals on a closed list of grounds on decisions of the Court of Arbitration for Sport (CAS).

<sup>3</sup> Arbitration CAS 2008/A/1636 Andrew Hoy v. Fédération Equestre Internationale (FEI), award of 27 January 2009, para. 25. <https://jurisprudence.tas-cas.org/Shared%20Documents/1636.pdf> (date of access: 20.10.2023).

<sup>4</sup> CAS.

<sup>5</sup> Arbitrage TAS 2011/A/2433 Amadou Diakite c. Fédération Internationale de Football Association (FIFA), sentence du 8 mars 2012, para. 24. Law Enforcement Review 2024, vol. 8, no. 1, pp. 131–139

talking about the literal application of Part 1 of Art. 6 ECHR, but only on the selective use of the principle of fair and independent dispute resolution presented in the said norm, confirming the impossibility of including the jurisdictional bodies of sports federations (and CAS itself [3, p. 64–74]) in the concept of “court” in the sense embodied in convention. Moreover, the said right to a fair resolution of a dispute has certain conditions for implementation as the foundations of public order [4, p. 759–770] in sports jurisprudence, carried out by the jurisdictional bodies of federations and arbitration in the Swiss legal order: some procedural guarantees provided for in Part 1 of Art. 6 ECHR, in disputes concerning civil rights and obligations, are indirectly applicable even in court<sup>6</sup> – especially in disciplinary matters. This principle is therefore part of Swiss public policy.<sup>7</sup>

The logic of reasoning we have highlighted is also subject to arbitration decisions, which, with reservations about the grounds for use, confirm compliance in sports jurisprudence with the fundamental principle of law – fairness [5, p. 96–105; 6, p. 1–304] – in relation to the institutional foundations of dispute resolution. Let us give four illustrative examples in the law of CAS, which reveal to us the complex content of such a guarantee.

Firstly, in connection with compliance with the statute of limitations for bringing to sports liability (statute of limitation) arbitration predictably shares a strict approach when attempting to actually expand them. As the CAS noted, applying a longer statute of limitations to a case that was already time-barred when the new

rule came into force is inconsistent with a “fair trial”. All interests protected by the statute of limitations, in particular the legitimate procedural interests of the debtor or defendant, will be violated if the federation<sup>8</sup> could retroactively authorize prosecution for a misdemeanor for which the statute of limitations has already expired. Such an open-ended approach to disciplinary disputes poses a serious threat to the principle of legal certainty, which is a violation of Part 1 of Art. 6 ECHR.<sup>9</sup> The use by arbitration of a guarantee of compliance with the statute of limitations, by analogy, seems to us to be predetermined due to the inevitable use of the fundamental principle of legal certainty (legal certainty) to protect sporting entities in such situations. At the same time, let us pay special attention to the fact that CAS does not use a convention norm, but refers to a general principle of law.

Secondly, the right to a public hearing when resolving a sports dispute (public hearing) has limited use. Thus, in one of the decisions the following conclusion can be noted: Part 1 of Art. 6 ECHR allows derogation from the right to a public hearing if, among other things, a guarantee of public order so requires, for example if, by sending emails to the CAS, fans of football clubs involved in the proceedings are violating established procedure and can be expected to continue to demonstrate this at the hearing. A hearing at which only complex procedural issues are discussed, such as the jurisdiction of CAS, the admissibility of the appeal and the competence of the appellant to bring the claim, meets the requirements of Part 1 of Art. 6 ECHR, even if it is not public.<sup>10</sup>

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<https://jurisprudence.tas-cas.org/Shared%20Documents/2433.pdf> (date of access: 20.10.2023).

<sup>6</sup> CAS.

<sup>7</sup> Arbitration CAS 2011/A/2425 Ahongalu Fusimalohi v. Fédération Internationale de Football Association (FIFA), award of 8 March 2012, para. 22 // URL: <https://jurisprudence.tas-cas.org/Shared%20Documents/2425.pdf> (date of access: 20.10.2023); Arbitration CAS 2011/A/2426 Amos Adamu v. Fédération Internationale de Football Association (FIFA), award of 24 February 2012, paras. 66. <https://jurisprudence.tas-cas.org/Shared%20Documents/2426.pdf> (date of access: 20.10.2023).

