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ҚАЗАҚСТАН РЕСПУБЛИКАСЫ
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Х А Б А Р Ш Ы С Ы

ВЕСТНИК

НАЦИОНАЛЬНОЙ АКАДЕМИИ НАУК
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NAS RK is pleased to announce that Bulletin of NAS RK scientific journal has been accepted for indexing in the Emerging Sources Citation Index, a new edition of Web of Science. Content in this index is under consideration by Clarivate Analytics to be accepted in the Science Citation Index Expanded, the Social Sciences Citation Index, and the Arts & Humanities Citation Index. The quality and depth of content Web of Science offers to researchers, authors, publishers, and institutions sets it apart from other research databases. The inclusion of Bulletin of NAS RK in the Emerging Sources Citation Index demonstrates our dedication to providing the most relevant and influential multidiscipline content to our community.

Қазақстан Республикасы Ұлттық ғылым академиясы «ҚР ҰҒА Хабаршысы» ғылыми журналының Web of Science-тің жаңаланған нұсқасы Emerging Sources Citation Index-те индекстелуге қабылданғанын хабарлайды. Бұл индекстелу барысында Clarivate Analytics компаниясы журналды одан әрі the Science Citation Index Expanded, the Social Sciences Citation Index және the Arts & Humanities Citation Index-ке қабылдау мәселесін қарастыруда. Web of Science зерттеушілер, авторлар, баспашылар мен мекемелерге контент тереңдігі мен сапасын ұсынады. ҚР ҰҒА Хабаршысының Emerging Sources Citation Index-ке енуі біздің қоғамдастық үшін ең өзекті және беделді мультидисциплинарлы контентке адалдығымызды білдіреді.

НАН РК сообщает, что научный журнал «Вестник НАН РК» был принят для индексирования в Emerging Sources CitationIndex, обновленной версии Web of Science. Содержание в этом индексировании находится в стадии рассмотрения компанией Clarivate Analytics для дальнейшего принятия журнала в the Science Citation Index Expanded, the Social Sciences Citation Index и the Arts & Humanities Citation Index. Web of Science предлагает качество и глубину контента для исследователей, авторов, издателей и учреждений. Включение Вестника НАН РК в Emerging Sources Citation Index демонстрирует нашу приверженность к наиболее актуальному и влиятельному мультидисциплинарному контенту для нашего сообщества.

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INTERNATIONAL LAW IN PROTECTION OF THE RIGHTS OF SPORTSMEN: A CASE STUDY KAZAKHSTAN AND POLAND

Abstract. As a result of the commercialization and politicization of public relations taking shape in sports, athletes were, in fact, one of the least protected members of society. The lack of a systematic approach to the regulation of procedures for holding athletes accountable, the procedural regulation of the procedure for appealing decisions of sports organizations, the uncertainty and inconsistency of legal norms deprive athletes of the opportunity to protect their rights and restore their reputation. The relevance of the topic is due to problems existing in the field of legal regulation of the procedure for resolving disputes arising in sports.

The importance of the dissertation research is manifested in the need to eliminate legal uncertainty on the following issues that are fundamental to this issue:

- regarding the legal nature, signs and functions of the jurisdictional bodies of sports organizations in the field of resolving sports disputes and other bodies that resolve sports disputes;
- regarding the possibility of a unilateral choice of procedure for resolving all types of sports conflicts;
- in relation to methods of appealing against decisions of sports arbitration courts, considering the constitutional right to judicial protection.

Existing scientific studies of the resolution of disputes arising in sports are fragmentary. To date, researchers have considered only certain aspects of the protection of the rights of athletes (for example, N.A. Zhabin, N.N. Kislyakova, J. Pitchen, M.A. Prokopets) and the procedures for resolving the latter by sports arbitration courts.

In the scientific literature, concepts “Sports law”, “competitive sports dispute”, “sports” and “competitive sports relations” were never considered from a procedural point of view, which entailed the legal problem of determining an effective procedure for protection of the rights and legitimate interests of athletes, determination of the jurisdiction of sports disputes, the formation of evidence, as well as the selection of appeal procedures for decisions affecting the law and law nye interests of the athletes.

So far, lawyers have not paid due attention to the procedural features of the resolution of sports disputes by the internal bodies of sports organizations in the field of resolution of sports disputes, sports arbitration courts, judicial authorities of the Kazakhstan, and other bodies.

Key words: international, law, protection of the rights of sportsmen, a case study, Kazakhstan, Poland.

Introduction. There are no scientific works devoted to the procedural aspects related to the procedure for choosing an authority for resolving sports disputes, the validity of arbitration agreements concluded with athletes, and the content of the concept of “right to appeal to the court” in relation to the field of sports. The lack of the necessary theoretical justifications in the field of improving the procedures for protecting the rights of athletes significantly complicates the application of the provisions of the legislation of the Kazakhstan and regulatory documents of sports organizations in the field of resolving disputes arising in sports; contributes to the occurrence of abuse by sports organizations and, accordingly, unreasonable and illegal infringement of the rights and legitimate interests of athletes [1].

