

# **Sports Dispute Resolution Mechanisms Upon provisions of Egyptian and Emeriti Laws**

**Pro. Dr. AKMAL RAMADAN**

**Professor Of Civil law**

**City University- College of Ajman**

**Dr. MAHMOUD MOKHTAR**

**ABDEL MOGHIES**

**Associate Professor Of Civil**

**Procedure Law**

**City University- College Of Ajman**



## آليات تسوية المنازعات الرياضية وفقاً لأحكام القانون المصري والإماراتي

أكمل رمضان\*، محمود مختار عبدالمغيث

قسم القانون المدني، كلية عجمان، جامعة المدينة، عجمان، الإمارات العربية المتحدة.

\* البريد الإلكتروني للباحث الرئيسي : [akmalramadan@yahoo.com](mailto:akmalramadan@yahoo.com)

### ملخص البحث:

يتناول هذا البحث آليات تسوية المنازعات الرياضية وفقاً لأحكام القانون المصري والإماراتي، حيث ينظم المشرع المصري والإماراتي القواعد المطبقة على الجهات الرياضية وعلى جميع جوانب الأنشطة الرياضية في الدولة، ويجري رفع وتحريك المنازعات الرياضية والتحقيق فيها بواسطة هيئة التسوية التابعة للمركز المصري للتسوية والتحكيم الرياضي. الوساطة الرياضية هي وسيلة ودية لحل المنازعات الرياضية. وشرط التحكيم هو اتفاق بين الطرفين أو أكثر على تسوية أي نزاع نشأ أو قد ينشأ بينهما عن طريق التحكيم.

قد يتفق طرفي النزاع على تعيين الوسيط الذي يدير الحوار بينهما أملاً في صياغة حل نهائي لهذا النزاع، ويكون اتفاق الوساطة صحيحاً إذا تضمن العقد الأساسي إحالة إلى ورقة أخرى تتضمن بند الوساطة كآلية لتسوية المنازعات التي قد تنشأ بينهما في المستقبل.

وقد تناول هذا البحث من خلال المراجع العربية والأجنبية تنظيم تلك الآليات سالف الذكر، و انتهى بالعديد من التوصيات أهمها ضرورة إنشاء مركز التحكيم الرياضي

الالكتروني علي غرار مركز التحكيم الالكتروني لمنازعات الملكية الفكرية التابع  
للوايو . WIPO .

**كلمات مفتاحية:** المنازعات الرياضية، الوساطة، التوفيق الرياضي، التحكيم الرياضي.

## **Sports Dispute Resolution Mechanisms Upon provisions of Egyptian and Emirati Laws**

Akmal Ramadan\*, Mahmoud Mokhtar Abdel Moghies

Department of civil law, College of Ajman, City University, Ajman,  
UAE.

\*E-mail of corresponding author: [akmalramadan@yahoo.com](mailto:akmalramadan@yahoo.com)

### **Abstract:**

This research deals with the mechanisms of settling sports disputes in accordance with the provisions of Egyptian and Emirati law, where the Egyptian and Emirati legislature regulates the rules applicable to sports bodies and all aspects of sports activities in the country, and sports disputes are raised, moved and investigated by the settlement body of the Egyptian Center for Sports Settlement and Arbitration. Sports mediation is an amicable way to resolve sports disputes. An arbitration clause is an agreement between one or more parties to settle any dispute that has arisen or may arise between them through arbitration.

The two parties to the dispute may agree to appoint a mediator to conduct the dialogue between them in the hope of formulating a final solution to this dispute. The mediation agreement is valid if the basic contract includes a referral to another paper that includes the

mediation clause as a mechanism for settling disputes that may arise between them in the future.

This research dealt with the organization of those aforementioned mechanisms, through the Arab references, and concluded with many recommendations, the most important of which is the need to establish an electronic sports arbitration center similar to the electronic arbitration center for intellectual property disputes of WIPO. .

**Keywords:** Sports Disputes, Mediation, Sports Conciliation, Sports Arbitration.

## 1 Introduction

Egyptian legislator issued Law No. 71 of 2017 on sports on May 31, 2017, so that its regulations and rules are applicable to sports entities and investment companies along with all aspects of sports activities in the State (Article one of the Law).

This law contained the mechanisms of settling sports disputes in Chapter VII, (articles 66 to 70). Article 66 of Law No. 71 of 2017 stipulates that “An independent center called the **Egyptian Sports Settlement and Arbitration Center (ESSAC)** is established within the Egyptian Olympic Committee (EOC)”. The ESSAC shall have a legal personality, and shall undertake the settlement of sports disputes arising from the application of the regulations of this law. One of the members of the EOC is from persons or organizations or entities subject to the provisions of this law, through mediation, conciliation or sports arbitration<sup>1</sup>.