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<sup>8</sup> National sports federation.

<sup>9</sup> Arbitration CAS 2015/A/4304 Tatyana Andrianova v. All Russia Athletic Federation (ARAF), award of 14 April 2016, para. 49. <https://jurisprudence.tas-cas.org/Shared%20Documents/4304.pdf> (date of access: 20.10.2023).

<sup>10</sup> Arbitration CAS 2018/A/5746 Trabzonspor Sportif Yatirim ve Futbol Isletmeciligi A.S., Trabzonspor Sportif Yatirim Futbol Isletmeciligi A.S. & Trabzonspor Kulübü Dernegi v. Turkish Football Federation (TFF), Fenerbahçe Futbol A.S., Fenerbahçe Spor Kulübü & Fédération Internationale de Football Association (FIFA), award of 30 July 2019, paras. 101, 102. <https://jurisprudence.tas-cas.org/Shared%20Documents/5746.pdf> (date of access: 20.10.2023).

Thirdly, the arbitration has no doubt that when the dispute involves the testimony of anonymous witnesses (anonymous witness): this affects the right to be heard guaranteed by Article 6 ECHR, but CAS may admit anonymous witnesses without violating that right, and subject to certain strict conditions.<sup>11</sup> In this case, the reference to the relevance of the provision of the convention is again due to the coincidence of its content with the fundamental principles of the right to defense (rights of the defense) and the right to be heard (right to be heard), which presupposes their application as doctrines of the general theory of law, located at the top of the hierarchy of legal norms.

Fourthly, the duty of the sports entity to cooperate with the sports federation in the process of investigating and resolving the dispute (obligate to collaborate), which is the result of another balancing of interests of the sports entity and the federation, must be assessed in the light of the relevant “procedural and factual framework”.<sup>12</sup> Today, almost all sports federations legally establish the obligation of entities under their jurisdiction to cooperate with their bodies

competent in conducting investigations and resolving disputes, supported by measures of sports responsibility.<sup>13</sup> The problem of the relationship between this requirement and the right not to testify against oneself as a guarantee against self-incrimination is discussed in detail and at a decent level in one of the recent publications [7]. As the arbitration rightly noted in one of the cases: Part. 1 Art. 6 ECHR includes a privilege against self-incrimination, but in this case this provision is not applicable, since the person is subject to sanctions not for not cooperating with the investigative chamber, but for not providing the requested document in a timely manner.<sup>14</sup> It should be taken into account that the federation’s ability to identify violations on the part of a sports entity that has pledged to comply with its regulatory framework is objectively limited. Sports regulators do not have the same legal tools that are available to government authorities [8, p. 226–232; 9, p. 166–181; 10, p. 27–46; 11]. Consequently, on the one hand, federations need to establish in their acts rules obliging those who fall under their action – witnesses or parties – to cooperate in investigations and in the resolution of disputes, as well as providing sanctions for those who do not. On the other hand, in light of the balance of interests of regulators and sports entities, certain obligations of cooperation may be excessive and interfere with the sphere of personal rights, which requires proof of a prevailing public interest in that [12, p. 167–198; 13, p. 89–106]. For example, disclosure of commercial information and secrets, personal correspondence of a sports subject. In this situation, there is no presumption of prevailing public interest in comparison with the application, for example, of anti-doping rules [14, p. 126–144; 15, p. 131–143]. Thus, as CAS practice rightly notes, there is no standard under which the duty to

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[cas.org/Shared%20Documents/5746.pdf](https://cas.org/Shared%20Documents/5746.pdf) (date of access: 20.10.2023).