The mechanism for protecting the rights and interests of subjects of law is understood as various legal

means, and there is no consensus among scientists on this issue. The position of I.A. Kostyan seems to be preferable, who understands it as a set of legal means aimed at suppressing offenses, restoring violated rights, eliminating obstacles in the exercise of subjective rights, and compensating for the adverse consequences associated with an offense. From this point of view, we will consider the mechanisms for protecting the labor rights of professional athletes.

Of course, to protect the violated rights of an athlete, like any other employee, there are law enforcement agencies, the judicial system, based on the possibility of widespread use of state coercion measures. Traditional for labor law are the ways of their protection through trade unions and CCC.

The protection of labor rights and legitimate interests of workers by trade unions is recognized by the Labor Code of the Russian Federation as one of the main ways of such protection. Trade union organizations and their associations operate in traditional industries, construction and transport, and in new, innovative structures, in the field of health care, education, science, culture and other industries. They have territorial associations at the level of local governments, constituent entities of the Russian Federation, as well as at the federal level.

At the same time, the methods of protection inherent in labor law (with the use of CCC) in professional sports, as a rule, are not applied. The judicial procedure for resolving disputes is also limited here [2].

Most international and national sports federations refer disputes to the International Court of Arbitration for Sport in Lausanne (CAS). And only a few of them seek assistance in resolving sports conflicts from the regulatory bodies created within the federations themselves (disciplinary commissions, chambers, dispute resolution committees).

An arbitration agreement is not required to apply to the International Court of Arbitration for Sport in Lausanne. The question of the competence of the CAS in a specific case is decided by its panel, considering a specific dispute.

During large-scale competitions (Olympiads, World and European Championships), CAS, in addition, within the framework of the competition itself, creates ad hoc chambers, which, after considering the dispute for which they were formed, cease their activities. The CAS also acts as an appellate body against decisions made by national sports arbitration courts and non-jurisdictional bodies of sports federations.

The specifics of the formation of extra-jurisdictional bodies of sports federations (disciplinary commissions, chambers, dispute resolution committees), their competence, the procedure for considering a dispute are regulated by the documents of sports federations.

1. Individual subjects of labor relations protect their labor rights more effectively than with other methods of formalizing labor relations, to some extent competing with sports teams and sports organizations, within which such rights and interests are collectively protected [3].

Moreover, the control over the activities of athletes, carried out by their sports federations, as well as the requirements set by them for athletes, in combination with a high level of dependence of athletes, create a special form of relationship between them.

2. Significant differences in the activities of trade unions in the field of sports. As Michael Leeds and Peter van Allmen rightly (repeat) point out, trade unions in professional sports cannot be fully attributed to traditional trade unions created in other areas, since, on the one hand, they represent workers with similar skills, as, for example, trade unions of artisans, but on the other hand, they participate in collective bargaining with employers who recruit and fire workers, as industrial trade unions do. Unlike other trade unions, sports unions do not directly negotiate the specific wages that individual players receive.

II. Literature Review. The study of the set of questions becomes especially important today, when in conditions of mass use of prohibited substances and / or methods, domestic athletes were involved in international doping scandals. The lack of systematic regulation of the procedure for considering this category of disputes and insufficient theoretical understanding of the procedural aspects of the consideration of sports disputes have led to massive violations of the rights and legitimate interests of athletes, a decline in the credibility of our country in the international arena. Numerous judicial and arbitral awards indicate significant violations of fundamental principles in resolving international sports disputes involving Kazakhstan athletes [4].

The latest international doping scandal related to the removal of domestic athletes from participating in the 2016 Summer Olympic Games in Riode Janeiro, the 2016 Summer Paralympic Games in Rio de Janeiro and other international competitions, and the decisions taken in connection with it by international sports organizations showed the existence of serious gaps in the regulation of procedures for holding athletes accountable for the use of prohibited substances and / or the use of prohibited methods, the adoption and

appeal of a decision, affecting the rights and legitimate interests of athletes, and also revealed the lack of a comprehensive theoretical understanding of relations arising in the field of sports.

The neglect of the fundamental principles and norms of international law in the normative documents of (international) sports organizations entailed the adoption by the latter of regulations, the provisions of which directly violate generally accepted norms and principles of law, namely: the presumption of innocence, the prohibition of double punishment for the same act, inadmissibility holding liable for the actions of third parties.

And besides - the complete lack of certainty in the determination of the subject and means of proof led to the adoption of decisions by (international) sports organizations based on evidence that does not comply with the principles of relevance and admissibility (on speculation and unverified statements by some officials).