In accordance with the text of Article 4 of Federal Law No. 16 of 2016, the UAE Sports Arbitration Centre was established to

1. Resolve sports disputes rapidly by conciliation or arbitration
2. Spread the culture of sports conciliation and arbitration in the State
3. Strengthen relations with the competent authorities concerned with sports arbitration internally and externally, and encouraging cooperation and partnerships with them
4. Participate in the relevant sports forums

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1 N. MELIN, mediation: current affairs, Gaz.Pal. August 13, 2015, n°224–225, p.10

## **Search Plan:**

### **2-The Nature of Sports Dispute**

### **3-The competency of the Sports Settlement and Arbitration Center**

### **4-Mediation and Conciliation Sportive**

4.1-Mediation Consensus

4.2-Mediation Agreement Terms

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5.9-Challenging by appeal against a sports arbitration award

5.10-Effect of moratorium of registration of appeal sheet

5.11-Claim for annulment of sports arbitration award

5.12-Date for bringing an action for annulment of sports arbitration award



## 2-The Nature of Sports Dispute

The sports dispute is a dispute filed before one of the ESSAC's settlement bodies, provided for by the provisions of the Sports Law (Article One of the Law). It also includes any dispute that is heard and investigated by one of the settlement bodies affiliated to the Egyptian Sports Settlement and Arbitration Center, and provided for by the provisions of Sports Law No. 71 of 2017.

The reliable criterion to specify the scope of sports disputes is based on the following terms:

1. One of the settlement bodies affiliated to the Sports Settlement and Arbitration Center hears and investigates this dispute.
2. The provision had been made for a dispute settlement in Sports Law No. 71 of 2017<sup>1</sup>.

## 3-The competency of the Sports Settlement and Arbitration Center

### 3.1-Article 67 of the Egyptian Sports Law

The ESSAC's competency is based on a sports arbitration clause or sports arbitration charter-party contained in a contract or regulations of a law.

The Egyptian Sports Settlement and Arbitration Center shall be responsible for resolving the following disputes especially:

1. Disputes arising from the application of the provisions of this law and provisions of the laws of the Olympic Committee, the Egyptian Paralympic Committee, sports clubs and federations, and members of the general assemblies of these federations.
2. Disputes that arise due to the interpretation or execution of contracts in the sports directory including

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1 H. A. Findlay, Rules of a Sport- Specific Arbitration Process as an Instrument of Policy Making, Marquette sports law review, vo.16 issue 1 fall, p.73

- A. Contracts of television broadcasting of sports events and competitions
- B. Contracts of professional athletes and players Sponsorship
- C. Contracts of using trademarks during sports competitions and events
- D. Contracts of advertising
- E. Contracts of licensing for the use of photos of players
- F. Training contracts among coaches and clubs
- G. Contracts of players and their agents and managers
- H. Contracts of agents organizing matches
- I. Other sports disputes<sup>1</sup>

### 3.2-Resolution No. 2 of 2018

The Egyptian Olympic Committee issued Resolution No. 2 of 2018 to amend some provisions of Resolution No. 88 of 2017. The first article of this resolution stipulated that “the provisions of sportive law shall apply to every sport dispute that shall be resolved pursuant to its provisions”.

The previous text addressed the scope of the application of the law’s rules and regulations in terms of sports disputes that shall be referred to the ESSAC, so that the provisions of this law apply in two following cases:

**first:** all sports disputes are resolved pursuant to the provisions of this law. No other procedural law may be applied to sports disputes. This means that the law of the Sports Settlement and Arbitration Center is the law applicable to all forms of sports disputes.

**second:** The implicitly agreement between the parties to apply the regulations of the law to the sportive dispute<sup>1</sup>.

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<sup>1</sup> Article 68/2 of the Egyptian Sports Law stipulates that “The Egyptian Sports Settlement and Arbitration Center shall settle sports disputes through sports arbitration. The center consists of several arbitral tribunals, each includes a single arbitrator or three registered in the Centre's records, headed by one of the legal arbitrators”.

### 3.3-The position of the UAE legislator

Pursuant to Article No. 1 of Federal Law No. 16 of 2016, the sports dispute is: “Any dispute arising from or related to any sports activity in accordance with Article 5 of this law.” In application of the text of Article 5/1 of Law No. 16 of 2016, the UAE Sports Arbitration Center (UAE SAC) exclusively hears and rule on all sports disputes, such as:

1. Final decisions issued by the Olympic Committee and concerned entities in accordance with its law
2. Disciplinary decisions issued pursuant to the regulations of concerned entities
3. Decisions subject to appeal issued by the National Anti-Doping Committee

All disputes related to these decisions were mentioned to name but a few. Tasks of the “UAE SAC” expand to include all sports disputes, and it is an exclusive competency as other judicial authorities do not intervene in UAE SAC’s work<sup>2</sup>.

The “UAE SAC” exclusively hears the sports disputes related to contracts include a sports arbitration clause (Article 5/2 of UAE Law). This is called the optional sports arbitration. The parties of sports contracts may agree to include an arbitration clause, whether it is an arbitration clause or a charter-party, so that any dispute arising between parties during the execution of the contract shall be settled through the “UAE SAC”.

Consequently, parties of the sports disputes may prefer a conciliation procedure rather than the arbitration. Conciliation is

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1 G. Maugainle, Reform of civil procedure: cases of compulsory prior recourse to amicable dispute resolution methods, p.1

2 S. Amrani-MEKKI, Amicable Dispute Resolution Methods in the Law for the Modernization of Justice in the 21st Century, Gaz. Pal.31 Jan. 2017, n°5, p.46

based on a concept of a third person trying to reconcile the litigants' points of view. Arbitration is based on ending the existing dispute by a final award binding on all parties.

