

## THE LEGAL APPROACH OF SPORTS ARBITRATION COURTS IN ACHIEVING PEACE IN THE SPORTS FIELD

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### **Abstract:**

The sports movement consists of members and structures striving to achieve one goal, which is the promotion and development of physical and sports activities. In pursuing this goal, they interact with each other, their interests may conflict, and the means to achieve their goal vary. This diversity can lead to the emergence of a conflict between two parties or a group of parties, whether they are natural persons or legal entities, or between a natural person and a legal entity. This conflict revolves around physical and sports activities. If this conflict persists without an amicable resolution and escalates, becoming an obstacle to the achievement of the goals of these individuals, whether natural or legal, they must resort to an authority with the power to arbitrate in the dispute. In this regard, Algerian sports legislation has established ways to resolve sports disputes through authorised frameworks and structures, such as the establishment of a sports arbitration court provided by the National Olympic Committee to settle disputes between members and structures in the sports field.

**Keywords:** Conflict; Sports conflict; Settlement; Sports Arbitration Court; Peace.

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### **Introduction:**

The various sporting activities, or the so-called sports movement in general, are considered of great importance on the global and national arena, as they attract many segments of society, directly as practicing individuals, or indirectly, as followers and supporters, in addition to the relevant economic commercial companies, and these segments fall under the banner of associations. Sports or sports clubs, which aim to encourage sports practice for various segments of society and try to promote and develop it.

Since these sporting activities are a competition between natural persons and representatives of legal persons, this inevitably leads to a conflict that may reach or

deviate from its nature and thus create a type of conflict between the competing parties. Therefore, there must be laws and legislation that regulate it and determine how it is practiced. A set of legal materials are allocated to it, whether in general texts or private texts, and from here we seek to shed light on a legal approach to know the role of the Sports Arbitration Court in achieving peace and resolving disputes and disputes in the sports field. To clarify this further, we divided this research into two parts:

The first aspect included a presentation of the laws and legislation regulating the Olympic Charter of the International Olympic Committee.

As for the second section, we analyzed the formal and substantive aspects of the legal texts that regulate the work of the Court of Arbitration for Sport in achieving sports peace.

### **1. The problematic:**

The Law Regulating Physical and Sports Activities and Their Development No. 13/05 of July 23, 2023, amended and supplemented, bases one of its references on the Olympic Charter, which makes the culture of peace a priority in relation to the values in which it believes, and works to embody it on the ground as an embodiment of the culture of peace, stipulated Article One, first paragraph of Chapter One, entitled “On the Purposes and Principles of the Commission” of the Charter of the United Nations, states as follows:

The purposes of the United Nations are:

Maintaining international peace and security... and using peaceful means in accordance with the principles of justice and international law to resolve or settle international disputes that may lead to a breach of the peace.”

Referring to the principles of Olympic thought, according to the Olympic Charter, the International Olympic Committee, which came into effect on September 11, 2000, among its basic principles are:

Creating physical education that serves human development in a consistent manner while encouraging a safe society to preserve human dignity. To achieve this goal, the Olympic Movement participates individually or in cooperation with some other organizations to spread peace.

Contributing to building world peace through educated sports youth without any kind of fanaticism, and within the framework of the Olympic spirit that requires mutual understanding in the spirit of friendship, solidarity and fair play.

At the national level, the Law Regulating Physical and Sports Activities and Their Development No. 13/05 of July 23, 2023, amended and supplemented, was entrusted to the Algerian National Olympic Committee as it is affiliated with the International Olympic Committee in embodying Olympic policies.

The sports movement, including the actors it includes, seeks the goal of promoting and developing physical and sporting activities in different ways. Striving to achieve it results in disagreement that results in conflict, clashes, and strife between them. This conflict, if not addressed and controlled according to certain frameworks, may lead to a threat to peace between the components of the sports movement, which may affect This negatively affects the national and international results of various sporting competitions and events. Therefore, there must be a mechanism that supports a culture of peace and the rejection of all forms of violence to demand rights. Based on what was mentioned above, we ask the following questions:

- What is this mechanism?
- How does this mechanism achieve peace in the sports field?