Due to the lack of systematic legal regulation of relevant public relations, the state system for resolving disputes arising in sports is not functioning efficiently.

This state of affairs leads to a violation of the rights and legitimate interests of athletes, undermines the authority of domestic sports and the Kazakhstan as a whole in the international arena. The creation and maintenance of an effective system for resolving disputes arising in sports is possible only on the basis of a detailed and systematic study of the legal nature, content and features of the above legal institutions. In this regard, athletes, other sports entities, as well as lawyers who help resolve such disputes, must have deep knowledge in this area [5].

The degree of scientific research topics is following, the issues related to the resolution of disputes arising in the field of sports were addressed in the works of Kazakhstan authors: S.V. Alekseeva, S.N. Bratanovsky, A.M. Diamond, K.N. Gusova, A.V. Iglina, V.S. Kamenkova, V.V. Cousin, M.E. Kutepova, S.I. Nagih, S.V. Nikolyukina, A.R. Osipova, E.V. Poghosyan, I.V. Ponkina, D.I. Rogacheva, A.A. Soloviev, V.V. Chubarov and others.

Problems of dispute resolution arising in the field of sports were considered in the works of the following foreign authors: Ian Blackshaw, David Mac Ardle, Craig Moret, Michael Beloff (Great Britain); Lucio Colantuoni, Antonio Rigozzi (Italy); Konstantinos Margaritis, Dimitrios Panagiotopoulos, Marios Papaloukas, Andreas Malatos, Andreas Zagklis, Nikolaos Patsantaras, Yannis Anagnostopoulos, EviAvlogiari, Vasiliki Kapogianni, (Greece); James Nafziger, George Schubert, Rodney Smith, Jesse Trentadue, Karen Jones (USA), Maurishio Ferrao Pereira Borges (Brazil), Andras Nemes (Hungary) and others.

It should be noted that in the scientific literature the concepts of “sports dispute”, “jurisdictional body of a sports organization in the field of resolving sports disputes”, “competitive sports dispute”, “sports” and “competitive sports relations” have never been considered from a procedural point of view.

The work highlights the following concepts that form the legal doctrine of labor regulation in the field of professional sports.

1. The concept of referring professional sports activities to labor relations.

The possibility of direct extension of labor law norms to subjects of professional sports is argued. In our opinion, the traditions of regulation of hired labor existing in the domestic labor law make it possible to apply them to the field of professional sports and to improve the existing norms in this area.

2. The concept of labor relations for professional athletes.

The arguments set out in this chapter convincingly prove the possibility of extending the norms of labor law to professional athletes, considering the specifics existing in this area. This chapter reveals the signs and content of these relations and carries out their classification.

3. The concept of the sports result of a professional athlete.

Within the framework of this study, the parameters (identifiers) of sports results have been determined, that is, what professional athletes produce in the process of their sports and labor activities [6].

4. The concept of the autonomy of professional sports in combination with state regulation of labor, the definition of the boundaries of such regulation and the establishment of minimum standards.

The influence of acts of self-regulation of sports federations on the legal regulation of the labor of athletes and coaches is objective, albeit contradictory, in nature. From rejection of the imperatives of the autonomy of sports in the science of labor law in this area, it is necessary to move to the consolidation of additional minimum standards in the Labor Code, in addition to those already provided for in Chapter 54.1 «Features of the regulation of the work of athletes and coaches.» Accordingly, the main task is not to refuse state intervention in the management of these labor relations and not to drastically reduce the volume and content of their state regulation, but to create the most favorable conditions for the development of relations in the field of professional sports. First of all, this is the development of labor legislation, which establishes

guarantees for the implementation of the right to determine working conditions in acts of self-regulation of sports federations.

5. The concept of the specifics of the mechanisms for protecting the labor rights of professional athletes and the resolution of their labor disputes and conflicts.

Disclosed are various ways to protect the rights of subjects of professional sports, including with the help of trade unions. It is proposed to unify the extra-jurisdictional bodies for resolving sports disputes and in the Labor Code of the Russian Federation to legalize the Sports Arbitration Court for labor disputes.

6. The concept of a specific method of legal regulation of labor in the field of professional sports, based on hierarchical relations between the International Sports Federation, the All-Russian Sports Federation, clubs (employers) and directly professional athletes, coaches and sports judges.

Two types of individual-contractual regulation of labor of a professional athlete, coach and judge are substantiated: autonomous (contractual) and regulatory.

Autonomous (contractual) regulation of labor relations is based on the freedom of an employment contract.

Regulatory regulation is based on relations with the participation and subordination of a professional athlete, coach and judge to the soft law norms of international and all-Russian sports federations. It is carried out by combining the form of the employer's directive power (the subordination of the employee to the internal labor regulations and other local regulations, which include provisions adopted by the all-Russian sports federations) to establish individual working conditions and the form of direct regulatory impact on the employee of the regulations and rules of sports federations.