#### **4-Mediation and Conciliation Sportive**

Pursuant to Article No.1 of the rules and regulations of the Egyptian Sports Settlement and Arbitration Center's Law, conciliation or mediation is "An amicable means for resolving sports disputes, whereby the two parties agree to assign the settlement proposal to a third party, called the mediator or conciliator". The two parties choose the third party from the list previously prepared for this purpose<sup>1</sup>.

Mediation is a form of alternative settlement mechanism to resolve disputes between two parties. The mediator assists the parties to negotiate and encourage them to adopt a joint solution to be chosen freely<sup>2</sup>.

Article No. 20 of the regulations of Law No. 88 of 2017 specifies terms and conditions that shall be met by a mediator or conciliator. The mediator or conciliator shall be:

1. At least a university graduate
2. With at least a five-year-long legal or sports experience
3. Of praiseworthy conduct and good reputation
4. Never have been convicted of a criminal offence or sentenced to prison for an offence against honor or security, unless officially rehabilitated in either case
5. Not to be an employee of the State administration
6. Not to be dismissed via disciplinary procedure

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1 N. fricero, overview of civil procedure January 2019–January 2020, Dalloz March 19, 2020, n° 10, p.579

2 C. Bléry, law of March 23, 2019 on programming 2018–2022 and reform for justice: digital aspects, Dalloz March 23, 2019, n° 19, p.1069

7. Spending the 1<sup>st</sup> training term on conciliation and mediation work at the center
8. Passing the test held by the center with a score of no less than 70 %

The Sports Conciliation Commission consists of one or three conciliators, including the president. The procedural rules shall specify how they are selected, the conditions to be met, their tasks along with determining cases in which conciliation is carried out by a single commission and ones in which conciliation is carried out by a tripartite conciliation commission (Article 12 of Federal Law No. 16 of 2016)<sup>1</sup>.

The task of the mediation or conciliation commission begins from the day following the referral of the dispute to it. The commission shall complete its task within ten days from the date when it is informed of the dispute. This was explicitly stated by the first paragraph of Article 28 of the law No. 88 of 2017.

#### **4.1-Mediation Consensus**

The Mediation Agreement aims at avoiding the dispute or resolving it through the judiciary, the parties may agree to appoint a person called the mediator so that he/she works to stimulate and manage the dialogue between them so they can reach a solution they themselves set and establish under a contract. This means that the parties, contractual or non-contractual, may agree to resort to mediation to settle the dispute that may arise between them<sup>2</sup>.

Also, the mediation is mainly based on the two parties' agreement to settle all or some of the disputes that have arisen or may arise

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1 B. Pons, evolutions and risks of consensual solutions, Gaz. Pal. August 13, 2015, n° 224-225, p.5

2 G. Maugainle, Reform of civil procedure: cases of compulsory prior recourse to amicable dispute resolution methods, p.1

between them in a specific legal relationship, contractual or non-contractual<sup>1</sup>.

Therefore, the competence of the agreed upon mediator is to settle the dispute amicably, even if it is based on the law that allows - by way of exception - resort to mediation instead of jurisdiction. However, in each individual case, the competence of the contractual mediator is based on the consensus of the two parties. There is no mediation if there is no such consensus.

## **4.2-Mediation Agreement Terms**

To ensure the validity of the effects of the mediation agreement, foremost among which is the obligation of the mediator to make the necessary attempts to settle the dispute amicably away from litigation, the mediation agreement shall meet the objective conditions necessary for its conclusion, namely consent, eligibility, location, legality of reason, and formal conditions, as follows:

### **First, substantive conditions of the mediation agreement**

#### **1. Consent to mediation**

The consent of the parties is achieved in the absence of any manifestations of coercion and compulsion<sup>2</sup>.

The mediation agreement is valid in the event that the basic contract is referred to a paper containing a clause of consent to mediation to settle disputes that may arise between them in the future. For instance, the contract shall include a clause obligating the parties to apply the conditions mentioned in the standard sales contract i.e., the contract includes a clause obligating the parties to refer to a paper other than the contract one.

Article 3/1 of the UAE Mediation Law has expanded the scope of forms of the mediation agreement, stating that “the mediation agreement may be drawn up in any of the following forms: **first**: the mediation agreement shall precede the arising of a dispute, whether

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1 E. Bellec de Ortiz, update on judicial mediation, the investigation of the Paris Court of Appeal, Gaz. Pal. 11 July 2017, n°26, p.12

2 N. MELIN, mediation: current affairs, op. cit. p.10

it is independent or mentioned in a specific contract regarding all or some of the disputes that may arise between the parties. B- the mediation agreement shall come after the arising of the dispute and filing the dispute.

This is what we call the previous and subsequent mediation agreement on the occurrence of a dispute between parties so that they may conclude this agreement at any time, whether before or after the arising of the dispute. Rather, the Emirati legislator goes even further, deciding that this agreement may be concluded after filing a lawsuit dealing with the same dispute before the competent court. The existence of this lawsuit does not preclude resorting to mediation agreement<sup>1</sup>.

This means that the Emirati legislator prefers adopting the mediation mechanism and prioritizing it instead of filing the dispute before the competent court. So that it is permissible to agree on mediation to settle the dispute filed before courts in the hope of benefiting from the philosophy of the mediation mechanism based on the amicable settlement of any dispute instead of filing the dispute<sup>2</sup>.