## 2. Hypotheses

- The Court of Arbitration for Sport is a mechanism for supporting a culture of peace and rejecting forms of sports violence.
- This mechanism achieves peace in the sports field by enacting laws and legislation.

**3. Method used:** In this study, we used the descriptive content analysis method because it is the most appropriate method for this study.

Research methods and tools: In this article, we chose a group of references that suit the nature of the research, which is represented in a group of the above-mentioned legal materials and texts.

## 4. Explanation of terms

### 4/1 - *The concept of conflict:*

**A/** Conflict is “disagreement, disagreement, and discord.” (Hajila, 2012, 12)

Or it is “disagreement and discord, that is, opposition, whether it takes a material or moral form.” (Al-Hamid, 2011, 11).

The word (conflil) is derived from the Latin word (conflictus), which means clash. (Al-Hamid, 2011, 11), which indicates disagreement, dissonance, conflict, or disagreement. (Hajila, 2012, 12)

### **B/** Terminologically:

Definition of Muhammad Hassan Al-Amayra: “An interactive state that appears when there is disagreement, differences, or disharmony within individuals or between them or within or between groups.”

Majed Al-Attiyah’s definition: “A process that begins when one party realizes that the other party is affecting, or will negatively affect, something that the first party cares about.” (Hajila, 2012, 13).

### 4/2. *Definition of arbitration:*

Definition of Dr. Klaus Schass: “Arbitration is based on the principle of independence of the two parties, and it is a special way (outside the scope of the

judiciary) to resolve disputes that are based on an agreement between the two parties.”

Mohsen Shafiq’s definition: “Arbitration is in fact a mixed system that begins with an agreement, then becomes a procedure, and then ends with a ruling.” (Ismail, 2016, A, 5)

The Sports Arbitration Law (Arbitration) issued by the Algerian Sports Arbitration Committee stated in Article One (1.1) a definition of the arbitration agreement that it is: “The agreement according to which the parties commit to submitting existing disputes or that will arise, to the Algerian Sports Arbitration Committee (CASA), which can take An arbitration clause, included in the contract, in the statute of a sports association, or in the form of arbitration participation.” Accordingly, it is clear from the previous definitions of arbitration that:

- The existence of a dispute is a condition for arbitration.
- Arbitration is a civilized means or tool for resolving disputes.
- The existence of an arbitration agreement is a condition for resorting to arbitration.

## **5. Naming the arbitration court:**

The current name is the Arbitration Court, and this is in accordance with Article 106 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities, amended and supplemented. (Abdel Aziz Imqran: 2018)

## **6. Chronological development of the establishment of the Court of Arbitration for Sports:**

### ***6-1 Algerian Sports Arbitration Committee:***

It is a private and independent legal institution that was established on July 12, 1999 to serve the Olympic Movement and national sports. It issues decisions resulting from mediation and arbitration, and the Sports Arbitration Committee is composed of 08 personalities who control the law, arbitration, and sports laws. (Qusanem Khaled: 2018)

The principles of the Algerian Sports Arbitration Committee are as follows:

- Its field of work is to resolve all disputes related to sports, and this is within the framework of respecting the laws and powers of the National Sports Federation.
- Every legal entity can resort to the Algerian Sports Arbitration Committee. (Ismail, 2015/2016, 13).

### ***6 - 2 - Arbitration Committee:***

With reference to Law No. 04-10 of August 14, 2004 relating to physical education and sports (Official Gazette, 2004), it obligated the members of the national sports movement (athlete organizing and activation structures) to sports arbitration and

considered it a committee affiliated with the National Olympic Committee, as Article 56 stipulated the following:

“The National Olympic Committee shall establish an arbitration committee to settle the disputes stipulated in Article 55 above.

The National Olympic Committee appoints the members of the arbitration committee from among experts in this field, and determines the rules of its notification, organization and work.

National sports federations must obligatorily register in their statutes an arbitration clause relating to notification of the arbitration committee in the event of possible disputes.

With the issuance of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities, and pursuant to Article 106, the sports legislator officially established the Arbitration Court.

The aforementioned Article 106/4 obligates national sports federations to resort to the arbitration court compulsorily in the event of a dispute, as it stipulates the following:

“National sports federations must register in their basic laws an arbitration clause related to notifying the arbitration court in the event of potential disputes.”