7. The concept of the correlation of law and ethics in professional sports involves the study of specific conditions for the implementation of general ethical requirements and directly specific norms that determine the originality of various relations in sports.

The article analyzes such ethical values and moral guidelines as fair play, prohibition of doping, etc., their correlation with the law and regulations of sports federations [7].

Sport is a physical activity carried out in accordance with the rules, which is practiced individually or in groups, and is aimed at achieving an outstanding result or defeating an opponent in a competition. But what is professional sport and a professional athlete can be determined by generalizing foreign legislation, identifying legally significant criteria that allow separating this category of athletes from all others.

EUROPE. Poland. In Poland, there is no difference between an employment contract and a civil contract with an athlete. The Labor Code of Poland²⁹⁴ does not contain a special norm regulating the work of athletes and coaches. At the same time, the 2010 Law of the Republic of Poland «On Sports» (Ustawa o sporcie (z dnia 25 czerwca 2010 r)²⁹⁵ provides basic concepts and provisions on contracts with athletes and coaches, which, regardless of their form (labor or civil) have certain features.

The Law on Sports has appeared recently, replacing the Law on Physical Culture and Sports, but has already undergone a fairly large number of changes. In 2013, such changes were made to coaches. Now the coach is not obliged to have a professional qualification, he has the right to train, if the other characteristics (age, no criminal record, etc.), enshrined in Art. 42, it matches.

In addition to the Law, the country has the Rules governing the relationship between the club and professional athletes (approved by the decree of 19.05.2002 No. II / 12)²⁹⁶. They define a contract with a professional athlete, fix the rules for its conclusion, supervision and control over the conclusion of contracts, termination of contractual relations, legal sanctions in case of termination of the contract due to the fault of one of the parties. Its rules also cover the athlete's salary, determination of remuneration, additional remuneration, bonuses, payment of remuneration, payments provided to athletes during injury or illness, the duties of a sports club, the duties of a professional athlete, internal club rules, an athlete's disciplinary liability, terms of contractual obligations, contracts with footballers under 18 [8].

It should be noted that in the Rules, football players are separately distinguished, whose position is determined by the Polish Football Association, the Polish Football Union, and the Football Federation of Poland. In particular, footballers are subject to Decree No. III / 39297 of 14.07.2006, which defines the status of players in Polish football clubs, their rights and obligations, rules and procedures for nominating athletes, rules and procedures for changing the contract by players, rules and procedures for player privileges, rules for international transfers of players, rights and obligations of foreign players, financial issues.

According to the decree, a player will be considered professional only if there is a written agreement with the club. Any player who has been recognized as a professional player cannot acquire amateur status until 30 days have passed from the date on which he last took part in a match in the UEFA football association and / or professional league, club where he is registered as a professional player. ... If a player is reinstated in amateur status, he does not receive any compensation [9].

Difficulties of the research. Scientists still have not paid due attention to the procedural features. resolution of sports disputes by internal bodies of sports organizations, sports arbitration courts, judicial authorities, as well as other bodies. In addition, the procedural aspects related to the procedure for selecting a body for the resolution of sports disputes, the validity of arbitration agreements concluded with athletes, the content of the concept of “right to appeal to court” in relation to the field of sports were not investigated.

Object of research. The object of the dissertation research is the totality of legal relations emerging in the process of resolving sports disputes by various categories of bodies.

The goals and objectives of the study. The purpose of this study was to conduct a functional comparative legal analysis of the provisions of domestic and foreign legislation, as well as the requirements of regulatory documents of (international) sports organizations, with the aim of identifying legal norms and structures that provide effective resolution of disputes in the field of sports.

Research Questions.

- a systematic study of regulatory legal acts and documents of (international) sports organizations that regulate the resolution of sports disputes by various types of bodies;
- theoretical development of problems associated with the concept, classification and features of the resolution of sports disputes, the jurisdiction of the bodies that resolve sports disputes; assessment of the effectiveness of existing methods of protecting the rights and legitimate interests of athletes; formulation of copyright concepts on the topic of research; identifying gaps in the current legislation regarding the regulation of the procedure for resolving sports disputes, as well as developing recommendations aimed at filling them.

The methodological basis of the dissertation research. The methodological basis of the dissertation research is a combination of general scientific and private scientific approaches and research methods. The author used the dialectical approach, which allowed to study the phenomena of state and legal reality in their relationship and interdependence.

In addition, the following were used: formal logical methods, such as analysis and synthesis, induction and deduction, etc.; legal and dogmatic methods that allow you to work with regulatory legal acts, judicial precedents, legal institutions and legal norms. Finally, the study uses a combination of comparative legal research methods: the diachronous method, which allows comparing facts and phenomena of state and legal life that existed in different historical periods, and the synchronous method, which makes it possible to compare the phenomena of legal reality [10].

