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The 2024 Draft Amendment to the Sports Act: Labour Disputes in Sports *de lege ferenda*[1]

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Abstract: *The paper analyses the recently introduced draft amendment to the Sports Act of the Slovak Republic, dealing thereby solely with one specific aspect of this draft bill, namely that of dispute resolution in sports. Solutions to legal problems related to dispute resolution in sports are introduced in the bill, reflecting various proposals which were suggested previously by the Slovak sports lawyers and sports experts. The draft amendment can, therefore, be considered a viable way of solving many of the theoretical and practical problems in the field.*

Key Words: *Sports Law; Dispute Resolution; Court of Arbitration; the Slovak Republic.*

Introduction – the draft amendment overview

In the Autumn of 2024, the Slovak Ministry of Sports introduced a long-awaited draft amendment to the Slovak Sports Act (Act No. 440/2015 Coll.),[2] aimed at resolving numerous critical issues arising in the sporting practice. In this paper, we shall focus solely on one of the problems that is being addressed by the draft amendment – namely the problems and legal issues concerning dispute resolution in sports. The proposed amendment to the Sports Act thereby preserves the already existing mechanisms of dispute resolution, including judicial dispute resolution, but also introduces some novel mechanisms.

Judicial dispute resolution should remain the prime route of dispute resolution first of all in the provisions of Section 28(2) and (3) of the Sports Act, according to which, if the Olympic symbols are used by an un-

[1] The paper is an outcome of the grant project VEGA 2/0073/23: *"Athlete – Employee or Entrepreneur?"*, in the Slovak original *"Športovec – zamestnanec alebo podnikateľ?"*, responsible researcher prof. JUDr. PhDr. Tomáš Gábriš, PhD., LLM, MA.

[2] The Act replaced the previous Act on Organization and Support of Sports which was in fact very brief and deficient in many aspects which were simply left out of the scope of the Act. See ČORBA, J. The Slovak Act on the Organization and Support of Sport; a Missed Opportunity?. *The International Sports Law Journal*. 2009, vol. 9, no. 3-4, pp. 65-70. ISSN 1567-7559.

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authorized person or if they are used in violation of paragraph (1), the Slovak Olympic and Sports Committee shall call on this person to cease the unauthorized use and to compensate for damage, harm or to render the corresponding unjustified enrichment gained by the use of the relevant symbols. The court in civil contentious proceedings is competent to hear and decide such disputes should the person not comply with the call from the Olympic Committee. This mechanism of dispute resolution via general civil courts is newly regulated in the draft amendment in greater detail than previously.

Besides the cases of judicial dispute resolution, the draft amendment preserves areas where the extra-judicial dispute resolution is preferred. This is the case of autonomous dispute resolution at the level of sports organizations (national sports associations) which have established their own dispute resolution mechanisms already under the existing Sports Act of 2015. In addition, however, according to the proposed draft amendment from 2024, the Slovak Olympic and Sports Committee should also be obliged to establish a special body for autonomous dispute resolution, as a potential common (joint) body serving for those national sports associations, which have not yet been able to staff their own dispute resolution bodies or failed to make them operational. Those (especially smaller) national associations lacking financial means and personnel to run such a body would gain an opportunity to submit to the tribunal established by the Olympic Committee – serving either in the first instance or in the appeal proceedings in various types of sporting disputes; the common dispute resolution body could thereby serve also as a common disciplinary body. However, the aforementioned submission to the body created by the Olympic Committee is not imposed on national sports associations as an obligation, but is suggested to be rather an option only. There is namely an assumption that some associations, the football association in particular, which has a functional Dispute Resolution Chamber, might not be interested in submitting their disputes to this common body, preferring instead to retain their current structure of dispute resolution bodies.

Besides this change, at the same time, the draft amendment also proposes to supplement the existing provision of Section 52 of the Sports Act, dealing with autonomous dispute resolution, with new paragraphs (5) and (6). These should introduce a legal requirement for providing reasons and justification in any and all decisions of the autonomous dispute resolution bodies. The justification is to represent a mandatory part

of any decision of a dispute resolution body. This requirement is related to the right to a fair trial before the dispute resolution body and, at the same time, it is intended to make it possible to better review such decisions by general courts, should that be the case. The amendment to the Sports Act namely also aims to clarify the existing issues as to the jurisdiction conflict between general civil courts under the civil contentious litigation procedure, and the jurisdiction of administrative courts. In this respect, the amendment makes it clear that the decisions are to be reviewed in civil contentious litigation proceedings.

