

A Comparative Study between Commercial Arbitration and Sports Arbitration

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Abstract

This paper offers a thorough evaluation of the similarities and differences between sports arbitration and commercial arbitration, with a focus on the procedural distinctions between the two methods of arbitration. The paper examines the details, time constraints, regulations regarding admissible evidence, and protocols for reaching a verdict in each instance. It is crucial to shed light on these differences in order to assist the practitioners and stakeholders involved in sports and business disputes. This research seeks to offer a comprehensive understanding of the unique characteristics, procedures, and challenges that differentiate sports arbitration and commercial arbitration in their respective domains. For this research, a normative qualitative method is employed to thoroughly examine and analyse various legal resources, including published works, arbitration rules, awards, and cases. This ensures that both sports arbitration and commercial arbitration are practical in order to effectively coordinate the use of the normative qualitative technique. The study sheds light on the difficulties encountered in the realms of commercial and sports arbitration, including concerns about the enforceability of awards, the matter of confidentiality, and challenges arising from dominance. The paper also provides a detailed account of the established best practices in each of the domains. The study also explores the significant substantive and procedural distinctions between commercial and sports arbitration. It specifically examines aspects such as legal systems, timeframes, rules of evidence, the selection of arbitrators, and the roles of governing bodies. The conclusion offers a concise overview of the main discoveries of the study and the key distinctions and similarities between commercial and sports arbitration. Practitioners and policymakers will find valuable recommendations in addition to a discussion on future research directions.

Keywords: Commercial Arbitration, Sports Arbitration, Athlete Disputes, Contractual Disputes, Alternative Dispute Resolution.

Introduction

Arbitration, a method of resolving conflicts, can also resolve disputes outside of court (Owo, 2024). Applying arbitration to resolve conflicts in various industries, such as trade and sports, is highly attractive due to its flexibility, emphasis on privacy, and ability to foster specialization (Jimenez-Gomez, 2023).

This research study aims to compare commercial arbitration and sports arbitration. Despite their similarities in arbitration principles, the two domains exhibit distinct characteristics due to the nature of the disputes and the parties involved (Bhimrajka & Sharma, 2021).

Arbitration has long been a widely used method of resolving business disputes, especially in the realm of international business transactions (Okekeifere, 1998). It offers a private, flexible, and often more efficient alternative to litigation in national courts (Stipanowich, 2010). Many parties in commercial contracts often include arbitration clauses, which require them to use this process to resolve any disputes that may arise (Orbay-Graves, 2023).

An advantage of commercial arbitration is the ability for parties to select arbitrators who possess expertise in their respective fields or in the relevant legal matters (Moreira, 2022). In recent decades, sports arbitration has emerged as a distinct field within alternative dispute resolution. Arbitration proceedings have become increasingly intricate as a result of conflicts arising from contractual agreements, doping allegations, disciplinary measures, and eligibility challenges, as the sports industry has become more complex and financially significant (Kurua, 2024).

International sports organizations and national sports federations often establish the regulations that govern sports arbitration. Resolving sports disputes promptly is crucial to safeguarding the integrity of seasons or contests. Individuals in various fields, including law, business, sports, and more, need to possess a comprehensive knowledge of both commercial and sports arbitration in order to effectively resolve disputes.

Learning the differences and distinctions between these two industries can be useful in applying better conflict solving strategies, attaining fairer outcomes, and gaining

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an improved understanding of the legal innovative world of business and sports. This study compares and examines the general principles, procedures, and challenges of both commercial and sports arbitration to gain knowledge that assists in recommending good practices and contributing towards the constant development of these indispensable aids for dispute resolution. Therefore, the aim of this study is to analyse and differentiate the procedural and substantive variations between commercial and sports arbitration. It will also address the obstacles encountered in each area and explore the most effective strategies employed to enhance the efficiency of arbitration in both fields. This study seeks to explore the intricacies of business and sports arbitration in order to enhance our understanding of arbitration and its relevance in certain situations.

This research is significant in establishing the similarities and differences between sports and commercial arbitration as it creates logical distinctions in the field of conflict resolution. This work provides a detailed analysis of the procedural and substantive aspects of both forms of arbitration, emphasizing the unique features of sports arbitration that cater to the specific requirements of the sports industry. These features include shorter timeframes for proceedings and the involvement of specialized arbitral tribunals with extensive expertise in sports law.

Therefore, by highlighting the contrast between these two types of arbitration, we can better understand the significance of context-specific processes in resolving disputes and how they influence the fairness and effectiveness of decisions. It also offers valuable suggestions regarding effective strategies and potential opportunities for collaboration between practitioners and stakeholders in both sectors. Overall, the findings presented will enhance one's understanding of arbitration as a versatile and adjustable process for dealing with disputes across different matrices. Figure 1 illustrates the stages of arbitration process:

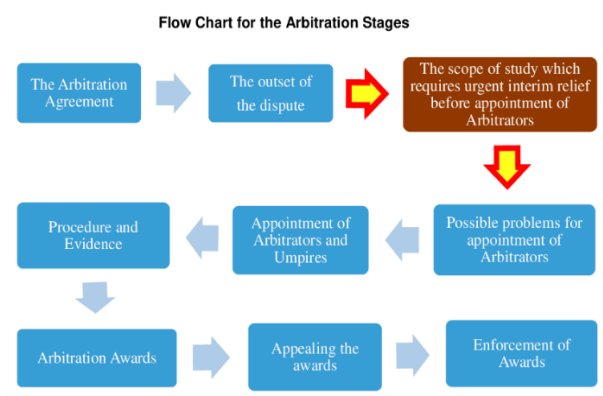


Figure 1: Stages of Arbitration Process.