<sup>11</sup>Arbitration CAS 2009/A/1920 FK Pobeda, Aleksandar Zabrcanec, Nikolce Zdraveski v. UEFA, award of 15 April 2010, para. 13. <https://jurisprudence.tas-cas.org/Shared%20Documents/1920.pdf> (date of access: 20.10.2023); Arbitration CAS 2011/A/2384 Union Cycliste Internationale (UCI) v. Alberto Contador Velasco & Real Federación Española de Ciclismo (RFEC) & CAS 2011/A/2386 World AntiDoping Agency (WADA) v. Alberto Contador Velasco & RFEC, award of 6 February 2012, paras. 30, 31. <https://jurisprudence.tas-cas.org/Shared%20Documents/2384,%202386.pdf> (date of access: 20.10.2023); Arbitration CAS 2019/A/6388 Karim Keramuddin v. Fédération Internationale de Football Association (FIFA), award of 14 July 2020, para. 125. <https://jurisprudence.tas-cas.org/Shared%20Documents/6388.pdf> (date of access: 20.10.2023).

<sup>12</sup> Arbitration CAS 2017/A/5003 Jérôme Valcke v. Fédération Internationale de Football Association (FIFA), award of 27 July 2018, paras. 261–264. <https://jurisprudence.tas-cas.org/Shared%20Documents/5003.pdf> (date of access: 20.10.2023).

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<sup>13</sup>See, for example, the RFU Regulations on Dispute Resolution: Article 22. Obligation to cooperate. <https://rfs.ru/subject/1/documents> (date of access: 20.10.2023).

<sup>14</sup>Arbitration CAS 2018/A/5769 Worawi Makudi v. Fédération Internationale de Football Association (FIFA), award of 11 February 2019, para. 136. <https://jurisprudence.tas-cas.org/Shared%20Documents/5769.pdf> (date of access: 20.10.2023).

cooperate is always prohibited or permitted. Instead, the balance of interests depends on specific circumstances.<sup>15</sup>

### **3. Inapplicability of ECHR for sports justice.**

We emphasize that in all the four situations we discussed earlier, arbitration recognizes a certain value in indirectly borrowing the meaning of only individual guarantees following from the provisions of Part 1 of Art. 6 ECHR. Default action propagation Parts 2 and 3 of Art. 6, Art. 8 and other norms of the Convention on sports justice are completely denied. For example, in relation to Part 2 of Art. 6, the arbitration finds that to the extent that the club relies on Part 2 of Art. 6 ECHR, alleging that UEFA had violated the principle *nulla poena lege*, this argument must fail since the rule applies only to criminal proceedings.<sup>16</sup>

In relation to Part 3 of Art. 6 ECHR CAS also took a strict position – the norm is not relevant, since this provision is applicable only to criminal proceedings.<sup>17</sup> Drawing no more than an analogy with Part 3 of Art. 6 of the Convention the arbitration recognizes as lawful the refusal to hear a witness when resolving a sports dispute: the very fact of refusal, for good reasons, to use one's powers to hear a witness does not violate the principle of equality of arms provided for by the ECHR. As a rule, only shortcomings in legal representation that are blamed on government agencies can lead to a violation of Part 3 of Art. 6

ECHR.<sup>18</sup>

Paying attention to the horizontal relations between sports subjects, different from the vertical "state-person", CAS also refuses to directly apply the provisions of Art. 8 ECHR: the appellant complains that the application of FIFA<sup>19</sup> regulations is contrary to the player's right to privacy guaranteed by Art. 8 ECHR. At the same time, he loses sight of the fact that the above-mentioned norms are binding on the state, and not on the defendant, who, despite the fundamental importance of his role in the organization of football, is not an organ of the state.<sup>20</sup>

The tribunal's line of thinking in one of the disputes is indicative that in principle, the fundamental rights and procedural guarantees provided by international treaties for the protection of human rights should not apply directly in private relations between individuals and, therefore, are not used in disciplinary cases considered by private associations. This opinion is consistent with the case law of the Swiss Federal Court, which, in the context of an appeal against a decision of a sports arbitration court, stated that the appellant relied on Art. 8 ECHR. However, he was not the subject in respect of whom the state measure was applied, therefore these provisions are in principle inapplicable.<sup>21</sup>

### **4. Conclusion.**

<sup>15</sup> Arbitration CAS 2017/A/5003 Jérôme Valcke v. Fédération Internationale de Football Association (FIFA), award of 27 July 2018, para. 265. <https://jurisprudence.tas-cas.org/Shared%20Documents/5003.pdf> (date of access: 20.10.2023).