Article 106 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities (Official Gazette, 2013) provided for the arbitration court, stipulating the following:

“The National Olympic Committee shall be provided with an arbitration court charged with settling sports disputes between sports organization and activation structures or between their members.

This arbitration court and its members enjoy independence with respect to all sports organization and activation structures or their members.

The rulings issued by this court in the context of existing disputes between sports organization and activation structures or their members may be subject to appeal in accordance with the laws and regulations in force as well as international sports regulations.

National sports federations must register in their statutes an arbitration clause relating to notification of the arbitration court in the event of potential disputes.”

Article 215/1 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities stipulates: “In addition to the penalties stipulated in the applicable legislation and regulation, the athlete or group of athletes and the users of the coaching shall be exposed in the event that they commit serious errors or fail to observe them.” Sports laws and regulations may lead to disciplinary penalties.

Following up on every violation of anti-doping rules constitutes a guarantee of peace within the sports system, and seeks to respect the consideration of everyone involved, and so that everyone (athletes, individuals, organizational and activation structures) is assured of the soundness of the decisions taken against them, since issuing legislation regulating the issue of doping Steroids constitute a guarantee and protection for them from all attacks, Article 64/3 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities stipulates the following: “In addition, athletes and users of sports supervision by the competent structures and departments benefit from the protection of every possible attack related to their tasks.” Before, during or after sports competitions.

Article 106 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities (Official Gazette, 2013) stipulates the following:

“The National Olympic Committee is provided with an arbitration court charged with settling sports disputes between sports organization and activation structures or between their members.

This arbitration court and its members enjoy independence with respect to all sports organization and activation structures or their members.

Likewise, one of the features of peace is enabling everyone (athletes, individuals, organizational and activation structures) to appeal the decisions issued by the agencies in charge of sanctioning in the field of doping abuse, and appeal is a legal means that has connotations related to human rights, as stipulated in Article 160/2 of Law No. 16-01 of On March 6, 2016, the constitutional amendment includes the following:

“The law guarantees two-level litigation in criminal matters and specifies the methods for their application.”

Athletes, individuals, and organizational and activation structures have the right to review the decisions of the bodies in charge of sanctions, and to appeal them, in order to achieve the constitutional principle, human justice, and human rights, by filing an appeal before the arbitration court in the field of sports.

## **7. The role of the Court of Arbitration for Sport in achieving sports peace.**

### ***7-1- The role of the Court of Arbitration for Sport in the field of combating doping:***

Doping constitutes a violation of the integrity of the athlete, which could affect the final result of the game, and awards and medals are awarded based on deception.

The Algerian sports legislator has regulated the use of doping, and has provided measures to combat and monitor it through a set of legal articles.

Article 108 of Law No. 13-05 of July 23, 2013 regarding the organization and development of physical and sporting activities stipulates the following:

“Combating and monitoring doping abuse is essential for the proper conduct of sports events, protecting the health of athletes, as well as preserving the principles of sports ethics and its educational values.”

The use of doping affects the health of the athlete, and in this regard, Article 67 of Law No. 18-11 of July 2, 2018 relating to health (Official Gazette, 46, 2018) stipulates the following:

“The state shall, through appropriate programs, promote the individual and collective practice of physical education, sports, and sports, which constitute one of the basic factors for protecting and improving the health of the person and citizens.”

We note through (Law No. 13-05, 2013) a clear keenness from the sports legislator to combat doping abuse in order to promote and develop physical and sporting activities and achieve Olympic goals, or in the legislator’s words, according to Article 188 of (Law No. 13-05, 2013, “for the smooth conduct of demonstrations.” Sports, protecting the health of athletes, as well as preserving the principles of sports ethics and its educational values.”

Through the chapters of Law (No. 13-05, 2013), the sports legislator has adapted the text of the International Anti-Doping Convention ratified by Presidential Decree No. (06-301, 2006), according to the following:

- A visa in Law No. (13-05, 2013) entitled “International Agreements”, which is the second visa thereof, which stipulates: “In accordance with the International Convention against Doping in Sports, drawn up in Paris on November 18, 2005, and ratified by Presidential Decree No. 06-301 of Shaaban 9, 1427 corresponding to September 2, 2006.”