Still, any judicial review is to remain only a secondary option – court review of a decision of a dispute resolution body would be possible only against final decisions of the dispute resolution bodies and only at the request of the person concerned. This is aimed at resolving another important legal issue – as to the competition of jurisdictions between autonomous dispute resolution in sports and judicial dispute resolution. This issue has namely arisen in sporting practice since the entry into force of the Sports Act No. 440/2015 Coll., but has not been clarified so far in judicial practice.

In order to highlight the importance of the draft amendment for the dispute resolution in sport further, in this paper, we shall explain in greater detail the existing problems that the amendment is addressing. Should the amendment be successful, it would namely finally settle numerous doctrinal disputes and would introduce a clear system of dispute resolution in sports, including cases of sporting labour disputes, where the players are claiming their rights as employees. Thus, in general, we argue for the positive effect of the draft amendment that is being currently debated in the Slovak Parliament and fully recommend its adoption, despite the political discrepancies between the Members of the Parliament as to some partial aspects of this amendment.[3]

1 Dispute resolution in sports – the state of the art in Slovakia

Sports and the performance of dependent work in sports is an area that is not void of legal disputes. Thereby, the method of resolving disputes in sports in Slovakia is similar to the resolution of disputes in labour law

[3] On the role of politics in the Slovak sports see VARMUS, M., M. BEGOVIC, M. MIČIAK, M. ŠARLÁK and M. KUBINA. The Development of Sports Policy in Slovakia. *Sports Law, Policy & Diplomacy Journal* [online]. 2024, vol. 2, no. 1, pp. 107-133 [cit. 2024-10-15]. ISSN 2975-6235. Available at: https://doi.org/10.30925/slpdj.2.1.6.

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known in Czechoslovakia before 1989 (in the Communist era), and dissimilar to the currently accepted ways of resolution of labour disputes in Slovakia, which are being entrusted solely to general courts. In 2015, the Sports Act namely entrusted the resolution of (not only) labour disputes in sports to special extrajudicial bodies, mandatorily created by the national sports associations (hereinafter referred to as the "NSAs" or the "NSA"). This is a situation not unlike the situation before 1989, when in Slovakia, in the area of resolving labour disputes, various trade union conciliation and arbitration commissions primarily operated as special bodies for resolving such disputes at the individual workplaces or in individual factories. After 1989, this situation in labour law changed dramatically – by introducing mandatory dispute resolution by general courts, which is even today explicitly expressed in the provision of Section 14 of the Labour Code of the Slovak Republic: *"Disputes between an employee and an employer regarding claims arising from employment relationships shall be heard and decided by the courts."* Still, due to the Sports Act, an exception to this regulation exists – in the area of resolving employment disputes in sports, where one can witness a kind of return to the idea of sectoral bodies for resolving disputes out-of-court.

Specifically, in the provision of Section 19(1)(g), the Sports Act from 2015 assumes that *"disputes that arise from the sports activities of the national sports association and persons with its affiliation are to be resolved by dispute resolution bodies, …"* According to the provision of Section 19(1)(f), concerning the NSAs and their bodies, *"the highest body elects members of the highest executive bodies, chairmen and vice-chairmen of disciplinary bodies, dispute resolution bodies, licensing bodies and control bodies, if they are not elected directly by members of the national sports association"*. The above, therefore, resulted in a requirement that each NSA creates its own bodies for resolving (deciding) disputes, including labour disputes in sports. The NSA is obliged to create such bodies also based on the provisions of Section 52 of the Sports Act, regulating the jurisdiction of these bodies and some procedural safeguards as to their competences.[4] According to the explanatory report to the Sports Act:

[4] *(1) A sports organization shall exercise, in accordance with its regulations, the jurisdiction to resolve disputes pursuant to paragraph (2) over persons within its jurisdiction.*
(2) Dispute resolution bodies are authorized
a) to decide disputes arising in connection with the sports activities of a sports organization and persons affiliated with it,
b) impose sanctions and measures for violations of competition rules, regulations or decisions of the bodies of a sports organization,

"The aim of the proposed regulation is to provide space for sports organizations to autonomously resolve disputes within a specific sports organization, as well as to impose and enforce disciplinary sanctions against persons affiliated with a specific sports organization."[5] The aim was thus to strengthen the autonomy of sports even in the field of dispute resolution by way of introducing mandatory creation of dispute resolution bodies at the level of each NSA.