Source: (Khadrawi & Mohamed, 2017)

Literature Review

Commercial Arbitration and Sports Arbitration Laws in China

In China, the legal system relies on the "Arbitration Law of the People's Republic of China (1994)" to regulate commercial arbitration. This law also outlines procedures for resolving disputes outside of the courts. The focus is on the procedural law aspects, including the importance of finality in awards, the impartiality of the arbitrator, and the agreement of the parties (Liukkunen, 2020). In addition, when it comes to business disputes involving both local and global organizations, individuals have the option to seek assistance from institutions such as the "China International Economic and Trade Arbitration Commission (CIETAC)" (Li, 2020; Grincevičiene et al., 2021).

Similarly, the supervision of sports arbitration is carried out by the "General Administration of Sports" in collaboration with the "China Sports Arbitration Commission (CSAC)". This body deals with matters related to athletes' contracts, violations of doping regulations, and other sports-related issues (Cruz, 2020). Therefore, China recognizes the importance of implementing effective and impartial systems to resolve disputes in both business and sports arbitration. This can be attributed to the laws and regulations that govern commerce and sports in the country.

Commercial Arbitration and Sports Arbitration Laws in India

"India's Arbitration and Conciliation Act, 1996" is largely influenced by the UNCITRAL Model Law, although it does not fully adopt it for commercial arbitration. This act offers detailed provisions on arbitration, particularly regarding the independence of the parties, the enforcement of awards, and the limited involvement of the courts (Anuja & Nair, 2021). There are a few organizations that play a crucial role in resolving business disputes, such as the "International Centre for Alternative Dispute Resolution (ICADR)" and the "Indian Council of Arbitration (ICA)" (Dhivya, 2024; Sh, 2023; Elrayah & Piaralal, 2023).

Similarly, the responsibility of sports arbitration in India lies with the "National Anti-Doping Agency (NADA)", as stated by Duffy and O'Brien (2021). In addition to its own dispute mechanisms, the "Indian Olympic Association (IOA)" also serves as the party for the arbitration of disputes. It offers effective and specialized procedures for tackling various issues like doping, athlete's contracts, and governance concerns (Modi & Star, 2023). Thus, both these frameworks showcase India's dedication to implementing more efficient and specialized arbitration procedures in the realms of business and sports.

Commercial Arbitration and Sports Arbitration Laws in Germany

The rules governing commercial arbitration in Germany can be found in the "Tenth Book of the Code of Civil Procedure (ZPO)" which refers to the "UNCITRAL Model Law." These laws are highly beneficial for supporting arbitration due to the emphasis on party independence, the efficiency of the juridical process, and the prompt execution of decisions (Tsfay & Tesfay, 2021).

Likewise, the "German Court of Arbitration for Sport (DIS-Sport)" primarily focuses on overseeing sports arbitration in Germany and resolving issues related to sports contracts, doping, and other matters pertaining to sports (Hekpacова, 2022). Therefore, it is evident that Germany has made significant efforts to establish fair and efficient legal frameworks for business and athletic activities.

Commercial Arbitration and Sports Arbitration Laws in Japan

Japan's legal framework for commercial arbitration is governed by the "Arbitration Law of 2003," which was enacted based on the "UNCITRAL Model Law." This law establishes a comprehensive system of arbitration law that focuses on allowing parties to have control, ensuring fair procedures, and promoting the enforceability of arbitration agreements and awards (Watanabe, 2023). Furthermore, the organization responsible for handling business disputes is known as the "Japan Commercial Arbitration Association (JCAA)." It offers the services of experienced arbitrators and establishes a framework to promote efficiency and fairness in resolving these disputes (Hassim & Aziz, 2020; Cao & Chen, 2021).

Regarding arbitration in sports, there is an organization known as the "Japan Sports Arbitration Agency (JSAA)". It pertains to matters such as athletes' contract breaches, doping cases, or any issue connected to sports activities. The JSAA provides a highly efficient arbitration service tailored to meet the needs of sports companies (Tokomizo, 2014). Thus, Japan aims to provide an efficient, impartial, and expert procedure for resolving disputes through arbitration for business and sports purposes. This showcases the country's commitment to fostering a responsible legal system for business and sports.

Commercial Arbitration and Sports Arbitration Laws in UK

The "Arbitration Act of 1996," which provides a comprehensive legal framework that emphasizes party autonomy, procedural fairness, and the finality of arbitration awards, governs the arbitration of commercial disputes in the UK (Baig et al., 2024). Some well-known business arbitration institutions include the "London Court of International Arbitration (LCIA)" and the Chartered Institute of Arbitrators (CIArb). With their team of highly skilled arbitrators and well-structured procedural processes, they ensure the smooth and precise handling of all disputes (Loreto Ilhao Moreira, 2020).

