

Alternative Dispute Resolution in Sport Disputes: A Review of Turkish Athletics, Basketball and Volleyball Federation Decisions*

Spor Uyuşmazlıklarında Alternatif Uyuşmazlık Çözüm Yolu: Türkiye Atletizm, Basketbol ve Voleybol Federasyonu Kararlarının İncelenmesi

Diñcer Çeribaş ** , Oğuz Özbek *** 

ABSTRACT

Sports disciplinary proceeding is the judgment process brought to the agenda with the decisions taken by the authorized disciplinary committees as a result of the violation of sports discipline rules. Since the rules of each sport are different, the actions that constitute disciplinary violations and the disciplinary penalties related to them may vary.

In this research, using the document analysis method of qualitative research methods, Turkish Athletics, Basketball and Volleyball Federation decisions that the Disciplinary Committees rendered between January 1, 2014 and January 1, 2019 were examined. The decisions examined were categorized in terms of parties, types of disciplinary violations and disciplinary penalties, and decisions objected to the Arbitration Committee, and classified in terms of their results. As a result of the research, it was observed that disciplinary proceedings were carried mostly regarding anti-doping rule violations in athletics, acting against the directives in basketball, rude, obscene, humiliating behaviour and insult violations in volleyball. In terms of sides, decisions rendered mostly on athletes and coaches in athletics, and on athletes and sports clubs in basketball and volleyball.

Keywords: Sports law, National Sports Federations, Sports Disciplinary Proceeding, Arbitration Committee, Disciplinary Violation

ÖZ

Spor disiplin yargılaması, spor disiplin kurallarının ihlal edilmesi neticesinde yetkili disiplin kurulları tarafından verilen kararlarla gündeme gelen yargılama sürecidir. Her spor dalına ilişkin kuralların farklı olması nedeniyle disiplin ihlalinin oluşturan eylemler ve bunlara ilişkin disiplin cezaları değişiklik gösterebilmektedir.

Bu araştırmada, nitel araştırma yöntemlerinden olan doküman analizi yöntemi kullanılarak Türkiye Atletizm, Basketbol ve Voleybol Federasyonu Disiplin Kurullarının 1 Ocak 2014 ve 1 Ocak 2019 tarihleri arasında vermiş olduğu kararlar incelenmiştir. İncelenen kararlar taraf, disiplin ihlali ve disiplin cezası türleri ile Tahkim Kurulu'na itiraz edilen kararlar yönünden kategorize edilerek sonuçları itibarıyla sınıflandırılmıştır. Araştırma sonucunda atletizmde en çok dopingle mücadele kural ihlalleri, basketbolda talimatlara aykırı hareket, voleybolda ise kaba, müstehzi, küçük düşürücü hareket ve hakaret ihlallerine ilişkin disiplin yargılaması gerçekleştirildiği görülmüştür. Taraf yönünden atletizmde en çok sporcular ve antrenörler, basketbol ve voleybolda ise sporcular ve spor kulüpleri hakkında karar verilmiştir.

Anahtar Kelimeler: Spor Hukuku, Ulusal Spor Federasyonları, Spor Disiplin Yargılaması, Tahkim Kurulu, Disiplin İhlali

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** Attorney, Ministry of Youth and Sports, General Directorate of Legal Services. Avukat, Gençlik ve Spor Bakanlığı Hukuk Hizmetleri Genel Müdürlüğü

*** Prof. Dr., Ankara University Faculty of Sports Sciences, Sports Management Sciences. Prof. Dr., Ankara Üniversitesi Spor Bilimleri Fakültesi, Spor Yönetim Bilimleri

Sorumlu Yazar/Correspondence Author: Diñcer Çeribaş

E-posta/E-mail: dincerceribas@gmail.com

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I. INTRODUCTION

Sports law is a *sui generis* branch of law¹ with a mixed and dynamic structure that develops in line with the changes in the international arena and the decisions taken by sports organizations, including both public and private law rules. Sports disciplinary disputes, which constitute an important branch of sports law disputes, are disputes that arise from violation of the rules set by national sports federations (NFs) and international sports federations (IFs) or Olympic organizations². Since the rules regarding each sports branch are different and these rules are constantly evolving, the need for examining the sports law disputes and raising the awareness of the parties is increasing.