The proceedings before these autonomous bodies are initiated on the basis of a petition to initiate proceedings filed by one of the parties to the dispute. The proceedings are governed by the accusatory principle, whereby the burden of proof is in principle to be borne by the party who filed the petition to initiate proceedings. However, the details of the proceedings are essentially regulated by the national sports federations themselves, with the sole statutory condition of ensuring the implementation of the principle of a fair trial.[6]

Previously, before the entry into force of the Sports Act of 2015, the NSAs were free to choose from any type of dispute resolution and any type of bodies – be it arbitration commissions, or chambers for dispute resolution, or even a special arbitration court established under the Arbitration Act (Act No. 244/2002 Coll.). In connection with the latter method of dispute resolution, i.e. arbitration, this was mostly used by the Slovak Football Association before it shifted to establishing a Dispute Resolution Chamber following the models of FIFA (La Fédération internationale de football association) dispute resolution chamber. By now, some minor NSAs make use of the arbitration courts, but these are in fact rather used by non-sporting entities to have their property disputes resolved that have nothing to do with sports at all.

The reason for the lesser use of arbitration in the Slovak sport is thereby also the fact that in the Slovak conditions there is a doctrinal dis-

c) review decisions of bodies of sports organizations under its jurisdiction,
d) examine the compliance of the regulations of sports organizations with their founding document (i.e. statutes)...

[5] Vládny návrh zákona o športe a o zmene a doplnení niektorých zákonov: Dôvodová správa – osobitná časť. In: *Národná rada Slovenskej republiky* [online]. 2015 [cit. 2024-10-15]. Available at: https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=5693.

[6] Provision of Section 52(3) of the Sports Act: *"(3) Dispute resolution bodies shall exercise their powers pursuant to paragraph (2) in accordance with the rules of the competition, the regulations of the sports organization to which they belong, and international sports rules, regulations and decisions, while observing the principles of fair trial."*

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pute whether arbitration courts can in fact decide sports disputes at all, and especially labour disputes between professional athletes and sports organizations;[7] in arbitration proceedings, only property disputes are namely to be resolved, which may not be sufficient for the multidimensional nature of sports disputes. We are summing up this doctrinal debate in the following chapter of this paper.

2 Arbitrability of sporting labour disputes?

In relation to the applicability of the arbitration to sports, the provision of Section 14 of the Labour Code of the Slovak Republic (Act No. 311/2001 Coll.) is particularly controversial, which might represent an obstacle to the resolution of sports disputes in arbitration proceedings. The provision of Section 14 of the Labour Code namely stipulates: *"Disputes between an employee and an employer regarding claims arising from employment relationships shall be heard and decided by the courts."* It is not clear whether this provision includes also an arbitration court.

Still, with respect to sportspeople, the provision of Section 2(3) of the Labour Code stipulates that the Labour Code shall apply to professional athletes only if a special legislation (Sports Act) provides for this. In this context, the Sports Act indeed explicitly refers to the Labour Code in several places, and in the provision of Section 46(2) of the Sports Act summarily lists those provisions of the Labour Code that are applicable to professional athletes. However, neither the provision of Section 46(2) of the Sports Act, nor any other provision of the Sports Act refers to Section 14 of the Labour Code as being applicable to sportspeople. This is the basis for our claim that Section 14 of the Labour Code does not apply to labour relations of athletes and sports organizations and that these disputes are, therefore, freely arbitrable.

However, one has to take into account also Section 1(1) of the Arbitration Act, according to which this Act regulates *"... the resolution of disputes arising from domestic and international commercial and civil law re-*

[7] ČOLLÁK, J. Kto bude riešiť pracovnoprávne spory profesionálnych športovcov a klubov v športe alebo – prečo je (vždy) nutné hľadieť z výšky. In: *UčPS – Učená právnická spoločnosť* [online]. 2016-04-25 [cit. 2024-10-15]. Available at: http://www.ucps.sk/riesenie_pracovnopravnych_sporov_v_sporte_profesionalny_sportovec_klub_jaroslav_collak; and ŠTEVČEK, M., T. GÁBRIŠ and L. PITEK. Arbitrabilita športových sporov (alebo prečo sa pri „nutnom" hľadení z výšky vždy oplatí pozerať si pod nohy). In: *UčPS – Učená právnická spoločnosť* [online]. 2016-08-10 [cit. 2024-10-15]. Available at: http://www.ucps.sk/Arbitrabilita_sportovych_sporov.