Likewise, There is another independent dispute organization in the UK called "Sport Resolutions" that specializes in arbitrating sports-related disputes in the country (O'Leary, 2021).The UK Anti-Doping (UKAD) has been a significant player in the battle against doping. This organization offers comprehensive legal services to cater to the diverse requirements of the broader sports industry (Barnes et al., 2022). As a result, the UK has a well-defined plan in place to establish appropriate laws for both the business and sports sectors. Here is a summary of the literature review, as presented in Table 1:

Table 1

Summary Table

Country	Commercial Arbitration Resolution	Sports Arbitration Resolution
China	Arbitration Law of the People’s Republic of China (1994), CIETAC	General Administration of Sports, CSAC
India	India’s Arbitration and Conciliation Act, 1996, ICADR	NADA, IOA
Germany	Tenth Book of the Code of Civil Procedure (ZPO)”	German Court of Arbitration for Sport (DIS-Sport)
Japan	Arbitration Law of 2003, JCAA	JSAA
UK	Arbitration Act of 1996, LCIA, CIArb	UKAD

Methodology

Research Type and Problem Approach

In this study, the researcher employed a 'normative' legal research method to evaluate the effectiveness, applicability,

and appropriateness of legal rules in resolving the current legal concerns (Yusa et al., 2021). Thus, this approach proved successful in accomplishing the goal of comparing commercial arbitration to sports arbitration. It also contributed to developing a thorough analysis of the existing legal frameworks in place.

Sources of Legal Materials

The main legal documents utilized in this study included government publications, rules and regulations, guidelines, and court cases pertaining to sports and commercial arbitration. They formed the basis of legal reasoning in the laws of sports and business mediation. In order to ensure the credibility of the study, secondary legal sources such as academic papers, books, and legal journals were included. These publications offer a comprehensive exploration of the theoretical foundations and analytical data surrounding the intricate legal matters concerning sports mediation and business mediation.

Legal Material Collection Technique

The legal materials were gathered using various methods in order to obtain reliable and pertinent information. Thorough examination and analysis of sources, such as referencing key legal documents like laws and rules, as well as past judicial rulings, provided valuable insights. Furthermore, an effort was made to collect unquestionably legitimate sources and materials pertaining to the topic. This was accomplished by utilizing legal databases and digital libraries, as well as acquiring scholarly articles and publications.

Analysis of Legal Materials

The handling of the legal texts involved description, appraisal, and argumentation processes. Therefore, the legal analyses supported the arguments used in the research.

Findings and Results

Commercial and Sports Arbitration Legal Framework

Although there are similarities between commercial and sports law in terms of the legal regulation of arbitration, there are also distinct differences that impact the arbitration processes and outcomes in each situation.

The widely recognized legal instrument that aims to foster universality and consistency in the field of international commercial arbitration is the "UNCITRAL Model Law" on "International Commercial Arbitration". This set of guidelines and standards is commonly employed in the realm of commercial arbitration (UN, 2012). This model statute provides a comprehensive framework for the various aspects of arbitration, including the selection of arbitrators, the conduct of hearings, and the enforcement of awards. However, there are frequently regulations established by national sports federations or international sports organizations regarding sports arbitration. Another illustration of a resolution is the "Court of Arbitration for Sport (CAS) Code" which regulates disputes within the realm of organized sports (Anon). Within the CAS Code,

there are provisions to govern athlete eligibility, drug sanctions, and disciplinary actions.

The procedural rules of the two legal systems vary significantly from each other in several aspects. In the realm of sports arbitration, there is a greater emphasis on following established procedures to ensure fairness and consistency. On the other hand, commercial arbitration tends to have less flexibility in adapting to the unique requirements of the involved parties.

Enforcement techniques can also differ. The "New York Convention", a multilateral treaty that facilitates the enforcement of foreign arbitral awards in most countries, states that "Commercial Arbitration Awards" are typically enforceable. Agreements or rules pertaining to sports can also be applicable to awards made in sports arbitration, and may not always be based on the New York Convention. The legal framework governing commercial arbitration may differ from that governing sports arbitration. Commercial arbitration may be subject to the laws of the jurisdiction of the chosen arbitration site or the laws referred to in the arbitration clause used. The regulations set by the sport association or the legal framework of a particular country can have an impact on sports arbitration. The world of commercial and sports arbitration can be quite complex, requiring careful consideration before getting involved. Commercial arbitration often enjoys a certain level of flexibility in determining the applicable law. Based on the provisions mentioned, the parties involved in an arbitration agreement may prefer to have specific laws from a particular jurisdiction to govern it. The choice of jurisdiction, known as the "seat" of arbitration, can have a significant impact on the procedural rules, admissibility of evidence, and interpretation of the disputed contract. In this situation, the parties have the option to combine different laws or create specific legal provisions that are applicable to their unique business relationship. Thanks to the schemer's adaptability, the dispute resolution can be tailored to meet the specific needs and desires of all the participants.