Study Context. 1) the legislation of the Kazakhstan and the constituent entities of the EU and Republic of Kazakhstan;

2) regulatory legal acts of federal executive bodies;

3) regulatory documents of international and national sports organizations (World Anti-Doping Agency, Independent National Anti-Doping Organization);

4) the legislation of foreign countries;

5) judicial acts of the judicial authorities of the Kazakhstan and foreign states, decisions of international (national) sports arbitration courts and jurisdictional bodies of sports organizations in the field of resolution of sports disputes. The scientific novelty of the dissertation research is to achieve certain scientific results that develop and enrich the existing knowledge about sports disputes, about the procedures and procedural features of their resolution.

The author of the study for the first time on the basis of original, including previously not translated regulatory legal acts, documents of international and foreign sports organizations, decisions of the Arbitration Court of Sport in Lausanne and the jurisdictional bodies of sports organizations in the field of resolving sports disputes, he carried out a comprehensive analysis of the procedures for resolving sports disputes in the field of sports, investigated the historical aspects of resolving conflicts in the field of sports.

The purpose of this study was to conduct a functional comparative legal analysis of the provisions of domestic and foreign legislation, as well as the requirements of regulatory documents of (international) sports organizations, with the aim of identifying legal norms and structures that provide effective resolution of disputes in the field of sports.

4.2 Research Questions. What are theoretical prerequisites of research of the problem in sports law?

What is protection of the rights of sportsmen?

What is organization of the legal system for the protection of the rights of sportsmen?

What are the possibilities of improving the system of protection of the rights of sportsmen?

4.3 Participants. The experiment has been conducted in Kazakhstan in Military Institute of Land Forces among the cadets who study and train in the subject of Physical training.

We conducted interview among the people and in the result section will introduce the interpretation of the analyses.

n/n	Questions	Responses	
	Age		
	Profession		
	Do you go in for sport?	yes	no
	Who suggested that you start playing sports?		
	At what age did you start playing sports		
	What kind of sports do you play?		
	What gives you a sporty lifestyle?		
	How many times a week do you exercise?		
	Do you enjoy sports?	yes	no
	How do you feel about a sports lifestyle?		
	How do you assess the current attitude of young people to sports?	good	bad
	What, in your opinion, are the main reasons for today's youth neglect of physical activity?		

Results and discussion. The results of this dissertation research are introduced and used in the practical work of the employees of the international law firm in the process of providing qualified legal assistance to principals (in particular, in the process of developing a legal position in cases involving athletes and sports organizations).

Who suggested that you start playing sports?

What kind of sports do you play?

What, in your opinion, are the main reasons for today's youth neglect of physical activity?

Research procedure

The experiment has been conducted during the year and the results of the survey and set of exercises with the manual can be attached in application of the thesis.

Conclusion. The study showed that to date in legal system, as well as in the legal systems of the world, a complex multifaceted phenomenon called sports law has formed. Given the uniqueness of sport, its political and legal autonomy, its ever-increasing social and political significance, the intersection of legal and sports spheres is also very specific. Perhaps that is why, despite the recent frequent appeal of scientists to sports and legal issues, a single approach to the basic concept - sports law - remains undeveloped. In this work, sports law has been analyzed as an integral part of the legal system, which does not deny its other forms and manifestations [12].

The sports law was examined by the author at the national level using the views formed in domestic jurisprudence over decades on the structural composition of the legal system and the legal system. The criterion for dividing the system of law into constituent elements - first of all, branches and sub-sectors of law, as well as legal institutions - the subject of legal regulation is universally recognized. In addition, it is believed that certain branches of law correspond to special methods of legal regulation that reflect the specifics of the applied methods of legal influence and legal means, as well as emerging industry regimes. At the same time, it was found that the idea of the structural composition of the legislative system is less uniform and developed, often being a kind of projection on the legislative system of the characteristics of the legal system.

The ongoing changes in the public life of our country, affecting the legal sphere, make us take a fresh look at the theoretical issues under consideration. To overcome violations of the systematic legislation, low quality bills, numerous legal conflicts affecting the low level of implementation of laws, which is the weakest part of the legal sphere of our society, it is necessary to prepare scientific concepts of industry legislation. This accounts for the once again increasing attention to the classic structural problems of legal theory. In particular, regular attempts are made to justify the existence of certain legal entities as special, "complex" branches of law that do not meet the criteria of the "subject-method" (or for which compliance with these criteria is indisputable), in contrast to the traditionally distinguished, "main" branches of law. At the same time, apparently, due to the debatability of the problems of correlation of law and legislation, the composition of the latter, one can observe a confusion of scientific ideas about the structural composition of the legal

system and the legal system, as well as the concepts and classifications used to study them and describe them [13].