lations…" Opponents of the arbitrability of sporting labour disputes argue here with the term "civil law" which allegedly does not include "labour law" relations, meaning the impossibility to arbitrate disputes between athletes and their clubs. Still, at the same time, Section 1(2) of the Arbitration Act allows for arbitration of all disputes in which a settlement agreement can be concluded under the Civil Code of the Slovak Republic. The settlement of disputes between an athlete and a club is thereby a settlement governed exclusively by the general provisions of civil law (specifically by Section 585 of the Civil Code No. 40/1964 Coll., as amended), and is thus clearly a settlement according to the Civil Code – again making this type of disputes arbitrable. The aforementioned thus indicates that disputes in sports should be considered arbitrable in the broadest sense (interpretation *in favor arbitrii*). Nevertheless, there are still some doubts as to the arbitrability of sports disputes, which have to do mostly with the efforts to protect the athlete as the weaker party, which serves as an argument against the arbitrability of such disputes.

The above problem was to be partially solved by the previous (unsuccessful) draft proposal of a new Sports Act from 2023,[8] which suggested here a somewhat surprising solution – it assumed that athletes would no longer carry out their activities in an employment relationship, but in a relationship that would be categorized as a *sui generis* relationship.[9] The arbitrability of this type of disputes would thus be definitely confirmed, since no issues with employment aspects would have to be taken into account.

Nevertheless, instead of a wider use of arbitration, the proposed Sports Act from 2023 (not accepted by the Parliament in the end) still gave priority to the autonomous dispute resolution at the level of the NSAs, entrusting the NSAs with the authority, but also the obligation, to ensure the resolution of disputes via autonomous dispute resolution bodies, lacking the form of an arbitration court.

[8] Parlamentná tlač 1554. In: *Národná rada Slovenskej republiky* [online]. 2023 [cit. 2024-10-15]. Available at: https://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=8&ID=1554.

[9] Building up thereby on an earlier Amendment to the Sports Act (from 2020), which allowed the player to choose between their status as workers or self-employed. See GÁBRIŠ, T. The Status of Professional Players between Self-employed and Employee Status: State of the Art in Slovakia and in East-Central Europe. *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* [online]. 2020, vol. 41, no. 3, pp. 847-863 [cit. 2024-10-15]. ISSN 1846-8314. Available at: https://doi.org/10.30925/zpfsr.41.3.9.

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3 Competition of jurisdictions between autonomous bodies and courts

Despite NSAs having the obligation to establish their own dispute resolution mechanisms, the actual relationship of these bodies to general civil courts or to administrative courts was never explicitly addressed by the legislator. General civil courts themselves thereby often accepted the jurisdiction of sports bodies and refused to decide on sports cases with the argument that the Sports Act entrusts the adjudication of disputes in sports to special bodies of the NSAs,[10] being "other bodies" under the Civil Contentious Litigation Code of the Slovak Republic (Act No. 160/2015 Coll.), which means they take precedence before a judicial dispute resolution[11] in a sense of a shared jurisdiction.[12] The jurisdiction of sports bodies for dispute resolution thus represents, according to current judicial practice, an obstacle to the jurisdiction of a general civil court, if the given matter, a dispute between the plaintiff and the defendant, is a dispute that falls under the jurisdiction of a body for dispute resolution under the Sports Act.

This issue of the relationship and mutual competition between judicial and extrajudicial means of dispute resolution was recently explicitly addressed by the Competence Senate of the Supreme Court and the Supreme Administrative Court in the proceedings under file no. 1SKomp/38/2022 dated October 6, 2022. In the above case, the dispute resolution body of the Slovak Ice Hockey Federation – the Arbitration Board – expressly refused to resolve a dispute and submitted the dispute to the competent court. The Competence Senate thereby explicitly confirmed the rule that such disputes are to be decided by bodies under the Sports Act, and not by general courts. According to the Competence Senate, the

[10] E.g., *Decision of the District Court in Humenné Ref. No. 11C/26/2018* [2019-01-29], confirmed by the Regional Court in Prešov, *Decision of the Regional Court in Prešov Ref. No. 5Co/31/2019* [2019-06-06]. Similarly, reference can be made to *Decision of the District Court in Trenčín Ref. No. 37Cb/226/2017* [2021-06-11]. The District Court in Veľký Krtíš also ruled similarly in *Decision of the District Court in Veľký Krtíš Ref. No. 12Cb/18/2018* [2018-10-05].