Conversely, the field of sports arbitration operates within a complex framework of legal contexts. Parties involved in the contract have the option to select the applicable law, although their choices may be limited by the rules and regulations set by the sporting associations. These standards cover a broad range of topics, such as athlete eligibility, policies against doping, penalties, and the business side of sports. Swiss law is well-regarded for handling procedural matters in sports cases through the CAS, a highly respected international organization specializing in resolving disputes within the sports industry. This, of course, may vary depending on the rules of the sport and the applicable substantive law for resolving the dispute.

It is worth mentioning that national legislation can also be applied to sports arbitration. At times, national courts may be asked to make decisions on initial matters regarding the authority of sports arbitration tribunals or overturn CAS rulings in specific circumstances. Dealing with legal complexities can be quite challenging, especially when it involves the integration of national law with international standard sports legislation. Extensive knowledge of both legal systems is crucial in effectively managing such situations. Choosing the appropriate governing law for commercial or sports arbitration is a crucial initial decision that can significantly impact the final verdict. Both parties and their lawyers must carefully consider their options and select the laws that are most

relevant to the specific details of the dispute and beneficial to their case. The selection of the appropriate statute is crucial as even minor decisions can have a significant impact on the outcome of a dispute in commercial and sports arbitration. The applicable law in an arbitration case can be determined by either the national laws or the law of the seat of the arbitration, or both. This choice of law will determine various aspects such as the burden of proof, the interpretation of the contract, the admissibility of evidence, and the available remedies. Therefore, the parties involved in the agreement and their legal representatives must exercise caution when navigating the complex web of relevant legislation.

Table 2

Comparison of Different Aspects of Commercial and Sports Arbitration

Aspect	Commercial Arbitration	Sports Arbitration
Governing Framework	UNCITRAL Model Law on International Commercial Arbitration	CAS Code
Regulating Bodies	Generally, it is administered by international commercial arbitration organizations	National sports federations or international sports organizations
Procedural Flexibility	Less prescriptive and much more useful to the parties depending on what they want to achieve	More codified: it is built for the consistency and fairness in sports
Selection of Arbitrators	Introduced by UNCITRAL Model Law	Functions under the ambit of CAS Code and corresponding sports federations
Enforcement Techniques	New York Convention to facilitate the enforcement of foreign arbitral awards	Sports-related agreements often governed by the New York Convention
Applicable Law	National laws of the jurisdiction of the arbitration site, or national laws of the arbitration clause	Rules set by the sport association or laws of the country of concern
Flexibility in Choosing Applicable Law	More freedom, it is possible to combine different laws	Decisions usually bound by sports association guidelines
Influence of National Legislation	Parties may choose the relevant national laws	National courts can get involved in preliminary matters or set aside any CAS decisions
Common Issues	Procedures, choosing of arbitrators, hearings, executing awards	Competitor registration, anti-doping infringements, penalties
Advisability of Legal Expertise	It is a business and legal planning process and it is wise to seek the services of arbitration professionals	Call for applicants in the field of sports law or international arbitration
Risk Factors	Selection of an improper choice of law may preclude other legal positions or render some claims unworthy of enforcement	Interdependence between national and international legislation in sports

There are significant risks involved. The choice of law can have various consequences, such as impacting a party's position, restricting legal arguments, or rendering claims unenforceable. Choosing a legal system that one is less familiar with can provide a party with an advantage in commercial arbitration. The determination of which set of rules applies to an athlete's doping case depends on the choice of the relevant country's law, whether it is the national sports federation's code of conduct or the international anti-doping rules. Therefore, it is crucial for the parties and their legal representatives to engage in thoughtful deliberation and reach a fair resolution. It is necessary to consider the pros

and cons of different legal systems, as well as the specific features of a dispute and the business strategies of the parties involved, when selecting a legal system. Seeking assistance from sports law practitioners or international arbitration specialists may be advisable in certain situations. Therefore, selecting legislation is considered a strategic decision that requires ample time to comprehend the legal environment. Parties can enhance their chances of obtaining a favourable arbitration award and safeguarding their rights and interests by making informed decisions. [Table 2](#) presents a comparison of various aspects between commercial and sports arbitration.

The Arbitral Institutions

Table 3

Comparison of Different Aspects of ICC, LCIA, and CAS

Aspect	ICC	LCIA	CAS
Field of Specialization	Commercial Arbitration	Commercial Arbitration	Sports Arbitration
Leading Role	One of the foremost organisations in commercial arbitration across the world	Primary outlet for highly complex and expensive arguments	Powerful decision-making regarding sports arbitration
Knowledge and Coverage	Much information collected and policies set in various fields and nations	Many years of experience in the sphere of international law and trade	Proficiency in matters relating to sports laws and procedures
Impartiality and Independence	It has long been associated with fairness and impartiality	Famous for being independent and providing fair and efficient justice	Appreciated for objectivity in all matters that have to do with sports.
Types of Matters Handled	International disputes in many fields	Multiparty business litigation that often encompasses several legal systems	Legal issues, drug and alcohol use, penalties related to sports
Panel of Arbitrators	Expert and experienced personnel with background in contract law and international business Fair and reasonable decisions on various	Arbitrators with high level of experience and qualification in the various fields	Individuals with knowledge on anti-doping rules, athletic codes, and sports opportunities Measures on how sports disputes should be dealt
Decision-Making	controversial multi-party international contracts and business transactions	Biased decisions on simple commercial cases	with in a way that cause the least amount of disruption to the events and athletes
Audience Served	International business community	International business community	Athletic community and sports industry
Regulatory Focus	International commercial law	International commercial law	Sports laws and regulations
Value to Sector	Provides detailed services for commercial litigation in international arena	Provides efficient and effective solutions to multi-party commercial disputes	Promotes the right and honourable standards in the sporting activities