## **2-Eligibility for concluding the mediation agreement**

For the validity of the mediation agreement, parties shall be legally competent to enter into this agreement (legal agency to act on this right and to have those actions recognized by the law.) Because the mediation agreement involves mutual obligations to waive the right of resorting to the state's judiciary to settle the dispute through mediation (6). This is what was explicitly expressed in Article 3/2 of UAE Mediation Law<sup>3</sup>.

Also, the **Obligatory Eligibility** is not sufficient to conclude a mediation agreement out of respect for the second paragraph of Article 3 of the UAE Mediation Law. In addition, a representative of

1 B. Pons, evolutions and risks of consensual solutions, op.cit. p.5

2 G. Maugainle, Reform of civil procedure: cases of compulsory prior recourse to amicable dispute resolution methods, op.cit. p.1

3 "mediation agreement can be concluded by a natural person who has the capacity to dispose rights, or a representative of a legal person authorized to conclude mediation agreement, otherwise it will be void and null."

a legal person may conclude a mediation agreement, whether he /she is a special legal person, for example the commercial companies, private associations and institutions, or a public legal person, for example the public bodies and institutions. The scope of persons allowed to conclude mediation agreements is not limited to natural persons, but extends to include legal persons as well.

Article 3/2 of the UAE Mediation Law stipulates the nullity of the mediation agreement in the following cases:

1 If the natural person is a minor, or does not have the full legal competence to act and conclude.

2- If the representative of the legal person is not authorized to conclude or sign this agreement.

On the other hand, the personality of the parties is not an important issue while concluding the mediation agreement because this agreement does not end if a party or parties die, or lose legal capacity (Article 3/2 of the UAE Mediation Law).

In such cases, the mediation agreement may be executed by both parties' successors, whether it is a general successor when a party or parties die, or a special successor for example the conclusion of a contract, such as a contract of sale as the buyer is a special successor to the seller<sup>1</sup>.

### **3-Scope of disputes that may be resolved through mediation**

Article 3/5 of the UAE Mediation Law states that “mediation agreement shall specify the subject of the dispute”. If mediation is an alternative mechanism to the judiciary for settling disputes arising among members of a community, then the parties, involved in the dispute, shall be specified in the concluded mediation agreement.

Specifying the dispute in the mediation agreement is a must. The mediation agreement does not take place in the absence of the dispute reason, and without prejudice to their inherent right to specify the disputes that the mediator undertakes to resolve<sup>2</sup>.

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1 C. Bléry, law of March 23, 2019 on programming 2018-2022 and reform for justice: digital aspects, op.cit. p.1069

2 B. Pons, op.cit. p.5



Moreover, the scope of the disputes is limited to the ones in which reconciliation may be made. This is consistent with the arbitration system. It is not permissible to submit to arbitration disputes that cannot be amicably resolved, for example criminal disputes, personal status issues as it is not imaginable that the mediator intervenes to resolve a criminal dispute.

#### **4-The legality of the reason**

The cause of the mediation agreement shall be legal, otherwise it is void and null. The cause becomes illegal if the mediation agreement involves one of the cases of evasion in law. For example, if the parties agree to mediation in order to exclude the application of the provisions of the law, or to deceive the procedures necessary to prove ownership of the property<sup>1</sup>.

#### **Secondly: Formal Conditions of the Mediation**

##### **Agreement (Writing)**

The mediation agreement may be prior to the arising of the dispute, stand-alone basis or mentioned in a specific contract regarding all or some of the disputes that may arise between parties. The mediation agreement may be concluded after the arising of the dispute and before filing the dispute. However, the mediation agreement shall be in writing - in all cases - otherwise it will be void.

This was explicitly expressed by Article 3/3 of the UAE Mediation Law, which stipulates, “The mediation agreement shall be in writing whether in a formal or customary contract, or it has been registered in judicial records before the competent court, whether written in paper sheets or electronically”<sup>2</sup>.

This agreement should be made in writing prior to the dispute either in a separate agreement or in a specific clause regarding all or part of the disputes that may arise between the parties, or in a separate additional agreement after filing the dispute.

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1 G. maugainle, op.cit. p.1

2 N. fricero, op.cit. p.579

Writing is a formal element in the mediation agreement as its absence results in the invalidity of this agreement, thus the UAE legislator has expanded the meaning of the required writing in such cases so that the mediation agreement may be written in a formal or customary contract, or it has been registered in a judicial report before the competent court, or in a paper or electronic document.

This means that the formality of writing is immaterial in this regard. The UAE Mediation Law does not require a specific form in the writing required in the mediation agreement. The form of this writing is not important, but what is important is that the mediation agreement to be in writing. Customary writing is sufficient for the validity of the agreement<sup>1</sup>.

The written mediation agreement also includes every explicit referral in a written contract .The mediation agreement is valid if there is a clause in a written contract that includes an application of a model contract or document that includes a mediation clause for dispute settlement. (Article ٣/4 UAE Mediation Law)

It is worth noting that the mediation agreement shall be void and null if it is not written. The invalidity is related to the public order, as it is not permissible to agree to violate provisions of the mediation agreement, and the competent court may shall rule independently on the basis of this argument<sup>2</sup>.

## **5- Sportive Arbitration**

The first article of the Egyptian Sports Settlement and Arbitration Center's Law permitted arbitration in sports disputes; in the form of an arbitration clause, or arbitration clause in the charter-party. They are the usual forms of reference to conclude an arbitration agreement<sup>3</sup>. The arbitration clause is an agreement between the two parties to settle any dispute that may arise between them (Article 1 of Law).