The author saw the prospect of resolving the problems described above in an appeal to the structural composition of the legal system, different from the structural composition of the legal system, characterized by multilayered and including, among others, complex entities, including complex branches of legislation. In this case, legislation is understood in a broad sense - as a set of regulatory legal acts, including by-laws. It seems that only the allocation of complex branches of legislation and the scientific development of the corresponding concept allows us to characterize a number of new phenomena, both in the system of sources of law and in the system of law itself, including sports law. To this end, the author attempted to define a comprehensive industry of legislation.

It is gratifying to observe the increasing interest in sports law from the public and legal scholars, an increase in the general level legal culture and legal consciousness in the field of sports. However, the scientific discussion on sports and legal issues seems incomplete without considering the issue of the phenomenology of sports law, its grounds, place in the legal system. The conclusions of the dissertation and the author's thoughts are an attempt to answer this question by applying the tools accumulated in Kazakhstan theoretical jurisprudence to the specialized base under consideration.

In the dissertation, an analysis of more than fifty regulatory legal sources in the field of sports, in the first place, existing, which allows to draw up an integral picture of normative legal regulation in the field under consideration, to determine the internal relationships of sports law, existing problems and possible solutions. At the same time, the author summarized the considerable experience in the study of sports law c. in our country and abroad, in the course of analysis of scientific publications devoted to certain aspects of sports law [14].

To a large extent, the study is focused on specialists; directly involved in the development, change and improvement norms of sports law - both at the level of lawmaking, and at the level of by-law, local and corporate rulemaking, as well as the application of these standards. One of the main tasks of the author was to search for a theoretical basis for such an activity, because, as V.M. Raw, any normative acts should be based on the conclusions of the theory of law, logic, branch of legal sciences. At the same time, the author initially considered his dissertation as a theoretical and legal one, «trying on» the modern theory of the right to a unique, specific and, at the same time, very significant sphere of public relations, as well as searching and testing theories and ideas suitable for describing this sphere. It should be noted that in the course of work on the dissertation, material was used that was accumulated during the author's practical work when working on draft laws and draft normative legal acts of the President of the Kazakhstan and the Government of the Kazakhstan aimed at regulating sports relations, as well as analyzing the industry regulatory framework. Certain ideas and views of the author were implemented in the Federal Law «On Physical Culture and Sports», a number of acts in their implementation.

During the study, a number of institutes of sports law, a system of its principles and subjects were characterized. On these issues, it seems to me, far from the last word has been said. The structure and scope of this work, as well as the tasks facing us, determined the review nature of the consideration of these issues, which are seen as directions for further in-depth research. At the same time, the main purpose of the dissertation was to find the place of sports law in the legal system, as a result of which a consistently substantiated understanding of sports law as a complex branch of legislation was developed, and the author is convinced of the advantages of this approach.

It seems that consideration of sports law at the theoretical and legal level, including as a complex branch of legislation, that is, a unified system of coordinated sources created in accordance with the Constitution of the Kazakhstan and the basic Federal Law «On Physical Culture and Sport in the Kazakhstan», and existing on the basis of general principles, will allow us to build further work on its improvement and bringing to the qualitative level of legal regulation of public relations, which correspond to the current stage of development and the interests of Kazakhstan sports, society and the state [15].

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СПОРТШЫЛАРДЫҢ ҚҰҚЫҚТАРЫН ҚОРҒАУДАҒЫ ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚ: ҚАЗАҚСТАН МЕН ПОЛЬША МЫСАЛЫНДА

Аннотация. Спортта қалыптасқан қоғамдық қатынастарды коммерцияландыру және саясаттандыру нәтижесінде спортшылар іс жүзінде қоғамның ең аз қорғалған мүшелерінің біріне айналды. Спортшыларды жауапкершілікке тарту рәсімдерін реттеуге жүйелі тәсілдің болмауы, спорт ұйымдарының шешімдеріне шағымдану рәсімін іс жүргізу регламенттеуі, құқықтық нормалардың белгісіздігі мен сәйкессіздігі спортшыларды өз құқықтарын қорғау және беделін қалпына келтіру мүмкіндігінен айырады. Тақырыптың өзектілігі спортта туындайтын дауларды шешу тәртібін құқықтық реттеу саласындағы проблемаларға арналады.

Зерттеудің маңыздылығы осы мәселе үшін негіз болатын келесі мәселелер бойынша құқықтық белгісіздікті жою қажеттілігінде көрінеді:

- спорттық дауларды шешу саласындағы спорттық ұйымдардың юрисдикциялық органдарының және спорттық дауларды шешетін басқа да органдардың құқықтық сипатына, белгілері мен функцияларына қатысты;

- спорттық жанжалдардың барлық түрлерін шешу рәсімін біржақты таңдау мүмкіндігіне қатысты;

- сот қорғауына конституциялық құқықты ескере отырып, Спорттық төрелік соттардың шешімдеріне шағымдану әдістеріне қатысты.