This is in accordance with Article 3 of the International Anti-Doping Convention.

**“Article 3:** Means of achieving the purpose of the Convention

To achieve the purpose of this Convention, States Parties undertake to: (a) adopt appropriate measures at the national and international levels consistent with the principles of the Code; (b) Encouraging all forms of international cooperation aimed at protecting players and the ethics of sport, and exchanging research results; (c) Encourage international cooperation between States Parties and prominent organizations in combating doping in sport, in particular with the World Anti-Doping Agency.

**Article 11 of Law No.** (13-05, 2013) stipulates the following: “Prevention of violence, doping abuse, and practices that are offensive to the values of sports, fair sports competition, and pest control in the sports community, constitute essential elements of the national sports policy.” This is in accordance with Article 5. From the International Anti-Doping Convention.

**Article 5:** Measures to achieve the objectives of the Convention

Each State Party undertakes to adopt appropriate measures in fulfillment of the obligations contained in this Agreement. These measures may include legislation, regulations, policies or administrative procedures.”

**Article 91**, Clause 3 of Law No. (13-05, 2013), which stipulates the following: “The National Sports Federation guarantees public service tasks, especially: - Enacting technical regulations and general regulations specific to its sports specialization, which must necessarily include provisions that punish acts of doping... ". This is in accordance with Articles 3 and 5 of the International Anti-Doping Convention, with: “Article 20: Codes of Professional Conduct States Parties shall encourage relevant professional associations and institutions to prepare and implement appropriate codes of practice and ethics related to combating doping in the field of sports, and that are compatible with the Code.”

**Article 117**, Clause 11, Law No. (13-05, 2013): which stipulates the following: “Support structures for physical and sports activities are institutions and bodies placed under the supervision of the Minister in charge of Sports, whose tasks are, in particular, to undertake the following: - Combating and monitoring doping abuse.” This is in accordance with Articles 3 and 5 of the International Anti-Doping Convention, with: “Article 2, clauses 14 and 16:

**Article 2**, Clause 14: The phrase “lack of prior notification” means any doping control process that is implemented without prior notice to the player and in which the player is accompanied continuously from the moment he is notified until the sample is submitted.”

**Article 2**, Clause 16: The phrase “outside the competition” means any doping control process that is not carried out within the framework of the competition.

- **Article 162**, Clause 19 of (Law No. 13-05, 2013): which states the following: “The state, local groups, public and private institutions and bodies, in accordance with applicable legislation and regulation, shall finance or contribute to the financing of the following activities: - Combating doping abuse.” And monitor it.” This is in accordance with Articles 3 and 5 of the International Anti-Doping Convention, with Article 11.

“**Article 11:** Financial Measures: States Parties shall, where necessary, do the following:

- Providing funding within their budgets to support a national testing program covering all sports, or assisting sports and anti-doping organizations to finance doping control operations, either through direct subsidies or grants, or by taking into account the costs of such control activities when determining the total Subsidies or grants provided to these organizations.

- Taking measures to prevent any players or any members of their supporting crews who are suspended due to violating any anti-doping rule in sports, from obtaining financial support related to the sport during the period of their suspension.
- Withholding financial support or any other sports-related support, in whole or in part, from any sports organization or anti-doping organization that does not comply with the Code or the applicable anti-doping rules adopted pursuant to the Code.” (Aws Abdel Aziz: 2023)

### ***7 - 2 - The field of violence prevention in sports facilities:***

Violence is “provoking fear, terror, panic, and psychological fear.” (Hajila, 2012, 10) The sports legislator considered the prevention of sports violence a priority measure in combating it, as Article 196/1 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities stipulates the following: “Preventing and combating violence in sports facilities constitutes During or on the occasion of the holding of sports demonstrations, permanent and priority operations for the development and promotion of physical and sports activities, in view of the danger that violence poses to the individual, the group, property, the public interest, public order, and public peace, and this is clear in view of the goals and objectives achieved by combating sports violence, Article 197 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities stipulates the following:

- Promoting sports and Olympic values,
- Dissemination of sports ethics and sportsmanship,
- Raising citizens’ awareness of civilization, respect for others and public affairs, and combating uncivilized behaviour.
- Promoting a culture of peace and tolerance,
- Combating violence in sports facilities.”