One of the important features of sports disciplinary proceeding is that its solution requires a special expertise³, and it is resolved through arbitration, mediation, mediation-arbitration methods, which are alternative dispute resolution (ADR) methods, due to the need for fast, flexible and relatively cheap resolution⁴. Convenient to the spirit of the sports, arbitration proceeding is faster and cheaper than traditional litigation, allows flexible rules for presenting evidence, and a limited right of recourse compared to courts⁵. Mediation in sports law is a new and developing concept compared to arbitration. Mediation is a fast, effective, and peaceful practice in resolving sports disputes. In mediation, the parties negotiate under the supervision of the mediator and share their problems in a respectful manner, thus ensuring a peaceful resolution of the dispute by understanding each other better. It is praised for developing the understanding and fair play spirit⁶.

Making honest and fair decisions in the resolution of sports disputes is important in terms of protecting the rights of athletes and establishing the right to fair competition⁷. The world is full of different legal systems⁸. However, for the implementation of standardised sports law rules in the national or international arena, there must be rules directly applicable at all levels⁹. For this reason, Fédération Internationale de Basketball Association (FIBA) and most IFs make regulations that will oblige their members to abide by their rules and to include these rules in their articles of association¹⁰. In the

1 Foster, Ken (2012) "Is There a Global Sports Law?" In: *Lex Sportiva: What is Sports Law?*, TMC Asser Press, p.44.

2 VAN KLEEF, Rosmarijn (2014) "The Legal Status of Disciplinary Regulations in Sport", *The International Sports Law Journal*, Vol.14, N.1, p.24.

3 Pachanda, Vikrant (2012) "The Importance of Arbitration Sports the Court of Arbitration for Sport," *the Emerging 'Lex Sportiva' the Indian Perspective*, *International Sports Law Review Pandektis*, Vol.9 N.3-4, p.259.

4 Blackshaw, Ian (2013) "Adr and Sport: Settling Disputes Through the Court of Arbitration for Sport, the FIFA Dispute Resolution Chamber, and the WIPO Arbitration & Mediation Center", *Marquette Sports Law Review*, Vol.24, N.1, p.56.

5 Lenard, Michael (2009) "The Future of Sports Dispute Resolution", *Pepperdine Dispute Resolution Law Journal*, Vol.10, N.1, p.175.

6 Sandu, Ciprian (2015) "ADR in Sport Disputes: Should Mediation be Used over Arbitration?", *Conflict Studies Quarterly*, Vol.11, p.65.

7 Li, Zhi/Qiao, Yijuan (2015) "A Study on the Application of General Principles of Law in Court of Arbitration for Sport", *International Sports Law Review Pandektis*, Vol.11, N.1-2, p.237.

8 Lenard, p.175.

9 Van Kleef, p.37.

10 According to the Article 9.3 of the FIBA General Statutes of 29 August 2019: "*The statutes and regulations of national member federations must comply fully with these General Statutes and the Internal Regulations of FIBA. These General Statutes and the Internal Regulations of FIBA shall form part of the national member federation's statutes and regulations.* In

resolution of sports disputes, although International Olympic Committee (IOC) and Ifs purpose to apply standardised rules around the world, inconsistent decisions rendered by different national courts have caused problems¹¹. Therefore, the arbitration jurisdiction established with the Court of Arbitration for Sport (CAS) restricts athletes' access to national courts¹². Established in 1983, the CAS is today recognized by all IFs as the last objection authority for international disputes¹³ and provides a confidential, fast, effective, and relatively inexpensive resolution of disputes¹⁴.

The aim of this research is to examine Turkish Athletics Federation (TAF), Turkish Basketball Federation (TBF) and Turkish Volleyball Federation (TVF) Disciplinary Committee decisions concerning the sports disciplinary proceedings gathered under the roof of CAS, and the Arbitration Committee of the Youth and Sports Ministry (ACYSM) decisions objected against these decisions. The research is limited to the decisions of the federation disciplinary committee and ACYSM decisions between January 1, 2014 and January 1, 2019.