Arbitration is a method used to resolve various disputes that require specialized approaches, methods, and expertise from professionals. Commercial and sports arbitrations are the most commonly used categories of arbitration, each having their own distinct arbitral institutions. The International Chamber of Commerce (ICC) is recognized as the foremost institution in global commercial arbitration. Currently, the ICC offers a valuable platform to resolve international disputes across various sectors and countries, thanks to its extensive knowledge and comprehensive regulations. LCIA is widely recognized as a top center, particularly for handling complex and expensive disputes. The disputing parties often prefer the LCIA due to its reputation for impartiality and efficient resolution of disputes. However, when it comes to sports, CAS has the ultimate authority. The CAS plays a crucial role in ensuring the balance and fairness of events, as it holds the final authority on various sport-related matters. They discuss topics such as contractual matters, incidents like doping, and disciplinary measures. The CAS is highly regarded in the sports industry due to its extensive knowledge and effectiveness in sports laws and processes. The ICC and LCIA are well-suited for a wide range of international business relations due to their extensive experience in commerce and international law. Nevertheless, the CAS can provide a comprehensive and efficient solution to cater to the needs of the athletic audience. The organization is well-informed about sports laws and places a high priority on finding effective solutions.

It is well recognized that the LCIA and the ICC are highly reputable institutions with extensive expertise in managing intricate commercial arbitrations that often involve multiple participants and diverse legal systems and rules. These panels of arbitrators are typically composed of individuals who possess extensive expertise in contract law, international business, and various other fields, gained through years of experience. They possess a strong understanding of international legal regulations and have extensive experience in handling a wide range of commercial law cases. As a result, they are well-equipped to make fair and informed decisions when it comes to managing complex cross-border commercial transactions. On the other hand, the CAS operates within a distinct realm and its purpose is to assist in the resolution of issues pertaining to sports. The CAS arbitrators possess a deep understanding of the anti-doping procedures and policies, penalties, and athletic codes. Our team of highly skilled mediators and arbitrators efficiently resolves disputes that arise in the sports industry, minimizing inconvenience to events and athletes. The CAS plays a crucial role in the world of sports, as it possesses the ability to promote fair and ethical practices in sports, thanks to its deep

understanding of the issues and obstacles faced in the field. Table 3 shows the comparison of different aspects of ICC, LCIA, and CAS:

The Selection of Arbitrators

Proficiency in contract law, rules for international business transactions, and the intricacies of the corresponding field is essential for success in the profession of commercial arbitration. Commercial and sports arbitration necessitates distinct groups of arbitrators, which is evident due to the contrasting nature of these two sectors. It became clear that having a strong understanding of theoretical concepts in business is just as important as practical experience in the field. This ensures that the arbitrators have the necessary expertise to comprehend intricate and distinctive commercial relationships, enabling them to make sound and practical decisions within the business context. However, when it comes to appointing sports arbitrators, a different skill set is typically preferred. Additionally, a strong understanding of anti-doping laws, sports legislation, and disciplinary measures is essential. Undoubtedly, possessing legal expertise is valuable, but it is frequently emphasized that having a background in sports and a thorough understanding of its rules and norms is essential. This may require recognizing various types of sports, the governing bodies of the games, or the challenges that athletes and teams face.

The selection of arbitrators in sports disputes requires a complex approach due to the high levels of complexity involved. Sport arbitration necessitates expertise in both sport-specific areas and general knowledge of sports law and regulations. This may involve evaluating previous experience in handling sports-related cases, while also demonstrating a comprehensive understanding and appreciation of the unique nature and challenges faced by athletes, teams, and sport's governing bodies. Understanding the "World Anti-Doping Code", a complex set of rules that has undergone multiple revisions, is typically necessary. Furthermore, the importance of image rights and licensing in the realm of sports intellectual property has increased alongside the growing economic aspect of the sports industry.

The Role of Arbitrators in Resolving Sports Contract Disputes



Figure 2: Role of Arbitrators in Resolving Sports Contract Disputes.

(Source: www.fastercapital.com)

Arbitral organizations, such as CAS, curate lists of skilled arbitrators with diverse expertise and experiences. These organizations allow parties to choose arbitrators based on the specific nature of their dispute. The rigorous procedure ensures that the arbitral panel possesses the specific knowledge and expertise required to address complex and sensitive issues. [Figure 2](#) illustrates the role of arbitrators in resolving sports contract disputes:

The Enforcement of Awards

The enforcement of arbitral awards poses challenges and is a significant aspect of both commercial and sports arbitration. Non-compliance in the commercial sector may involve disregarding or taking advantage of laws in foreign jurisdictions and limited cooperation between jurisdictions. Nevertheless, variations in laws and procedures governing the enforcement of awards under the New York Convention on the "Recognition and Enforcement of Foreign Arbitral Awards" can lead to challenges. Issues related to asset distribution across multiple states may require engagement with various authorities. The parties may seek to impede enforcement through legal mechanisms, resulting in protracted legal proceedings and additional expenses.