Спортта туындайтын дауларды шешудің қазіргі ғылыми зерттеулері фрагменттік сипатқа ие. Бүгінгі таңда зерттеушілер спортшылардың құқықтарын қорғаудың жекелеген аспектілерін (мысалы, Н.А. Жабин, Н.Н. Кислякова, Дж. Питчен, М.А. Прокопец) және спорт төрелік соттарының шешу рәсімдерін ғана қарастырады.

Ғылыми әдебиеттерде «спорт құқығы», «бәсекеге қабілетті спорт дауы», «спорт» және «бәсекеге қабілетті спорт қатынастары» ұғымдары ешқашан процедуралық тұрғыдан қарастырылмады, бол спортшылардың құқықтары мен заңды мүдделерін қорғаудың тиімді процедурасын анықтауға, спорттық даулардың юрисдикциясын анықтауға, дәлелдемелер қалыптастыруға, сондай-ақ спортшылардың Заңы мен заңды мүдделеріне әсер ететін шешімдерге шағымдану рәсімдерін таңдауға құқықтық проблема тудырды.

Осы уақытқа дейін заңгерлер спорт дауларын шешу саласындағы спорт ұйымдарының ішкі органдарымен, спорт төрелік соттарымен, Қазақстанның сот органдарымен және басқа да органдармен спорт дауларын шешудің іс жүргізу ерекшеліктеріне тиісті назар аудармады.

Түйінді сөздер: Халықаралық құқық, құқық, спортшылардың құқықтарын қорғау, тақырыптық зерттеу, Қазақстан, Польша.

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МЕЖДУНАРОДНОЕ ПРАВО В ЗАЩИТЕ ПРАВ СПОРТСМЕНОВ: НА ПРИМЕРЕ КАЗАХСТАНА И ПОЛЬШИ

Аннотация. В результате коммерциализации и политизации общественных отношений, сложившихся в спорте, спортсмены фактически стали одним из наименее защищенных членов

общества. Отсутствие системного подхода к регулированию процедур привлечения спортсменов к ответственности, процессуальная регламентация процедуры обжалования решений спортивных организаций, неопределенность и несоответствие правовых норм лишают спортсменов возможности отстаивать свои права и восстанавливать авторитет. Актуальность темы посвящена проблемам в области правового регулирования порядка разрешения споров, возникающих в спорте.

Значимость исследования проявляется в необходимости устранения правовой неопределенности по следующим вопросам, которые являются основой для данной проблемы:

- применительно к правовой природе, признакам и функциям юрисдикционных органов спортивных организаций и других органов, разрешающих спортивные споры в области разрешения спортивных споров;

- относительно возможности одностороннего выбора процедуры разрешения всех видов спортивных конфликтов;

- применительно к методам обжалования решений спортивных арбитражных судов с учетом конституционного права на судебную защиту.

Современные научные исследования разрешения споров, возникающих в спорте, носят фрагментарный характер. Сегодня исследователи рассматривают отдельные аспекты защиты прав спортсменов (например, Н.А. Жабин, Н.Н. Кислякова, Дж. Питчен, М.А. Прокопец) и рассматривают только разрешительные процедуры спортивных арбитражных судов.

В научной литературе понятия «спортивное право», «соревновательный спортивный спор», «спорт» и «конкурентоспособные спортивные отношения» никогда не рассматривались с процессуальной точки зрения, что создавало правовую проблему для определения эффективной процедуры защиты прав и законных интересов спортсменов, определения юрисдикции спортивных споров, формирования доказательств, а также выбора процедур обжалования решений, затрагивающих права и законные интересы спортсменов.

До настоящего времени юристы не уделяли должного внимания процессуальным особенностям разрешения спортивных споров с внутренними органами спортивных организаций, спортивными арбитражными судами, судебными органами Казахстана и другими органами в области разрешения спортивных споров.

Ключевые слова: международное право, право, защита прав спортсменов, тематическое исследование, Казахстан, Польша.

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НОВЫЙ ВКЛАД В ПЕДАГОГИЧЕСКУЮ НАУКУ КАЗАХСТАНА

В последние годы я консультирую молодых ученых, но в основном читаю новые научные труды ученых страны. Среди них особо выделил бы работу академика Национальной академии наук Республики Казахстан, доктора педагогических наук, профессора Абылкасымовой А.Е. «Модернизация системы образования в Республике Казахстан» на трех языках – казахском, русском и английском. Научное издание (Алматы: Мектеп, 2021. – 218с.). Данную работу она посвятила предстоящему 30-летию независимости страны. Рецензентами являются экс-министры образования и науки Казахстана – Президент Национальной академии наук РК, академик, доктор химических наук, профессор Журинов М.Ж. и ректор Казахского национального университета имени аль-Фараби, почетный академик Национальной академии наук РК, доктор филологических наук, профессор Туймебаев Ж.К., работа рекомендована Ассоциацией высших учебных заведений РК.