There are many national studies in Turkish sports law, especially examining the football discipline proceeding and the structure of the Arbitration Committee of the Turkish Football Federation (ACTFF)¹⁵. On the other hand, it has been observed that there are a limited number of research on sports branches other than football and no research has been found that examines the disciplinary proceedings related to athletics, basketball, and volleyball sports branches by categorizing them in terms of party, disciplinary violations, and disciplinary penalties. For this reason, the disciplinary committee decisions regarding athletics, basketball, and volleyball sports branches, which have a large number of spectators, athletes, clubs, trainers, and referees, were examined in the research. In this sense, the research is considered to be significant and pioneering in terms of reviewing the legislation on sports discipline proceedings and developing recommendations according to perpetual continuing issues.

the event of doubt or conflict, these General Statutes and the Internal Regulations of FIBA shall prevail.”

- 11 Mitten, Matthew J./Opie, Hayden (2010) ““Sports Law”: Implications for the Development of International, Comparative, and National Law and Global Dispute Resolution”, Tulane Law Review, Vol.85, N.2, p.284.
- 12 Foster, p.49.
- 13 Reilly, Loise (2013) “Introduction to the Court of Arbitration for Sport (CAS) & the role of National Courts in International Sports Disputes, and Symposium”, Journal of Dispute Resolution, N.1-5, p.67.
- 14 Blackshaw (2013), p.30.
- 15 Küçükgüngör, Erkan (2001) “Türkiye Futbol Federasyonu Tahkim Kurulu'nun Yapısı ve Tahkim Kurulu Kararlarının Niteliği”, Ankara Üniversitesi Hukuk Fakültesi Dergisi, Vol.50, N.2, p.137-146; Koçak, Talat Emre (2007) Türkiye Futbol Federasyonu Tahkim Kurulu, Ankara, Seçkin; Ayanoğlu, Taner (2008) “Türkiye Futbol Federasyonu Tahkim Kurulu'nun İşlevi ve Kararlarının Niteliği”, Türkiye Barolar Birliği Dergisi, Vol. 74, p.43-76; Özelçi, Aytaç (2010) Türkiye Futbol Federasyonu'nun Türk Hukukundaki Yeri, Ankara, Seçkin; Cem, Çağrı (2012) Profesyonel Futbolcu Transfer Sözleşmesi, İstanbul, On İki Levha; Akil, Cenk (2013) “Türkiye Futbol Federasyonu Tahkim Kurulu'nun Yapısı ve Kararlarının Hukuki Niteliği”, Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi, Vol.19, N.3, p.379-403; Özen, Mustafa (2016) Futbol Disiplin Hukuku, Ankara, Adalet; Topuz, Gökçen (2017) “Thoughts on the Jurisdiction of the Turkish Football Federation Dispute Resolution Board”, Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi, Vol.19, p.1901-1926; Gündoğdu, Fatih (2019) “Türkiye Futbol Federasyonu Tahkim Kurulu Yargılamasının Adil Yargılanma Hakkı Bakımından Değerlendirilmesi”, Türkiye Barolar Birliği Dergisi, Vol.140, p.141-170.

A. Establishment and Structure of TAF, TBF, and TVF

TAF, TBF and TVF are sports federations established within the scope of the Additional Article 9 of the Youth and Sports Services Code No. 3289¹⁶.