The complexities of enforcing sports arbitration awards are comparable to other types of arbitration, but involve distinct considerations. The New York Convention generally covers rewards related to sports, but there may be additional challenges due to the specificities of sports organizations and their internal policies.

Case Studies

Daesang Corporation v. NutraSweet Company ([David Friedman et al., 2018](#)) is a notable example of a commercial arbitration case that was effectively resolved. The high-stakes case involving a multi-million-dollar disagreement over a licensing deal was successfully resolved through ICC arbitration, with Daesang Corporation emerging as the winner. International arbitration has proven to be an efficient method for resolving complex disputes involving multiple countries, as evidenced by its enforcement in various jurisdictions.

Another notable instance is the *Occidental Petroleum Corporation v Ecuador* case, which was decided by the LCIA. More information about the case can be found at <https://www.italaw.com/cases/767>. This case, stemming from the termination of an oil exploration and production contract, resulted in a significant ruling in favor of Occidental Petroleum. The decision reaffirmed the importance of investor protection in international arbitration and the integrity of contracts.

The Court of Arbitration for Sport (CAS) has played a crucial role in resolving notable disputes in the realm of

sports arbitration. The case of *Caster Semenya v. IAAF*, which pertained to regulations concerning testosterone levels in female athletes, garnered significant attention (<https://kakuruadvocates.co.ug/blogs/caster-semenya-v-iaaf-case>). The CAS ultimately upheld the IAAF rules, highlighting the challenges of reconciling individual rights and fair competition. This case also prompted a broader discourse on gender and sports.

The Court of Arbitration for Sport (CAS) oversaw a significant case involving the Russian Anti-Doping Agency (RUSADA) and the World Anti-Doping Agency (WADA) (source: www.wada-ama.org/en/news/wada-refers-compliance-case-against-russian-anti-doping-agency-court-arbitration-sport). The acronym WADA refers to the World Anti-Doping Agency. This case emphasized the importance of independent arbitration in upholding anti-doping laws and maintaining the integrity of sports. As a result, Russian participation in major international sporting events was prohibited.

A comparative analysis of the cases highlights the subtle differences between commercial arbitration and sports arbitration. The *Daesang* and *Occidental Petroleum* cases exemplify the challenges that can arise in commercial arbitration, often involving high-stakes, cross-border disputes with complex legal and financial implications. The primary concern in the *Daesang* case was a licensing agreement for aspartame production, which raised issues of fraud, breach of contract, and theft of trade secrets. The *Occidental Petroleum* case exemplified the challenges and hazards associated with international investment disputes in the context of terminating an oil exploration and production contract. Both cases demonstrated the importance of selecting reputable arbitral institutions with rigorous procedural rules, such as the ICC and LCIA, to ensure a fair and impartial decision. The authors emphasized the potential challenges in enforcing arbitral awards across various jurisdictions and argued for greater harmonization of enforcement procedures.

Disputes in sports arbitration often encompass intricate scientific, ethical, and regulatory aspects. Therefore, the *Semenya* and *RUSADA* cases exemplify the intricate nature of sports arbitration. The CAS encountered a challenge in *Semenya* regarding the testosterone levels of female athletes and its implications on fair competition, discrimination, and the rights of female participants. The primary concern arising from the *RUSADA* case pertains to the allegations of state-sponsored doping. These allegations have raised doubts about the efficacy of anti-doping policies, the integrity of sports, and the accountability of relevant parties. Both examples illustrate the pivotal role of CAS as the ultimate arbiter of sports-

related disputes. The examples also raise questions about the scope of CAS jurisdiction and the potential impact of external or political influence on CAS decisions.

The comparison of these cases reveals substantial distinctions between commercial and sports arbitration. Common subject matters in commercial arbitration include contractual disputes, intellectual property disputes, and investment disputes due to their complex financial and legal nature. Sports arbitration is limited to matters within the sports community, such as doping, athlete eligibility, and disciplines with ethical and scientific complexities.

In addition, national arbitration laws and global conventions, such as the New York Convention, serve as the main foundations for commercial arbitration. They create a more standardized framework for resolving disputes. In contrast, sports arbitration operates within a framework of legal rules encompassing domestic statutes, sports regulations, and internal procedures of specific sports organizations, resulting in a considerable range of protocols and resolutions.

Furthermore, commercial arbitration is a method employed by private individuals and companies to resolve business matters, specifically contractual disputes. Sports arbitration typically involves various stakeholders with conflicting interests and objectives, including athletes, teams, national and international sports associations, international federations, and anti-doping organizations.

In the same respect, the participation of neutral and independent third parties to resolve disputes is a common feature in both commercial and sports arbitration. However, these professions operate within distinct institutional and legal frameworks, necessitating specific training and education. The cases demonstrate various issues and situational characteristics of each trade, emphasizing the need for customized solutions in enforcement and intervention. Hence, it is imperative to ensure that these processes remain equitable and efficient in the progressively diverse realm of global trade and sports contests. This can be achieved by employing academic writing and critical thinking, thereby facilitating the continuation of both commercial and sports arbitrations.