Вышеперечисленное придает большую весомость выполненному профессором Абылкасымовой А.Е. научному труду.

Однако прежде чем перейти к анализу работы хотел бы сказать о следующем. В учебниках советского периода развития Казахстана сказано: «Казахи вели кочевой и полукочевой образ жизни, не имели письменности и население почти поголовно было безграмотным». Это утверждение соответствует истине лишь отчасти. Дело в том, что до Октябрьской революции 1917 года казахское население пользовалось арабским алфавитом и латиницей, однако точных статистических данных по численности людей, владеющих арабской письменностью нет.

Система образования страны является ключевой для любого народа, которая стремится и движется по прогрессивному пути развития, чтобы не отстать от передовых государств мира. И нам важно было изучить этапы и направления развития Казахстана во многих сферах, и, прежде всего, в системе образования. Отрадно, что эту огромную работу смогла реализовать ученый-педагог в лице профессора Абылкасымовой А.Е. В своей работе она разделила развитие системы образования в Казахстане на различные этапы в жизнедеятельности казахского народа – средневековый, период присоединения к Российской империи (1731-1917гг.) и советский (1918-1991гг.). Автор показала, что казахи не на пустом месте строили будущее своего образования, при этом преодолели множество трудностей.

Известно, что в современном мире достойны уважения только те народы, которые помнят и чтят свою историю какой-бы она не была, хорошо знают достижения и проблемы сегодняшнего дня, и на основе этих знаний создают будущее своего государства и живущего в ней народа. Благодаря таким научным работам мы по крупицам возрождаем историю казахского народа в прошлом в различных отраслях знаний.

В настоящее время казахстанцам важно знать в каком направлении должна развиваться система образования Казахстана, эту проблему автор смогла раскрыть в первом разделе своего труда «О тенденциях развития системы образования в современном мире».

В целом, научное издание посвящено изучению и анализу состояния и развития системы общего среднего и высшего образования, в том числе педагогического образования и повышения квалификации педагогических работников, в постсоветский период становления и развития независимого Казахстана.

Государственная политика Республики Казахстан в области образования после 1991 года осуществлялась в направлении реформирования законодательной базы, изменения системы управления и финансирования в контексте поставленной Главой государства Н.Назарбаевым задачи по качественному преобразованию всей системы образования, которое является одним из основных элементов становления суверенного государства, его реальной политической и экономической независимости. В этой связи модернизация образования напрямую связывалась с проблемами развития всего общества и изменениями, происходящими в политике, идеологии, экономике и социальной сфере.

Современная система образования нашей страны была заложена в конце 90-х годов прошлого

века тремя базовыми документами: Законом «Об образовании», Государственной программой «Образование» и Государственными стандартами образования, при этом главным системообразующим принципом реформы стал переход от модели «образование для всех» к модели «образование по выбору».

Профессор Абылкасымова А.Е. всесторонне осветила ход реформирования системы общего среднего образования в Казахстане, которая в последние годы проводилась в следующих направлениях – введения 12-летнего образования; изменения содержания образования и методики обучения; обязательного изучения трех языков (казахский, русский, английский); развития электронного обучения; введения подушевого финансирования; строительства новых зданий для школ, которые стали оснащаться современным оборудованием и техникой.

Модернизация системы образования была ориентирована на обеспечение равного доступа школьников к качественному среднему образованию, независимо от их национальности и места проживания, а также удовлетворение потребности каждой личности, всего общества и государства в целом. В основу программ образования для всех уровней заложена система ценностей патриотического Акта «Мәңгілік Ел» – казахстанский патриотизм, гражданская ответственность, уважение к труду и т.п.

Большое внимание автор в своей работе уделила развитию высшего образования, при которой основной тенденцией стал отказ от государственной монополии на образование. Как следствие, на равных условиях начал развиваться негосударственный сектор образования и он получил достойное место в обществе.

Можно и дальше перечислять все достижения страны за 30-летний период нашей независимости, о которых все мы хорошо знаем. Для нас более важным является то, что автор сумела с научной точки зрения всесторонне и широко раскрыть достижения нашего государства в модернизации системы образования в соответствии с тенденциями ее развития в мире. В итоге Республика Казахстан во многом успешно вписалась в мировое образовательное пространство. Несомненно, главную направляющую и координирующую роль в этом сыграл Елбасы – первый Президент нашего государства Нурсултан Абишевич Назарбаев, о чем профессор Абылкасымова А.Е. достаточно подробно раскрыла в своем научном труде.

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МАЗМҰНЫ

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