Official activities of the Athletics Federation started within Turkish Training Communities Alliance, founded in 1922¹⁷. TAF's headquarter is in Ankara. TAF is an official member of the World Athletics (WA), formerly International Association of Athletics Federations (IAAF), the European Athletics (EA) and the Association of Balkan Athletics Federations (ABAF). As of the date 31/08/2020, according to official records of TAF, there is a total of 224,076 licensed athletes and 3,513 licensed sports clubs¹⁸ in Turkey; as of 2018, there are 4,179 active referees¹⁹ and 903 active trainers²⁰. The official activities of the Basketball Federation started within the Sports Games Federation established in 1934. Basketball, which was managed under the same roof with volleyball and handball branches for a long time, gained an independent management with TBF, which was established in 1959, as a result of the increase in activities and the popularization of the sports branch²¹. TBF's headquarter is in Ankara. It is an official member of the FIBA. In accordance with the official records of TBF, a total of 2,607 basketball players took part in eight leagues, including the top leagues of males and females, in the 2017-2018 season, 4,528 sports clubs participated in basketball competitions across the country in the same season, and 2,725 certificated basketball trainers out of 8,890 took active roles in clubs as of 30/06/2018²². In addition, according to the records of the Ministry of Youth and Sports (MYS), there are 3,923 registered referees in basketball as of 2018²³. The official activities of the Volleyball Federation started with the establishment of the Volleyball-Handball Federation in 1958. TVF became autonomous on 28th October 2004²⁴. TVF's headquarter is in Ankara. TVF is an official member of the Fédération Internationale de Volleyball (FIVB), Confédération Européenne de Volleyball (CEV) and the Balkan Volleyball Association (BVA). According to the official records of TVF, there are 60,558 licensed volleyball players and 8,720 trainers in 2017-2018 season²⁵. Besides, according to MYS records, there are 5,711 registered referees in volleyball as of 2018²⁶.

16 According to the additional article 9 of the Youth and Sports Services Code No. 3289: *"Independent sports federations subject to the provisions of private law are established by the decision of the President of the Republic and gain legal personality with the publication of the decision in the Official Gazette."*

17 See <<http://www.taf.org.tr/tafgenel-bilgiler-ve-tarihce/>> I.a.d. 12.12.2020.

18 See <<https://shgm.gsb.gov.tr/Public/images/SGM/Federasyon/742292016%20%202018%20faaliyet%20-raporu.pdf>> I.a.d.12.12.2020.

19 See <<http://www.taf.org.tr/faalhakemlerantrenorler/#145.925.4240058-6d235937-d7d8>> I.a.d.12.12.2020.

20 See <<http://www.taf.org.tr/faalhakemlerantrenorler/#145.925.4240058-6d235937-d7d8>> I.a.d.12.12.2020.

21 See <<https://www.tbf.org.tr/tarihce/ulkemizde-basketbol>> I.a.d.12.12.2020.

22 See <https://shgm.gsb.gov.tr/Public/images/SGM/Federasyon/92814TBF_FaaliyetRaporu.pdf> I.a.d. 12.12.2020.

23 See <<https://shgm.gsb.gov.tr/Sayfalar/175/105/Istatistikler>> I.a.d.12.12.2020.

24 See <<https://www.tvf.org.tr/tarihce/>> I.a.d.12.12.2020.

25 See <https://shgm.gsb.gov.tr/Public/images/SGM/Federasyon/95760Yonetim_Kurulu_Faaliyet_Raporu.-PDF> I.a.d.12.12.2020.

26 See <<https://shgm.gsb.gov.tr/Sayfalar/175/105/Istatistikler>> I.a.d.12.12.2020.

Actions that constitute disciplinary violations in sports disciplinary proceedings and regarding this, disciplinary penalties are regulated in the disciplinary directives of sports federations. TAF, TBF, and TVF Disciplinary Directives were taken as basis in the examination of the decisions of the disciplinary committee in the research²⁷. There are the rights to objection to the ACYSM against the decisions of the TAF Disciplinary Committee (TAFDC), TBF Disciplinary Committee (TBFDC), and TVF Disciplinary Committee (TVFDC) in accordance with the Arbitration Committee Regulation²⁸ within ten days from the written notification of the decision, and the right to apply for a correction of decision within ten days against the decisions of the ACYSM.

B. Sports Disciplinary Proceedings in NFs

Regarding the sports disciplinary proceedings, the most important innovation in Turkey is the constitutional amendment in 2011. In 2011, according to Article 59 of the Turkish Constitution, the arrangement: *“Only compulsory arbitration could be applied against the decisions of sports federations regarding the management and discipline of sports activities. The decisions of the arbitration committee are final and no appeal to any judicial authority against these decisions.”* has been added²⁹. With this arrangement, judicial review was closed against the arbitration committee’s decisions regarding sports disciplinary proceedings.