Specialized Rules and Procedures

Sports arbitration differs from commercial arbitration due to its unique legal features, rules, and proceedings. An important feature is the ability to expedite emergency procedures for issues such as athlete eligibility, selection disputes, or discipline issues. These procedures need to be resolved quickly to avoid significant losses or disruptions to contests. In order to meet the demands of the athletic

calendar, the procedures are often expedited, with short deadlines for submission, hearings, and conclusion. This places a strong emphasis on speed and timeliness. In addition, international sports arbitration bodies such as the CAS have established procedural frameworks and standards for resolving doping cases, recognizing their legal and scientific nature. Regulations are implemented to ensure fair and consistent outcomes in sensitive circumstances. These regulations often include detailed standard operating procedures for sampling and analysis, evidence, and penalties.

In the context of commercial arbitration, the resolution of these issues typically adheres to standardized rules and procedures, such as the "UNCITRAL Model Law" or the institutional rules of the ICC or LCIA. The regulations offer comprehensive guidelines for conducting arbitrations, covering topics such as arbitrator selection, proof submission, hearing procedures, and award issuance. In contrast to instances observed in the realm of sports, where decisions are sometimes made against athletes that have a negative impact on the competitions, commercial arbitration does not often acknowledge the importance of reaching a timely resolution. Commercial arbitration primarily relies on contract law principles and international business customs, rather than specific procedures for different types of disputes.

Applicability of Precedent

Case law, also known as precedent, plays a complex and multifaceted role in commercial and sports arbitration. While the doctrine of *stare decisis* is not applied in the same way as in common law jurisdictions for commercial arbitration, previous awards carry significance, particularly when they are issued by reputable arbitral institutions. Arbitrators may consider these factors as persuasive authority when they encounter similar facts or legal issues. They have the ability to deviate from these precedents if needed and are not obligated to adhere to them in any manner. It is possible to achieve this by using a flexible decision-making model that can adapt to specific conditions and also benefit from knowledge gained from previous decisions.

In sports arbitration, the use of precedents is significantly more complex. The Court of Arbitration for Sport (CAS) is the sole authority responsible for adjudicating legal matters related to sports and sporting activities. Over time, a backlog of cases has accumulated, with older cases serving as precedents for newer ones. The CAS recognizes the significance of flexibility in response to the dynamic nature of sports games and their regulations. The architecture of the building is not highly formal due to its adherence to its own precedents. The CAS can establish a

middle ground by addressing emerging legal questions and changing circumstances while maintaining stability and certainty. It can also be applied to issues that arise in the controversial field of sports business, promoting fairness and the establishment of consistent rules in the sports industry.

Ethical Considerations

Considering the ethical aspect is important as it ensures the proper and objective execution of the process. Arbitrators must adhere to ethical standards to avoid conflicts of interest in both situations. Individuals must ensure that their actions are legally compliant and informed by available information. Violating these ethical rules could undermine the legal foundation of the arbitration process and the legitimacy of the community's decision.

Sports arbitration is characterized by its ethical nature and the important roles played by the participants. Arbitrators in the sports community may be biased due to the limited number of individuals involved and the interconnectedness of relationships and business dealings. An arbitrator who has prior relations with a specific athlete or team may be considered biased in a dispute involving that side. Professionals may be influenced by external factors, as media coverage of sport-related disputes often places high value on such cases.

In addition, certain ethical concerns within the realm of sports may hold significance for individuals involved in sports arbitrations. For instance, in cases involving doping, there is a responsibility to carefully consider the principles of maintaining anti-doping laws while also ensuring fairness and natural justice in safeguarding the rights of athletes. They may struggle with determining the appropriate penalties for infractions, taking into account factors such as the athlete's level of blame, the seriousness of the offense, and the impact of the violation on their reputation or career. Understanding the moral complexities surrounding sports, morality, and the balance between individual rights and group benefits is crucial in addressing these issues.

Various sports arbitration organizations have established ethical guidelines for arbitrators to address these issues, emphasizing the significance of integrity, reporting, and recusal when conflicts of interest arise in a case. They could also provide education and guidance to arbitrators regarding ethical issues that may arise in sports arbitration. Ultimately, the success of these measures hinges on the ethical standards and logical thinking of arbitrators. They must always keep in mind their responsibility to handle numerous sensitive cases with a strong emphasis on fairness and impartiality. Figure 3 illustrates the different processes to ensure transparency and impartiality in the arbitration process:

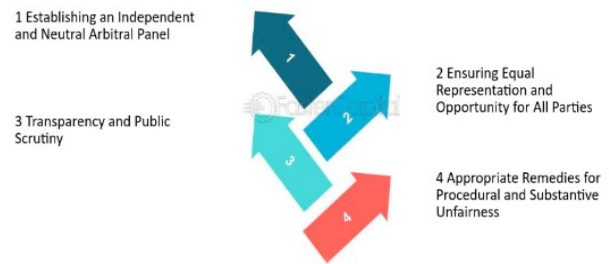


Figure 3: Processes to Ensure Transparency and Impartiality in the Arbitration Process.