<sup>16</sup> Arbitration CAS 2013/A/3139 Fenerbahçe SK v. Union des Associations Européennes de Football (UEFA), award of 5 December 2013, para. 90. <https://jurisprudence.tas-cas.org/Shared%20Documents/3139.pdf> (date of access: 20.10.2023).

<sup>17</sup> Arbitration CAS 2010/A/2311 & 2312 Stichting Anti-Doping Autoriteit Nederland (NADO) & the Koninklijke Nederlandsche Schaatsenrijders Bond (KNSB) v. W., award of 22 August 2011, para. 33. <https://jurisprudence.tas-cas.org/Shared%20Documents/2311,%202312.pdf> (date of access: 20.10.2023).

<sup>18</sup> Arbitration CAS 2011/A/2463 Aris FC v. Javier Edgardo Campora & Hellenic Football Federation (HFF), award of 8 March 2012, paras. 14, 16. <https://jurisprudence.tas-cas.org/Shared%20Documents/2463.pdf> (date of access: 20.10.2023).

<sup>19</sup> The International Football Federation.

<sup>20</sup> Arbitration CAS 2009/A/1957 Fédération Française de Natation (FFN) v. Ligue Européenne de Natation (LEN), award of 5 July 2010, para. 19. <https://jurisprudence.tas-cas.org/Shared%20Documents/1957.pdf> (date of access: 20.10.2023); Arbitrage TAS 2012/A/2862 FC Girondins de Bordeaux c. Fédération Internationale de Football Association (FIFA), sentence du 11 janvier 2013, para. 107. <https://jurisprudence.tas-cas.org/Shared%20Documents/2862.pdf> (date of access: 20.10.2023).

<sup>21</sup> Arbitrage TAS 2011/A/2433 Amadou Diakite c. Fédération Internationale de Football Association (FIFA), sentence du 8 mars 2012, para. 23. <https://jurisprudence.tas-cas.org/Shared%20Documents/2433.pdf> (date of access: 20.10.2023).

Firstly, when the regulatory framework of the federation does not even contain an indirect mention of the procedural guarantees recognized in CAS practice, listed in Part 1 of Art. 6 ECHR, which is more than acceptable due to the implementation of their scope of self-regulation [16, p. 263–275], autonomy [17, p. 3–11; 18, p. 100–108; 19, p. 101–116; 20, p. 183–192]. One can agree with the arbitration, based on the example of one of the disputes, that the situation would be different if LEN<sup>22</sup> had included in its Charter procedural rights based on the ECHR. In such a case, the ECHR would be applied on the basis of LEN's own rules, and LEN members could take advantage of what in this case could be qualified as the rights of subjects within the federation. However, LEN did not include the ECHR in its rules.<sup>23</sup>

Secondly, in the absence of normative support and a similar general principle of law, any procedural guarantees consistent with Part 1 of Art. 6 ECHR, will be recognized in jurisdictional or arbitral proceedings only if they are included in the public policy of the place where the dispute is resolved. For example, the public policy of Switzerland included a number of guarantees provided for in Part 1 of Article 6 of the Convention, as we noted earlier using the example of CAS practice<sup>24</sup> or on the basis of the law

enforcement practice of sports authorities. The situation would be different if LEN had invoked the ECHR as applicable to disciplinary proceedings before its jurisdictional bodies<sup>25</sup>. As we remember, a decision made in accordance with the rules of a sports federation can be reviewed by CAS only if it is not made in violation of the principle related to public policy<sup>26</sup>.

