

КАФЕДРА ЦИВІЛЬНОГО ПРАВА № 2 та
КАФЕДРА ЦИВІЛЬНОГО ПРАВА № 1
НАЦІОНАЛЬНОГО ЮРИДИЧНОГО УНІВЕРСИТЕТУ
імені ЯРОСЛАВА МУДРОГО

за підтримки
Київського регіонального центру
Національної академії правових наук України
Всеукраїнської громадської організації
«Асоціація цивілістів України»

**ПРОБЛЕМИ ВДОСКОНАЛЕННЯ
ПРИВАТНОПРАВОВИХ
МЕХАНІЗМІВ НАБУТТЯ, ПЕРЕДАЧІ,
ЗДІЙСНЕННЯ ТА ЗАХИСТУ
СУБ'ЄКТИВНИХ ЦИВІЛЬНИХ
ТА СІМЕЙНИХ ПРАВ**

**Матеріали науково-практичної конференції,
присвяченої пам'яті професора Ч. Н. Азімова**

м. Харків, 16 грудня 2020 р.

Харків
2020

Відповідальний за випуск проф. *В. В. Надьон*

П78 Проблеми вдосконалення приватноправових механізмів набуття, передачі, здійснення та захисту суб'єктивних цивільних та сімейних прав : матеріали науково-практичної конференції, присвяченої пам'яті проф. Чингізхана Нуфатовича Азімова (Харків, 16 грудня 2020 р.). – Харків, 2020. – 324 с.

16 грудня 2020 року кафедра цивільного права № 1 та кафедра цивільного права № 2 Національного юридичного університету імені Ярослава Мудрого за підтримки Київського регіонального центру Національної академії правових наук України і Всеукраїнської громадської організації «Асоціація цивілістів України» проведено науково-практичну конференцію, присвячену пам'яті доктора юридичних наук, професора, члена-кореспондента АПрН України Чингізхана Нуфатовича Азімова, в якій прийняли участь не тільки викладачі, аспіранти, студенти Національного юридичного університету імені Ярослава Мудрого, а й науковці інших юридичних вузів України, а також практичні робітники.

До збірника увійшли тези доповідей і повідомлень учених, практикуючих юристів, представників судових органів, а також аспірантів, здобувачів та студентів.

Видання адресоване науковим співробітникам, аспірантам, викладачам юридичних факультетів вищих навчальних закладів, а також працівникам суду, адвокатури, органів юстиції, практикуючим юристам, іншим особам, які вивчають і застосовують цивільне та господарське законодавство.

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POLYVARIETY OF DISPUTE CONSIDERATION IN THE FIELD OF PROFESSIONAL SPORTS: DISCUSSION ISSUES

Professional sports, from the standpoint of sociology, is a type of subculture. This is a system of relations based on the factor of social self-regulation. In view of the above, social relations in the field of sports are also characterized by the autonomy of their legal regulation. Such social ecosystem forms an autonomous legal order, which is in a degree of relative dependence on state regulation, while remaining an integral segment of the legal system of society as a whole.

The sports order is formed among other factors by a huge network of various institutions, organizations and regulators, cooperation and participation of public and private entities at different levels, and has its own judicial system, which is based on the International Court of Arbitration for Sport in Lausanne [1, p. 22].

It is the autonomy of the sports legal order that presupposes the existence of a system of jurisdictional bodies whose activities are aimed at considering disputes in the relevant sphere of relations. At the same time, despite the integrity of the system of sports law and order in relation to public law and order, the internal organizational unity, in particular, of the process of resolving disputes in sports relations is unbalanced.

Thus, in Ukraine, the Olympic movement is represented by 45 sports federations only with national status, while the range of professional sports is devoid of clear definitions and structural unity (Section 2 of the Law of Ukraine "On Physical Culture and Sports") [2].

In the vast majority of cases, the main aspect of the national federations is the development of professional sports as such. At that, the issues of more detailed legal regulation of relations in the field of professional sports, in particular their protection, remain undisclosed or are disclosed in fragments. Procedures for anti-doping investigations and the disciplinary area of regulation are mostly detailed. At that, the procedure for resolving disputes outside these limits is quite contradictory. As for other participants in professional sports, the issue of dispute resolution with their participation remains open.

In accordance with the provisions of the Statute of the Public Organization "Fencing Federation of Ukraine", the body for consideration of disciplinary issues is its Appeals Committee [3]. In turn, the procedure for considering other disputes in the field of professional sports is not systematized and is outside the local legal regulation. Due to the specifics of these relations, the use of traditional jurisdictional methods of dispute resolution is insufficient or ineffective.

In accordance with Article 1 of the Regulations on the Sports Arbitration Court, approved by the Executive Committee of the NOC of Ukraine №11 of January 24, 2018, the Sports Arbitration Court was established in the structure of the NOC of

Ukraine as an independent, permanent arbitral tribunal. [4]. Such disputes include disputes of a sporting or financial nature, or of any other nature, relating to a sporting activity or the development of sports and which may involve, more broadly, any activity or business relating to or relating to sports.

Despite the normative certainty of the basics of such sports arbitration, a number of questions are open in the practical plane of its existence. In particular, the procedure for recognition by the federation or other subjects of relations in the field of professional sports of the competence of the relevant arbitration court requires legal regulation.

Another problematic issue that requires discussion is the legal status of special bodies created in the structure of many federations to consider disputes in the field of professional sports, the presence of regulatory competence in such bodies.

According to the Statute of the All-Ukrainian Public Organization "Boxing Federation of Ukraine" one of the working bodies of the federation is the Control and Disciplinary Commission, which is responsible for considering all types of disputes that arise in the field of professional sports [5].

We can observe a similar phenomenon in the sphere of activity of the Football Federation of Ukraine, the body of dispute consideration of which is the relevant Chamber [6].

It should be noted that setting the boundaries of the activities of participants in the field of professional sports, including measures to influence them, the federation assumes the functions of professional self-government, which is a feature of self-regulatory organizations.

It is known that self-regulation is an independent and proactive activity carried out by business or professional entities and the content of which is the development and establishment of standards and rules of this activity, as well as control over their observance.

In this aspect, it is disputable to comply with two conditions:

Firstly, the possibility of exercising the public organization's powers to regulate the professional sphere, which relates to the tasks of self-regulatory organizations.

There are no relevant legal conditions in the national legislation of Ukraine. The Law of Ukraine "On Public Associations" stipulates that a public association is created to exercise and protect the rights and freedoms, to meet public, including economic, social, cultural, environmental, and other interests [7]. While self-regulatory organizations are an association of professional members, which is formed to ensure the effective operation of its members through the development and establishment of professional norms, standards and rules of conduct of members of the association, monitoring their compliance, creating a competitive environment, protection and representation of their interests [8, p.169].

Secondly, ensuring objectivity and impartiality in the consideration of disputes, the outcome of which also affects the interests of the federation as a subject of relations in the field of professional sports.

The above indicates the need for clearer legal regulation of activities in the field of professional sports, in particular in terms of issues raised.

At the level of national legislation of Ukraine, it is necessary to define statutorily self-regulatory organizations, to give the appropriate status to national federations and consolidate the structure of participants in relations in the field of professional sports around them.

This will resolve the issue of local regulation of relations in the field of professional sports, including in the disciplinary field, as well as unify the general rules of dispute resolution in the bodies of alternative (arbitration) jurisdiction, appeals against their decisions.

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Наукове видання

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