(Source: www.fastercapital.com)

Conclusion

By comparing the commercial and sports arbitration systems, it becomes evident that these two types of alternative dispute resolution belong to the same field but operate in different environments and often do not intersect. Nevertheless, there are significant distinctions in terms of neutrality, experience, and efficiency between the two mechanisms. Their legal structure and procedural differences, as well as the specific levels and types of disputes they handle, set them apart from each other. The field of sports arbitration operates within comprehensive legal and ethical guidelines that regulate competition, adopting a specialized approach tailored to the sports industry. In essence, commercial arbitration thrives on certainty and conclusiveness, often operating under the guidance of international conventions and national laws. It may also be beneficial to explore the connection between commercial and sports arbitration as it can provide valuable insights into the broader realm of dispute resolution. The boundaries between these two domains may become less significant if sports continue to be increasingly commercialized. Gaining a deeper comprehension of how legal methods and concepts from different areas of law can positively impact one another can lead to the development of more streamlined and productive dispute-resolution procedures for matters related to both business and sports. Therefore, the examination of commercial and sports arbitration offers a valuable opportunity for continued academic research, enhancing our comprehension of this dynamic and constantly evolving subject matter.

Implications

The theoretical as well as practical implications of the study are as under:

Theoretical Contributions

This research has made a valuable contribution to the existing knowledge by providing a clear discussion of the similarities and differences between the principles,

procedures, and uses of sports and commercial arbitration. The study provides additional support through a thorough examination that highlights the distinctions between sports arbitration and commercial arbitration. It reveals that sports arbitration has a more flexible, efficient, and sports-focused approach, adhering to international trade laws. Therefore, this comparison demonstrates the ability of sports arbitration to effectively address the unique requirements of athletic disputes, such as the need for prompt resolutions to ensure minimal impact on athletes' careers and sporting seasons.

In addition, this research contributes to the advancement of knowledge by examining the impact of institutions such as CAS on the international perception and legalization of sports arbitration. This study provides valuable insights into the evolution of sports arbitration law and its global impact. It achieves this by thoroughly analyzing case studies and arbitration awards. It is also helpful for legislators, attorneys, and sports organizations to receive valuable recommendations on how to customize arbitration systems to meet the needs of businesses and sports organizations. As a result, this thorough analysis assists in bridging the knowledge gaps that exist between theory and practice in different areas of arbitration.

Practical Implications

This study on the comparison of sports and commercial arbitration can provide valuable insights for parties involved in conflict resolution. This also offers a wealth of information to individuals in the legal field, equipping them with a thorough understanding of the unique procedural aspects and strategic considerations involved in various forms of arbitration. By gaining this knowledge, legal professionals can effectively advocate for their clients' best interests in both business and sports-related disputes. Policy makers and arbitration organizations have the opportunity to improve the effectiveness and fairness of the arbitration process by streamlining and standardizing procedures and regulations.

The study also emphasizes the significance of creating pre-made arbitration procedures that cater to the requirements of the sports sector. It is crucial to resolve any arising disputes promptly, ensuring that athletes' schedules remain unaffected by lengthy arbitration processes. This is done to benefit sports organizations and regulatory bodies. This understanding could potentially result in the integration of more effective processes and advancements from commercial arbitration, leading to enhanced consistency and transparency in rulings. Ultimately, this would bolster the credibility and validity of sports arbitration.

Other stakeholders, such as companies engaged in sports-related economic activities like event sponsorship and merchandise, can also gain insights from the research. They will be able to grasp the impact of various arbitration frameworks on contractual relations and devise effective strategies for resolving disputes in their contracts. Considering all factors, this research advocates for a more knowledgeable approach to arbitration as it can result in more precise resolutions for disputes in both business and athletic contexts.

Limitations

Although the topic was thoroughly analyzed, this research does have some limitations. It is important to mention that this research primarily emphasizes standard arbitration institutions and does not provide a thorough description of new or informal arbitration organizations. In addition, the study has failed to consider certain social or cultural factors that could have a significant impact on the implementation of arbitration in specific sports. In addition, the study fails to provide valuable insights into the motivations and thought processes of the individuals involved in arbitration, as well as the qualitative aspects of the arbitration process. Instead, it primarily focuses on outlining the structural elements of arbitration.

Future Research Directions

To further enhance the current study and gain a more comprehensive understanding of the sectors, future research could consider exploring the following possibilities. One way to enhance understanding of the subject is by conducting surveys and interviews with individuals involved in arbitration, such as disputants, arbitrators, and attorneys. This empirical research can provide valuable insights into their experiences, difficulties, and real-world challenges when dealing with both types of arbitration. Another option is to conduct a long-term analysis to identify the latest developments and changes in arbitration processes. This would offer a practical perspective on how these procedures develop in response to market, technological, or regulatory changes.

In the future, researchers may also explore comparative analysis to understand how various legal and cultural environments impact arbitration processes and outcomes. One can enhance their understanding of the arbitration environment by conducting comparative studies using less developed or newly evolving methods in arbitration. When evaluating the utilization of technology in arbitration, it is

crucial to consider the potential opportunities and challenges that arise. This encompasses the incorporation of AI and online dispute resolution. In addition, the combination of sociology, psychology, and economics provides a comprehensive framework to comprehend the influence of arbitration on various parties involved and offers insights into the creation of fairer and more efficient arbitration systems.

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