[11] Namely, according to Article 1, disputes arising from the threat or violation of subjective rights are heard and decided by an independent and impartial court, unless such jurisdiction is entrusted by law to another body. In this spirit, also according to Article 3, courts hear and decide private law disputes and other private law matters, unless they are heard and decided by other bodies established according to law.

[12] See in particular *Decision of the Regional Court in Prešov Ref. No. 5Co/31/2019* [2019-06-06].

jurisdiction of general courts in this case was in the end given only because: (1) the Arbitration Board refused to decide the dispute, (2) it was a non-sporting dispute, and, in addition, (3) the internal regulations of the relevant NSA in this case established the jurisdiction and competence of general courts. The decision of the Competence Senate, therefore, confirmed that the jurisdiction of general courts is not given where the jurisdiction of the bodies to resolve disputes under the Sports Act and internal sporting rules is established.

4 A joint "arbitration court" for dispute resolution under the Sports Act?

Since we argue that labour disputes in sports can and should be resolved by the NSA bodies, and we also accept the arbitrability of labour disputes in sport, we can at this point attempt to connect these two lines of reasoning within a hypothetical question of whether an arbitration court under the Arbitration Act could serve as a common dispute resolution body that the 2024 draft amendment to the Sports Act expects to be established under the auspices of the Slovak Olympic and Sports Committee.

Such a situation could have hypothetically occurred even under the currently valid wording of the Sports Act, for example, should the NSA (or several NSAs) lay down in their internal regulations of the supreme power, i.e. in their statutes, that an arbitration court established under the Arbitration Act will serve as their dispute resolution body. The Sports Act does not explicitly exclude such a possibility, specifying only the requirement that the NSAs should ensure the resolution of disputes in sports by special dispute resolution bodies.

The only apparent hindrance under the current wording of the Sports Act is that the provision of Section 19(1)(f) of the Sports Act requires that *"the highest body shall elect members of the highest executive bodies, chairmen and vice-chairmen of disciplinary bodies, dispute resolution bodies, licensing bodies and control bodies, if they are not elected by the members of the national sports association directly"*; thus, members of such a body (arbitration court) are to be elected at the general assembly of the NSA. Theoretically, it is possible to imagine a situation where the NSA would elect at its general assembly all the arbitrators from the list of arbitrators kept by the arbitration court. Such an arbitration court and its arbitrators would thus in fact acquire a kind of a dual status – being arbitrators of the arbitration court under the Arbitration Act, and, at the

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same time, being members of the dispute resolution body under the Sports Act. This would thereby have significant legal consequences from the perspective of both concerned Acts – in those issues that would be considered arbitrable under the Arbitration Court, the decisions of this body and its arbitrators could be considered enforceable titles, as it is generally the case regarding decisions of an arbitration court. On the other hand, in those issues where arbitrability is questionable, the decisions of this body would be considered a decision by a dispute resolution body under the Sports Act and would thus again constitute an obstacle to legal proceedings before ordinary courts.

Still, despite this possibility to reconcile the Arbitration Act and the Sports Act, one very important aspect is to be mentioned. The sports sector in general does not necessarily need a proper "arbitration court", not the enforceable titles of the same legal force as the decisions of general courts. In fact, a joint body of several NSAs does not need to have the nature of an arbitration court within the meaning of the Arbitration Act, because in sports movement, decisions of sports bodies are fundamentally enforced not by bailiffs (executors), but primarily, and almost exclusively, by the bodies of sports associations, especially disciplinary committees. Under the threat of disciplinary sanctions and even expulsion from the sports association, disciplinary bodies effectively enforce compliance with the internal regulations of sports associations and with the decisions of their bodies. This is in fact also how the decisions of the Court of Arbitration for Sport (CAS) in Lausanne are being enforced.

It is, therefore, clear that should the NSAs in the Slovak Republic decide to have their disputes resolved by a single (common) body, its decisions would be practically enforceable by disciplinary committees regardless of whether the body would have the nature of an arbitration court under the Arbitration Act, or only a nature of a dispute resolution body under the Sports Act. Having the status of a dispute resolution body under the Sports Act would in fact be easier, since no theoretical and practical arbitrability issues under the Arbitration Act would need to be addressed. That is actually the way that the 2024 draft amendment to the Sports Act is rightly taking.