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1 N. MELIN, mediation op.cit. p.10

2 B. de BELVAL, mediation, an amicable mode among others, Gaz. Pal. 28 Feb. 2017, n°9, p18

3 N. fricero, op.cit. p.579

In conformity with regulations and rules of the UAE Law, the clause of the sports arbitration is the “condition contained in the contract or in the list of one of the concerned entities that are a party in the contract. This clause provides for referring any dispute related to the implementation or interpretation of the contract to the sports arbitration center pursuant to the center’s Law and procedural rules” (Article One of Law No. 16 of 2016). The arbitration clause in the charter-party is a “written agreement between the parties of the dispute in which they agree to the competency of the Center to rule on and adjudicate the sports dispute through arbitration pursuant to the Center’s Law and procedural rules” (Article One of Law No. 16 of 2016)<sup>1</sup>.

Definitions, provided by the UAE legislator for each of arbitration clauses and arbitration clause in the charter-party are more disciplined than their equivalents in the Egyptian Sports Law No. 71 of 2017. The arbitration clauses and arbitration clause in the charter-party are written agreements, whatever the forms of this writing are, and do not include an agreement on the mechanism of appealing the arbitral award issued. The arbitration agreement becomes valid and complete in case of specifying the subject-matter of the dispute, the arbitral tribunal that will hear and investigate it, along with the applicable legal procedures and rules.

### **5.1-Sports arbitration clause**

The **sports arbitration clause** in the charter-party is an agreement between the two parties to settle the dispute after it has arisen. Proceeding with the arbitration procedures, without any objection to competency of the arbitral tribunal during reacting to statement of the claim within the prescribed time or the time-barred of claim and attending the first arbitration hearing, are considered an acceptance of arbitration (Article 1/8 of Resolution No. 2 of 2018).

The **arbitration clause** is an agreement between the Claimant and the Respondent. This agreement may be explicit, if the two parties agree to settle the dispute after it has arisen. This is consistent with

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1 C. Bléry, op.cit. p.1069

the regulations and rules of the Arbitration Law No. 27 of 1994, which confirm the distinction between the arbitration clause and the arbitration clause in the charter-party, as the arbitration agreement takes the form of stipulation (arbitration clause in the charter-party) in the event of its execution after the dispute has arisen<sup>1</sup>.

### **5.2-Independence of Sports Arbitration Clause**

Regulations of the Sports Arbitration Law consider the principle of independence of the sports arbitration clause, so that the nullity of the original contract does not mean the invalidity of the arbitration clause. Article 65/2 of the regulations of the Law No. 88 of 2017 stipulates that “The arbitration clause, contained in the contract, is an agreement independent of the other terms of the contract. The contract nullity (contract avoided) as an award issued by the arbitral tribunal shall not result in the invalidity of the arbitration clause”<sup>2</sup>.

As a result, the arbitral tribunal shall rule on objections of lack of jurisdiction including ones arising from the absence of the arbitration agreement or its invalidity, pursuant to Article 65/1 of the regulations of Law No. 88 of 2017.

### **5.3- Sports Arbitration Tribunal**

In compliance with the text of Article 1 of the Law regulations, the arbitral tribunal is “A body composed of one or three arbitrators competent to hear and consider the arbitral dispute,” a definition characterized by simplicity and clarity, for the following reasons:

1. The arbitral tribunal consists of one or three arbitrators, which is the traditional form of the tribunal. It may include one or three arbitrators despite the general rules of the arbitration law that allow the composition of the arbitral tribunal of more than three arbitrators.
2. The competency of the arbitral tribunal is to hear and consider the arbitral dispute, which is an extra task given to the tribunal pursuant to the regulations of the Law because the

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1 B. de BELVAL, op.cit. p18

2 G. maugainle, op.cit. p.1

basic task of the arbitral tribunal is to rule on the arbitration dispute.<sup>1</sup>

Under the terms of article No.1 of the UAE Law No.16 of 2016, Arbitration Tribunal of Sports is formed to hear and rule on a dispute referred to the sports arbitration. This text does not refer to the number of members of the arbitral tribunal as it may consist of one or more arbitrators, without being restricted to three.

Regulations and rules of the Laws No. 88 of 2017 shall regulate the procedures for issuing a sports arbitration award, its data (details) and procedures to review a sports arbitration award; by the arbitral tribunal or other ones competent to review this award<sup>2</sup>.

#### **5.4-Procedures for issuing a sports arbitration award and its details**

Members of the arbitral tribunal shall carry out a deliberation before issuing its arbitral award, otherwise it shall be void and null. Article 77 bis of resolution No. 2 of 2018<sup>3</sup>.

The deliberations of the arbitral tribunal shall be confidential (Article 83 of the regulations of the Law No. 88 of 2017). Hearings and deliberations shall be attended only by members of the arbitral tribunal that heard parties and attended all arbitral hearings set for adjudicating the dispute<sup>4</sup>.

Arbitral awards shall be issued by the majority of the arbitral tribunal's members in case it is composed of three arbitrators, pursuant to Article 76/1 of the regulations of the Law No. 88 of 2017<sup>5</sup>.