Finally, any guarantees of Art. 6 of the Convention should not act as a deterrent to sports justice authorities by reference: Article 6 of the ECHR, which establishes the right of everyone to a fair and public hearing, applies to any court established by law. Since proceedings before an association's disciplinary body are not judicial, that body cannot be qualified as a "court" within the meaning of the ECHR. However, even if Article 6 ECHR should not apply as such, the fact remains that the right of defense in any proceedings, initiated against a person and capable of leading to the commission of an action giving rise to a complaint, represents a general principle of law that must be ensured even in the absence of an act of identical content.<sup>27</sup> It should be noticed that principles of so-called *lex sportiva* [21, p. 239–255] (especially the own standards of proof in the dispute resolution process), has used in the global and national dimensions of sports justice, also do not need "normative control" through the prism of the ECHR. Moreover, since the protective function, as we have demonstrated in a number of examples in this article, is performed by the fundamental principles

<sup>22</sup>The Continental Sports Federation – "European Aquatics Confederation", which is a member of the International Aquatics Federation (FINA). <https://www.len.eu/about-len/len/> (date of access: 20.10.2023).

<sup>23</sup>Arbitration CAS 2009/A/1957 Fédération Française de Natation (FFN) v. Ligue Européenne de Natation (LEN), award of 5 July 2010, para. 20. <https://jurisprudence.tas-cas.org/Shared%20Documents/1957.pdf> (date of access: 20.10.2023).

<sup>24</sup>Arbitration CAS 2011/A/2425 Ahongalu Fusimalohi v. Fédération Internationale de Football Association (FIFA), award of 8 March 2012, para. 22. <https://jurisprudence.tas-cas.org/Shared%20Documents/2425.pdf> (date of access: 20.10.2023); Arbitration CAS 2011/A/2426 Amos Adamu v. Fédération Internationale de Football Association (FIFA), award of 24 February 2012, para. 66. <https://jurisprudence.tas-cas.org/Shared%20Documents/2426.pdf> (date of access: 20.10.2023).

<sup>25</sup>Arbitration CAS 2009/A/1957 Fédération Française de Natation (FFN) v. Ligue Européenne de Natation (LEN), award of 5 July 2010, para. 20. <https://jurisprudence.tas-cas.org/Shared%20Documents/1957.pdf> (date of access: 20.10.2023).

<sup>26</sup>Arbitration CAS 2016/A/4722 ACS Poli Timisoara v. Romanian Football Federation (RFF) & Romanian Professional Football League (RPFL), award of 2 March 2017, para. 115. <https://jurisprudence.tas-cas.org/Shared%20Documents/4722.pdf> (date of access: 20.10.2023).

<sup>27</sup>Arbitrage TAS 2000/A/290 Abel Xavier & Everton FC / Union des Associations Européennes de Football (UEFA), sentence du 2 février 2001, para. 10. <https://jurisprudence.tas-cas.org/Shared%20Documents/290.pdf> (date of access: 20.10.2023).

of law [22, p. 332–350; 23, p. 31–43], the contours of which are clearly defined, even the theoretical question of the direct or at least indirect application of the norms of the convention is guaranteed to be resolved in favor of the above principles.<sup>28</sup> A much more uncertain situation for sports subjects will arise when references to principles of law are involved in an argument constructed in a similar way in the process of applying not sports sanctions, but collectively so-called “administrative measures”: for example, declaring a club ineligible to participate in the competition [23, p. 31–43] or removal of athletes from participation in competitions [24, p. 60–70; 25, p. 510–520].

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<sup>28</sup> Arbitrage TAS 2007/O/1381 Real Federación Española de Ciclismo (RFEC) & Alejandro Valverde c. Union Cycliste Internationale (UCI), sentence du 26 septembre 2007, para. 76. <https://jurisprudence.tas-cas.org/Shared%20Documents/1381.pdf> (date of access: 20.10.2023).