This is in contrast with the approach that the legislator attempted to come up with in 2023, when the draft of the new Sports Act (which failed to be enacted in 2023) included the explicit provision on the possibility of creating a joint body for resolving disputes – albeit, preferably in the

form of an arbitration court. In the provision of Section 9(5) of the draft Sports Act from 2023, the following norm was namely assumed: *"If a national sports association or national sports organization does not have the conditions to establish a dispute resolution body with jurisdiction under paragraph (2), it may stipulate in the founding document that disputes of persons affiliated with it shall be decided by a joint dispute resolution body established in cooperation with another sports organization or an arbitration court, unless the regulations of an international sports organization provide otherwise."*

The legislator thereby did not intend to regulate the details and left them to the internal regulation of sports organizations. However, in the legislative process, based on consultations with the Ministry of Justice, a solution was proposed, which was to supplement the draft Sports Act with the establishment of a special nationwide arbitration court for sports, serving as a special arbitration body of the Slovak Republic. This court was thereby assumed to exclude the jurisdiction of the courts of the Slovak Republic – specifically, Section 9 of the draft Sports Act was to be supplemented with paragraph (7), which reads: *"(7) If all means of ensuring justice within the competence of the dispute resolution bodies under the regulations of the national sports federation or national sports organisation have been exhausted, the decision of the dispute resolution body of the national sports federation or national sports organisation shall not be reviewable by a court of general jurisdiction or an administrative court."*

Justification of this proposal ran as follows: *"Dispute resolution in sports is primarily based on the principle that every person affiliated with a national sports association should have access to justice and the opportunity to refer their case to a competent dispute resolution body, which should respect the principles of a fair trial and be created in accordance with Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, the Sports Act respects the diverse conditions and possibilities of individual associations, and, therefore, also allows for the creation of a joint dispute resolution body by several national sports associations or several national sports organizations. However, if the NSA or NSO has not created a dispute resolution body, it is proposed to explicitly refer to arbitration regulated by this Act. The Arbitration Court shall be established by the Slovak Olympic and Sports Committee, and its jurisdiction shall include single-instance proceedings in matters of persons affiliated to the NSA or NSO that have not established their own dispute resolution bodies, as well as second-instance jurisdiction in matters that*

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have been decided at the level of the NSA or NSO dispute resolution bodies. Given the expanded possibilities for dispute resolution and the specificity of sport, the jurisdiction of general courts is excluded and the matter will be finally decided at the level of the NSA or NSO dispute resolution body or arbitration proceedings at the Court of Arbitration."

The Court of Arbitration was thus to exercise jurisdiction pursuant to Section 9(2) if the NSA or a national sports organization (hereinafter referred to as the "NSO") failed not establish their own dispute resolution body or if they wished to submit to the Court of Arbitration in first instance. Additionally, the Court of Arbitration was to have the authority to review decisions of the dispute resolution bodies of the NSA or the NSO in second instance. However, the right to a hearing by the Court of Arbitration was to expire after six months from the date of entry into force of the final decision reached at the level of a NSA or a NSO.

The conditions imposed on referees of the Court of Arbitration were to be also specially regulated, as only a natural person could become a referee who:

a) is a citizen of the Slovak Republic,
b) is of full integrity,
c) has full legal capacity,
d) has obtained a second-level university education in the field of law at a law faculty of a university in the Slovak Republic or has a recognized document of second-level university education in law issued by a foreign university; if the person has obtained a university education first in the first level and then in the second level, they are required to have obtained education in the field of law in both levels,
e) has practiced the legal profession for at least ten years,
f) has served as a member of a dispute resolution body of a NSA or a NSO for at least three years.

The Ministry of Sports was to maintain and approve a list of arbitrators at the Court of Arbitration. The arbitrator could be nominated by the Ministry of Sports, a NSA or a NSO.[13]

[13] Informácia o výsledku prerokovania vládneho návrhu zákona o športe a o zmene a doplnení niektorých zákonov vo výboroch Národnej rady Slovenskej republiky v druhom čítaní. In: *Národná rada Slovenskej republiky* [online]. 2023 [cit. 2024-10-15]. Available at: https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=531507.

However, to repeat once again, this draft Sports Act of 2023 was ultimately not adopted by the Parliament, and arbitration of disputes in sports never came into being.