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1 B. de BELVAL, op.cit. p18

2 B. Pons, op.cit. p.5

3 "The arbitral award shall be issued after a legal deliberation among members of the arbitral tribunal, otherwise the award shall be void"

4 <https://www.adjd.gov.ae/en/pages/court-arbitration-sport-ad.aspx>

5 "If the arbitral tribunal is composed of three arbitrators, its awards and decisions shall be issued by the majority of its members."

## **Details of the sports arbitration award**

Article 78 of Law No. 88 of 2017 shall specify details of the sports arbitration award, that shall include the following:

1. Reasons, the parties (litigants) may not agree that no reasons are to be given
2. Signatures of the arbitrators
3. Date and place of the award
4. In the event that there is more than one arbitrator, and each of them has not signed, the reason for his refusal to sign shall be indicated in the award.

Article 91 of law No. 88 of 2017 stresses that both parties to the dispute shall abide by maintaining confidentiality of documents submitted to the tribunal during arbitration proceedings, unless otherwise agreed by both parties.

### **5.5-Agreement to settle the dispute**

If parties to the dispute have agreed, prior to the issuing of the arbitral award, on a settlement that ends the dispute, the arbitral tribunal shall either issue an order to terminate the arbitral proceedings, or write down the settlement agreement at their request and consent in the form of an arbitral award on agreed terms. The arbitral tribunal shall not bound to give causes for this award.

If the parties agree to end the arbitration proceedings, the arbitral tribunal shall issue a decision of termination. This shall be achieved in the event that the parties agree to a settlement of the dispute between them. In such cases, they may request to write down the terms of the settlement agreement before the arbitral tribunal, which shall issue a decision including terms of the settlement and the termination of the arbitral procedures<sup>1</sup>.

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1 R. W Pound, Sports Arbitration: How it Works and Why it Works, McGill Journal of Dispute Resolution, (2015) VOL. 1:2, p.76

This is the same as stipulated in Article 36/1 of the UNCITRAL Arbitration Rules issued in 2010<sup>1</sup>.

### **5.6-Termination of arbitration proceedings without an award**

If, prior to the issuing of the arbitral award, the continuation of the arbitral proceedings becomes useless or impossible, the arbitral tribunal shall notify the parties to the dispute and the Center of its intention to issue an award to end the procedures pursuant to Article 85/1 of the regulations of the Law No. 88 of 2017.

In this case, the arbitral tribunal may issue an award to end the arbitral procedures, unless there are issues filed before it that require adjudication. This was provided by Article 85/2 of the Law No. 88 of 2017<sup>2</sup>.

Article 85/3 of Law No. 88 of 2017 stresses that the arbitral tribunal shall send to each party an original copy of the decision ending the arbitral proceedings or the arbitral award signed by the arbitrators.

### **5.7-Review of sports arbitration award by Arbitral Tribunal**

#### **First: Request for interpretation of sports arbitration award**

Article 86/1 of Law No. 88 of 2017 allowed each party to request the arbitral tribunal to explain any ambiguity or vagueness that occurred in the text of the arbitral award within fifteen days from the date of receiving the award. However, this text does not clarify the effect of submitting a request for interpretation after this date, but

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1 "If the parties agree, before the issuing of the arbitration award, to a settlement agreement that ends the dispute, the arbitral tribunal shall either issue an order to terminate the arbitration procedures, or to write down the settlement agreement at the request of the parties and the approval of the tribunal in the form of an agreed arbitration award. The arbitral tribunal, in this case, shall not bound to give causes for this award"

2 <https://www.wipo.int/ip-sport/en/dispute.html>

nothing prevents these requests from being submitted after this date as long as the convening of the arbitration tribunal is possible<sup>1</sup>.

### **Secondly: Adjudication of omitted requests**

In case the Sports Arbitration tribunal ignored the consideration of some requests, each party may request the tribunal- within fifteen days from the date of receiving the order to end the arbitral procedures - to consider this request and rule it on after notifying the other party or parties and the Center of this request (Article 88/1 of Law No. 88 of 2017).

### **Third: correction requests**

Article 90/1 of the Law No. 88 of 2017 allows the arbitral tribunal to correct any material, written or arithmetical mistakes in its awards, orders or decisions pursuant to a decision issued by itself or from each party<sup>2</sup>.

## **5.8-Appealing sports arbitration award**

Pursuant to the last paragraph of Article 81 of Resolution No. 2 of 2018 amending some provisions of the Law of the Egyptian Sports Settlement and Arbitration Center, the person, against whom the award was issued, has the right to challenge by appeal the sports arbitration award pursuant to provisions of these regulations, and the action for annulment before the tribunal stipulated in Article 92 bis (C) of these regulations and nothing else.

## **5.9-Challenging by appeal against a sports arbitration award**

Article 92 of Resolution No. 2 of 2018 deals with challenging by appeal against the sports arbitration award issued by the Egyptian Sports Settlement and Arbitration Center. This article states that all sports awards, issued by the Center, are subject to challenging by

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1 A. Rigozzi and W. McAuliffe, Sports Arbitration, [www.globalarbitrationreview.com](http://www.globalarbitrationreview.com), p.15

2 A. RIGOZZI, Challenging Awards of the Court of Arbitration for Sport, *Journal of International Dispute Settlement*, Vol. 1, No. 1 (2010), pp. 217–265 doi:10.1093/jnlids/idp010, p.217



appeal as the person against whom the decision was issued may file this appeal against the sports arbitration award in cases proven that the arbitral tribunal did not consider all or some of his requests or the essential aspects of his defense<sup>1</sup>.