## REFERENCES

1. Van Kleef R. Reviewing Disciplinary Sanctions in Sports. *Cambridge Journal of International and Comparative Law*, 2015, vol. 4, iss. 1, pp. 3–28.
2. Van Kleef R. The legal status of disciplinary regulations in sport. *The International Sports Law Journal*, 2014, vol. 14, iss. 1–2, pp. 24–45. DOI: 10.1007/s40318-013-0035-z.
3. Blackshaw I.S. CAS 92/A/63 GUNDEL v FEI, in: Anderson J. (ed.). *Leading Cases in Sports Law*, ASSER International Sports Law Series, The Hague, T.M.C. Asser Press, 2013, pp. 64–74. DOI: 10.1007/978-90-6704-909-2\_4.
4. Rakhmanova E.N., Tihanyi M., Szabolcs M. The legal and organizational basis of ensuring safety of sports activities in Hungary. *Vestnik Sankt-Peterburgskogo universiteta. Pravo = Vestnik of Saint Petersburg University. Law*, 2022, vol. 13, iss. 3, pp. 759–770. DOI: 10.21638/spbu14.2022.311.
5. Lukovskaya D.I., Vasiliev I.A., Volkova S.V., Ilyin A.V., Karamyshev O.M., Kulikova M.S., Malysheva N.I., Polyakov A.V., Suyazov V.V., Timoshina E.V., Yudina M.I. The concept of justice in the modern legal system of Russia. *Vestnik Rossiiskogo fonda fundamental'nykh issledovaniy. Gumanitarnye i obshchestvennye nauki = Russian foundation for basic research journal. Humanities and social sciences*, 2023, no. 1 (112), pp. 96–105. DOI: 10.22204/2587-8956-2023-112-01-96-105. (In Russ.)
6. Lukovskaya D.I. (ed.). *Is Justice in Law Alive?*, Collective monograph. St. Petersburg, Aleteia Publ., 2022. 304 p. (In Russ.).
7. Hessert B. The exchange of self-incriminating information of athletes between sports organisations and law enforcement. *The International Sports Law Journal*, 2022, vol. 22, iss. 1, pp. 5–16. DOI: 10.1007/s40318-021-00194-y.
8. De Vlieger M.A. Racism in European football: going bananas? An analysis of how to establish racist behaviour by football supporters under the UEFA disciplinary regulations in light of the inflatable banana-case against Feyenoord. *The International Sports Law Journal*, 2016, vol. 15, iss. 3–4, pp. 226–232. DOI: 10.007/s40318-015-0078-4.
9. Guseinova E., Kashaeva A.A., Vasilyev I.A. Sports Liability of Football Clubs for Spectators Behavior: art. 12, art. 14 of the Code of Sports Justice of the Italian Football Federation (F. I. G. C.) and para. «e» of the art. 16 (2) of the UEFA Disciplinary Regulations. *Vestnik Sankt-Peterburgskogo universiteta. Pravo = Vestnik of Saint Petersburg University. Law*, 2019, vol. 10, iss. 1, pp. 166–181. DOI: 10.21638/spbu14.2019.112.
10. Diaconu M., Kuwelkar S., Kuhn A. The Court of Arbitration for Sport jurisprudence on match fixing: a legal update. *The International Sports Law Journal*, 2021, vol. 21, iss. 1–2, pp. 27–46. DOI: 10.007/s40318-021-00181-3.
11. Flanagan C. The corridor of uncertainty: part one, case studies on the legal challenges to the financial regulation of football. *The International Sports Law Journal*, 2018, vol. 17, iss. 3–4, pp. 139–159. DOI: 10.1007/s40318-018-0124-0.
12. Vasilyev I.A., Kisliakova N.N., Yurlov S.A. Issues of Using Evidence and Process of Proof in the Court of Arbitration for Sport (CAS). *Pravo. Zhurnal Vysshei shkoly ekonomiki = Law. Journal of the Higher School of Economics*, 2019, no. 5, pp. 167–198. DOI: 10.17323/2072-8166.2019.5.167.198. (In Russ.).
13. Sidorova N., Platonova N., Vasilyev I. Standard of proof and Russian procedure law: unknown or well-known?. *Balkan Social Science Review*, 2022, no. 19, pp. 89–106.
14. Exner J. Fixed sanction frameworks in the World Anti-Doping Codes 2015 and 2021: Can hearing panels go below the limits in the pursuit of proportionate punishments?. *The International Sports Law Journal*, 2020, vol. 20, iss. 3–4, pp. 126–144. DOI: 10.007/s40318-020-00173-9.
15. Vetrova E.G., Khalatova R.I., Kashaeva A.A. Exceptional circumstances beyond International swimming federation Doping control rules: the Sun Yang case of Court of arbitration for sport. *Vestnik Sankt-Peterburgskogo universiteta. Pravo = Vestnik of Saint Petersburg University. Law*, 2021, vol. 12, iss. 1, no. 131–143. DOI: 10.21638/spbu14.2021.109.
16. Dorskaia A.A., Dorskii A.Yu. Co-regulation as a way to improve the effectiveness of legal regulation in sports. *Vestnik Sankt-Peterburgskogo universiteta. Pravo = Vestnik of Saint Petersburg University. Law*, 2021, vol. 12, iss. 2, pp. 263–275. DOI: 10.21638/spbu14.2021.202.
17. Valero A. In search of a working notion of *lex sportiva*. *The International Sports Law Journal*, 2014, vol. 14, iss. 1–2, pp. 3–11. DOI: 10.007/s40318-014-0041-9.
18. Nafziger J.A.R. A comparison of the European and North American models of sports organization. *The International Sports Law Journal*, 2008, vol. 8, iss. 3–4, pp. 100–108.
19. De Oliveira Leonardo V.P. *Lex sportiva* as the contractual governing law. *The International Sports Law Journal*