These aforementioned points are all humanitarian and global goals related to the field of human rights related to the protection of his dignity, honour, property, honour, and bodily integrity, established by international charters and agreements, and codified by national texts, as stipulated in Articles 11 and 12 of Law No. 13-05 of July 23, 2013. related to organizing and developing physical and sports activities as follows:

**Article 11:** “Preventing violence, doping abuse, and practices that are offensive to the values of sports, fair sports competition, and combating all ills in the sports community, constitute essential elements of the national sports policy.”

**Article 12:** “Preventing and combating violence, as well as the security of sporting events in sporting facilities, is an obligation to be implemented through the development of programmes, measures and arrangements.” Among these measures and arrangements that constitute an obligation are the following:

- ***Determine the regulations related to organizing all demonstrations:***

Adopting special provisions for demonstrations that require special security measures, as Article 210 of Law No. 13-05 of July 23, 2013 regarding the organization and development of physical and sporting activities stipulates the following: “National sports federations must enact regulations related to the organization of all demonstrations that require Therein, especially for demonstrations that require special security measures, they must include in their regulations special provisions for this type of demonstration, especially disciplinary penalties against clubs, sports directors, supporters’ committees, and sports supervision users who violate these provisions.

The National Sports Federation works with other bodies to achieve the goals of promoting and developing physical and sporting activities, as Article 9 of Executive Decree No. 14-330 of November 27, 2014 stipulates the methods for organizing and functioning national sports federations, as well as their model basic law (Official Gazette, 69, 2014 ) as follows: “The National Sports Federation contributes, through its activities and programs, to promoting and improving one or more sports specializations, educating youth, protecting the ethics and etiquette of sports, sportsmanship, good governance, and strengthening social cohesion and national solidarity.”

- ***Combating all forms of violence:***

Among the procedures and measures to strengthen social cohesion and national solidarity is combating all forms of violence, as **Article 6/2**, Clause 22 of Executive Decree No. 14-330 of November 27, 2014 specifies the methods of organizing and functioning national sports federations, as well as their model basic law, stipulates the following: “Working to spread sports ethics and sportsmanship and combat all forms of violence.”

The National Sports Federation exercises disciplinary authority over the sports associations and clubs affiliated with it, and the bodies it establishes, in accordance with the text of **Article 91**, Clause 6 of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sports activities, and **Article 24/3**, Clause 7 of the Executive Decree. No. 14-330 of November 27, 2014 specifying the methods of organizing and operating national sports federations, as well as their model basic law.

Under this disciplinary authority exercised by the National Sports Federation, it issues decisions that are subject to appeal before the arbitration court, based on the principles of legality and two-level litigation. This would achieve peace within the national system of physical and sporting activities, and activate the application of the elements of the national sports policy.

**Article 216** of Law No. 13-05 of July 23, 2013 relating to the organization and development of physical and sporting activities stipulates the following: “National sports federations shall enact provisions in their systems to ensure that their sovereign bodies, or the bodies of the structures affiliated with them, ensure the solution or settlement of all disputes that they can, In particular, obstructing participation and the good conduct of competitions and tournaments, as well as the good conduct of the aforementioned structures.”

## **8. Conclusion:**

The decision of the sports legislator to establish a committee and then upgrade it to an arbitration court with the aim of settling existing or potential disputes is a decision that contributes to the promotion and development of physical and sports activities, as violence must be excluded in solving sports problems, and therefore it is necessary to rely on civilized means to settle sports disputes.

This procedure by establishing the arbitration court achieves constitutional principles, including the principle of legality, the principle of two-level litigation, and the principle of independence.

The Algerian legislator also regulates, based on the principle of “no crime and no punishment except by a stipulation,” the behavior that constitutes violations considered by the arbitration court, and this would contribute to the protection of human rights.

The sports legislator did not limit himself to establishing the arbitration court, but rather issued texts explaining the method of its organization and functioning. It is an independent court, which considers decisions as an ordinary body and as an appeals body, consisting of arbitrators, and issues final decisions.

All of these procedures related to the arbitration court would contribute to achieving the peace that the National Olympic Committee aims for, for all actors in the sports field.

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