Pursuant to Article 92 of Law No. 88 of 2017, in the event of appealing the arbitral award under the arbitration clause or sports arbitration charter-party, provisions of Chapters Four and Five of the Law shall be applied in accordance with the nature of the litigation of the appeal.

However, parties' agreement shall be excluded from that on the grounds that the arbitral award is final so that it may not be contested by appeal. In case parties agree to waive the right of challenging by appeal, the award of the arbitration shall be final and uncontested by appeal.

If the person, against whom the decision was issued, violates this agreement and decides to challenge by appeal the arbitration award, the respondent may present his arguments due rejecting his appeal because of an agreement between parties to waive the right of challenging by appeal and to consider the arbitral award as final. In this case, in this case, the appellate arbitral tribunal shall rule on that the appeal is inadmissible<sup>2</sup>.

The 1<sup>st</sup> paragraph of Article 92 bis dealt with the due date for appeal against the sports arbitration award, so that it would be forty days if it was issued on a substantive issue and fifteen days if it is issued in an urgent matter. These are the same dates stipulated in the Civil Procedure Code for challenging by appeal the judicial judgments<sup>3</sup>.

The timing of challenging the appeal begins from the date of issuing the award or announcing it to the litigant (a party) who did not attend any of the hearings before the advisory tribunal in the event of its consideration of the urgent part and before the substantive

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1 <https://www.sportresolutions.com/services/arbitration>

2 <https://www.adjd.gov.ae/en/pages/court-arbitration-sport-ad.aspx>

3 <https://www.adjd.gov.ae/en/pages/court-arbitration-sport-ad.aspx>

arbitration tribunal pursuant to the 2<sup>nd</sup> paragraph of Article 92 bis of Resolution No. 2 of 2018.

### **5.10-Effect of moratorium of registration of appeal sheet**

Pursuant to the 2<sup>nd</sup> paragraph of Article 92 of Resolution No. 2 of 2018, the registration of the appeal sheet entails suspending the procedures for implementing the contested decision or award. This is called the legal moratorium of the challenging by appeal of the procedures for the compulsory implementation of the contested appeal decision or award. As long as the challenging by appeal is available, it is preferable not to proceed with the compulsory execution procedures based on the legal moratorium of these procedures if an appeal is lodged by the person against whom the decision was issued.

Execution procedures shall be suspended by the force of law as soon as the appeal sheet is registered in the documents of the competent appellate arbitral tribunal. The moratorium shall not require an award from the tribunal<sup>1</sup>.

### **5.11-Claim for annulment of sports arbitration award**

Article 92 bis (B) of Resolution No. 2 of 2018 permitted the filing of a claim for the nullity of the sports arbitration award, in exclusively cases mentioned, just like provisions of Article 53 of the Arbitration Law No. 27 of 1994.

#### **These cases include**

1. If there is no arbitration agreement, or if it is null or voidable or the date of the agreement was extinguished
2. If a party to the arbitration agreement, at the time of its conclusion, is incapacitated pursuant to the applicable law
3. If a party to the arbitration agreement is unable to present his defense because he has not been properly notified of the

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1 A. Rigozzi, and F. Robert-Tisso, "Consent" in Sports Arbitration: Its Multiple Aspects, p.59

appointment of an arbitrator or the arbitration procedures or for any other reason beyond his control

4. If the arbitral tribunal was formed or arbitrators were appointed in a manner contrary to the provisions of these regulations or the agreement of the parties<sup>1</sup>

5. If the arbitral award decided on issues not covered by the arbitration agreement or exceeded the limits of this agreement. However, if parts of the award related to issues subject to arbitration are separated from those ones related to issues not subject to it, annulment shall only include the last parts alone

6. If the arbitration award was vitiated by misapplication of law, invalidity of evidencing or the arbitral procedures were null and void that affected the award<sup>2</sup>.

### **5.12-Date for bringing an action for annulment of sports arbitration award**

Article 92 bis (D) sets 60 days for bringing an action for annulment of the sports arbitration award<sup>3</sup>. The date of bringing an action for annulment begins from the date of announcing the arbitration award to the person, against whom the award was issued, with a sheet from the bailiffs' ones. The Egyptian legislator may be faulted for linking the effectiveness of this date to the date of announcing the

1 H. A. Findlay, Rules of a Sport- Specific Arbitration Process as an Instrument of Policy Making, Marquette sports law review, vo.16 issue 1 fall, p.73

2 <https://www.sportresolutions.com/services/arbitration>

3 The article states: "An action for annulment of the arbitration award shall be brought within the sixty days following the date of notifying the party, against whom the award was issued, with a sheet from the bailiffs' ones. The respondent's waive of his right to bring an action for annulment prior to the issuing of the award does not prevent the arbitration tribunal from accepting the claim"

respondent with the bailiffs' sheets, in light of the constant use of modern technologies in all litigation procedures, especially what Article 92 bis (C) states that the e-mail shall be mentioned in the data related to both the claimant and the respondent. So how does Article 92 bis (D) stipulate after that: "The date of an action for annulment starts from the date of announcing the respondent with the arbitration award upon a sheet from the bailiffs' ones?"