20. Wali A.A. The theory of the Sports Law: Towards Specific Legislation for Sports Transaction, in: Foks J. (ed.). *International Sports Events and Law*, Warsaw, 2010, pp. 183–192.

21. Panagiotopoulos D.P. Implementation of Lex Specialis in Sports Jurisdiction. *Kutafin Law Review*, 2023, vol. 10, iss. 2, pp. 239–255. DOI: 10.17803/2713-0533.2023.2.24.239-255.

22. Panagiotopoulos D.P. General Principles of Law in International Sports Activities and Lex Sportiva. *International Sports Law Review Pandektis*, 2014, no. 10, pp. 332–350.

23. Vasilyev I.A., Sheveleva N.A., Vetrova E.G. Removing a club from competition as UEFA administrative measure for match-fixing: legal nature and peculiarities of application. *Zakon = Statute*, 2020, no. 8, pp. 31–43. (In Russ.)

24. Vasilyev I.A., Sheveleva N.A. Suspensions of Russian sports federations and athletes: an illegal ultima ratio. *Zakon = Statute*, 2022, no. 8, pp. 60–70. DOI: 10.37239/0869-4400-2022-19-8-60-70. (In Russ.).

25. Vasilyev I.A., Vetrova E.G. A new “Catch 22”: “protective measures”, “preventive measures” and “sports sanctions” versus Russian athletes. *Vestnik Sankt-Petersburgskogo universiteta. Pravo = Vestnik of Saint Petersburg University. Law*, 2023, vol. 14, iss. 2, pp. 510–520. DOI: 10.21638/spbu14.2023.214.

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#### BIBLIOGRAPHIC DESCRIPTION

Vasilyev I.A. Waiver to apply the European Convention for the Protection of Human Rights and Fundamental Freedoms in the resolution of disputes in the Court of Arbitration for Sport (CAS). *Pravoprimenenie = Law Enforcement Review*, 2024, vol. 8, no. 1, pp. 131–139. DOI: 10.52468/2542-1514.2024.8(1).131-139. (In Russ.).