Instead, the amendment to the Sports Act, which was prepared by the Ministry of Tourism and Sports in 2024 and which is currently being debated in the Parliament, came up with a much milder proposal – that the Slovak Olympic and Sports Committee would only create a dispute resolution body (not a Court of Arbitration) under the same conditions as those created by the NSAs, with the aim of relieving the NSAs from the obligation to create a dispute resolution body on their own. Since the minor NSAs do not have qualified members or willing persons to serve on such bodies, they are to be given an option to opt for entrusting their dispute-resolution agenda as well as their disciplinary agenda to the joint body to be established by the Slovak Olympic and Sports Committee.

There is thereby no "hindrance" to this solution even with respect to solving the cases of anti-doping rules violations. The legislator himself namely already previously amended the Sports Act by creating special anti-doping commissions within the Ministry of Sports, centralizing thus the dispute resolution in this area. The amendment to the Sports Act (by the Act No. 351/2020 Coll.) in this context namely introduced a significant revision of the system for deciding on doping cases, in connection with the changes to the World Anti-Doping Agency (WADA) Code, effective from 1 January 2021. Under the provision of Section 92 of the Sports Act, a Commission for Doping Proceedings at First Instance and the Commission for Doping Proceedings at the Second Instance (hereinafter referred to as the "Commissions") were established. The Commissions have their members appointed by the Minister of Sports on the basis of a selection procedure with public participation. These Commissions must also meet certain qualification requirements in terms of their composition. For example, the chairpersons of the Commissions must have at least a second-level university education in the field of law. The term of office of a member and alternate of the Commission is four years; reappointment is possible. The activities of the Commissions are organizationally and materially ensured by the Ministry, which also adopts (issues) the statutes of the relevant Commissions.[14]

[14] In this context, however, it can be pointed out that the establishment of Commissions by the Ministry may not be the best solution from the perspective of the autonomy of sport. Although the state has an obligation to combat doping, which the Slovak Republic derives from its ratification of the UNESCO Convention against Doping (*International Convention*

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A similar centralization could now take place under the auspices of the Slovak Olympic and Sports Committee with respect to all the remaining types of sporting disputes, including disciplinary proceedings. However, while the NSAs are fond of this suggestion, the actual outcome is yet unpredictable, due to the current negotiations between the political parties as to some further changes in the draft amendment, leaving the final decision on the fate of this amendment for February 2025.

Conclusions

The success or failure of the draft amendment to the Sports Act, which was submitted to the National Council of the Slovak Republic in the Fall of 2024, will certainly determine the shape of dispute resolution in sports in the future. If it is not adopted, the indicated legal issues will remain unresolved even in the future. Judicial practice will struggle with inconsistent approaches and solutions, and legal uncertainty in the sports movement will increase.

Foremost, it will remain unclear, whether the disputes in sports are arbitrable or not, whether they are reviewable by the general civil courts or administrative courts, and whether the decision of a dispute resolution body prevents the jurisdiction of general courts in the same matter.

Furthermore, due to the problems of minor NSAs with financing and staffing the dispute resolution bodies under the Sports Act, these bodies are often either not established at all or not exercising their duties under the Sports Act properly, which makes the NSAs subject to a risk of illegality and sanction from the side of the Ministry.

All these problems are thereby addressed by the current draft amendment to the Sports Act – first of all, it is made clear in the amendment that the dispute resolution bodies' decisions are only subsequently reviewable by courts, and namely by the courts of general civil jurisdiction (instead of administrative courts). Secondly, both the dispute resolution competence as well as the disciplinary jurisdiction of the NSAs could be transferred onto a common (joint) body established by the Slovak

against Doping in Sport [UNESCO] – see *Announcement of the Ministry of Foreign Affairs of the Slovak Republic No. 347/2007 Coll.*), it should also be borne in mind that the WADA Code itself, in its Article 22.6 stipulates that *"Each government should respect arbitration as the preferred means of resolving doping-related disputes, subject to human and fundamental rights and applicable national law."*). The ideal should, therefore, not be state-sponsored bodies, but autonomous sports bodies for deciding doping cases.

Olympic and Sports Committee, as a voluntary option offered to the NSAs to use if they deem it fit. Finally, the dispute resolution in sports could face an opportunity for professionalization and improvement of autonomous governance in this field of the sports movement in Slovakia. Still, to what extent any of these hopes will materialize, remains to be decided by the Parliament in February 2025.

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