If the person bringing an action of annulment dropped this legal procedure before the issuing of the sports arbitration award, the dropping shall not have any legal effect or prevent the competent tribunal to consider, hear and rule on the claim for issuing an award according to the aspects of nullity submitted<sup>1</sup>.

In relation to the concept of fundamental breach of the claim, if the person bringing an action of annulment dropped this legal procedure after the issuing of the sports arbitration award, the dropping prevents the competent tribunal from considering and ruling on this claim. This procedure (dropping the case) is formal and not related to the public order, so that the respondent shall adhere to it before making any substantive plea or non-acceptance, otherwise, his right shall be forfeited and the competent tribunal concerned with the action of annulment may not decide this dropping on its own.

The 2<sup>nd</sup> paragraph of Article 92 bis (D) of Resolution No. 2 of 2018 provides: "Other than cases where decisions or awards are issued in disputes related to candidacy only for the elections of bodies subject to the Sports Law and its conduct was set on a due date before filing these disputes, the implementation of the arbitral award shall be accepted after the expiration of the date of bringing an action of annulment". The general rule is that it is not permissible to start the procedures for issuing an order to execute an arbitral award except after the expiration of the date for the action for annulment, specified in sixty days following the date of the announcement of the arbitral award.

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1 <https://www.sportresolutions.com/services/arbitration>

However, decisions and awards issued in disputes regarding candidacy for the elections of bodies subject to the provisions of the Sports Law shall be excluded<sup>1</sup>.

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1 <https://www.adjd.gov.ae/en/pages/court-arbitration-sport-ad.aspx>

## **Conclusion:**

The reliable criterion to specify the scope of sports disputes is based on the following terms: One of the settlement bodies affiliated to the Sports Settlement and Arbitration Center hears and investigate this dispute. The provision had been made for a dispute settlement in Sports Law No. 71 of 2017.

The Egyptian Sports Settlement and Arbitration Center shall be responsible for resolving the following disputes especially:

1. Disputes arising from the application of the provisions of this law and provisions of the laws of the Olympic Committee, the Egyptian Paralympic Committee, sports clubs and federations, and members of the general assemblies of these federations.
2. Disputes that arise due to the interpretation or execution of contracts in the sports directory including

All sports disputes are subject to and resolved pursuant to the provisions of this law. No other procedural law may be applied to sports disputes, no matter how serious they are.

Mediation, as used in law, is a form of alternative settlement mechanism to resolve disputes between two parties with concrete effects. Typically, a third party, the mediator, assists the parties to negotiate a settlement and encourages them to adopt a joint solution to be chosen freely.

The Sports Conciliation Commission consists of one or three conciliators, including the president. The procedural rules shall specify how they are selected, the conditions to be met, their tasks along with determining cases in which conciliation is carried out by a single conciliation commission and ones in which conciliation is carried out by a tripartite conciliation commission.

The mediation agreement is valid in the event that the basic contract is referred to a paper containing a clause of consent to mediation to settle disputes that may arise between them in the future.

Article 3/5 of the UAE Mediation Law states that “mediation agreement shall specify the subject of the dispute. If mediation is an

alternative mechanism to the judiciary for settling disputes arising among members of a community, then the parties, involved in the dispute, shall be specified in the concluded mediation agreement”.

The mediation agreement may be prior to the arising of the dispute, stand-alone basis or mentioned in a specific contract regarding all or some of the disputes that may arise between parties. The mediation agreement may be concluded after the arising of the dispute and before filing the dispute. However, the mediation agreement shall be in writing - in all cases - otherwise it will be void.

If parties to the dispute have agreed, prior to the issuing of the arbitral award, on a settlement that ends the dispute, the arbitral tribunal shall either issue an order to terminate the arbitral proceedings, or write down the settlement agreement at their request and consent in the form of an arbitral award on agreed terms. The arbitral tribunal shall not bound to give causes for this award.

## **Recommendations:**

1- We recommend that the Egyptian legislator expand the scope of sports disputes so that it is not limited to the disputes referred to in Sports Law No. 71 of 2017, so that the dispute is a sports dispute if it is related to sports activity or sports institutions.

2 We recommend the Egyptian legislator to stipulate the necessity of stopping the progress of the sports arbitration case if one of the litigants submits a request to dismiss one of the members of the arbitral tribunal in order to preserve the speedy settlement of the arbitration dispute, and if the competent court decides to accept the response request.

3- We recommend the Egyptian legislator to amend the legal text regulating the jurisdiction of the Egyptian Sports Settlement and Arbitration Center so that recourse to it is optional, and there is no obligation on the litigants to submit their dispute to this center, which is consistent with the optional nature of the arbitration system.

4- Both of Egypt and UAE need to establish an electronic sports arbitration center similar to the electronic arbitration center for intellectual property disputes of WIPO. .

5- Preparing a draft indicative model for the governance of sports institutions in the Arab countries and emphasizing the importance of



the ministries and bodies of youth and sports in the Arab countries to review their sports laws, with a proposal to establish a sports legal entity called the “Arab Sports Court” or the “Arab Center for Arbitration”.

6- Preparing a draft law and regulations regulating the investment and marketing process in the sports field.

7-Emphasizing the importance of the ministries and youth and sports authorities in the Arab countries to review their sports laws.

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