In Turkish legal system, compulsory arbitration has been stipulated in two legal regulations in the field of sports law. The first one is the ACYSM, established in 2004 with the Youth and Sports Services Code³⁰, and the second is the ACTFF, established in 1988 and regulated under Turkish Football Federation Establishment and Duties Code³¹. ACTFF is in charge of disciplinary proceedings regarding football in Turkey, and ACYSM is in charge of the disciplinary proceedings concerning other sports branches.

If arbitration is compulsory, in the sense of being required by law³², the parties have no option but to refer their dispute to an arbitral tribunal. In compulsory arbitration proceedings applied in sports disputes in Turkey, the parties to the dispute do not have the authority to choose an arbitrator. ACYSM arbitrators consist of seven members appointed for four years by the Minister of Youth and Sports³³. ACTFF arbitrators, on the other hand, consist of seven members appointed by the Federation Board of Directors with the proposal of the Federation President, during the duty term of the Federation Board of Directors³⁴. The process called compulsory arbitration proceedings starts

27 TAF Disciplinary Directive dated 23/12/2015, TBF Disciplinary Directive dated 28/9/2017, and TVF Disciplinary Directive dated 22/4/2009, see <<http://sgm.gsb.gov.tr/Federasyonlar/28/3/Federasyonlar>> 1.a.d.12.12.2020.

28 General Directorate of Sports Arbitration Committee Regulation, Official Gazette, January 28, 2012, No 28187.

29 The Constitution of the Republic of Turkey, Official Gazette, November 9, 1982, No 17863.

30 Youth and Sports Services Code Numbered 3289, Official Gazette, May 21, 1986, No: 19120.

31 Turkish Football Federation Establishment and Duties Code Numbered 5894, Official gazette, May 16, 2009, No 27230.

32 Ekşi, Nuray (2015) Spor Tahkim Hukuku, 1. Edition, İstanbul, Beta, p.120.

33 Additional article 9/7 of the Youth and Sports Services Code No. 3289, Official Gazette, May 21, 1986, No: 19120.

34 TFF Statutes, dated 16/05/2009.

with the objection of the relevant federation disciplinary board decision in the ACYSM proceeding and the process of the objection of the TFF to the relevant board decision in the TFFTK proceeding.

The parties have the right to appeal to the CAS against the decisions of ACYSM and ACTFF in case the conditions of “granting the right to apply to CAS in the status or regulations of the federation and exhaustion of the domestic remedies before appeal” included in the Article R47 of the CAS Code³⁵. In limited circumstances, it is possible to file an annulment action against the CAS decisions in the Swiss Federal Tribunal, in accordance with Article 190 (2) of the Swiss Code of International Private Law³⁶.

ACYSM and ACTFF work as compulsory arbitration committees in the resolution of sports disputes within the scope of Article 59 of the Turkish Constitution. There are important distinctions between voluntary and compulsory arbitration³⁷. In compulsory arbitration, arbitration committees like ACYSM or ACTFF are regarded as “courts” in accordance with the decisions of the European Court of Human Rights (ECHR) and in cases where the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) are applicable to the case, these committees’ decisions could be reviewed by ECHR³⁸. ECHR, on the dispute between the athlete and sports club in Turkey with regard to a professional footballer’s wage and the termination of the service contract, has accepted the application of the athlete by considering ACTFF as a court for the compulsory arbitration, and decided that Article 6 (1) of the Convention is violated³⁹.

C. Well-established ADR Practices for Sport Disputes

When the systems of other countries on the resolution of sports law disputes is reviewed, it is seen that there are ADR organisations which specialised on sports disputes operating in different procedures in various

35 Code of Sports-related Arbitration, 2020 Article R47 of the CAS Code states that: “An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”

36 According to the Article 190(2) of the Swiss Federal Act on Private International Law of 18 December 1987: “Proceedings for setting aside the award may only be initiated: a. where the sole arbitrator has been improperly appointed or where the arbitral tribunal has been improperly constituted; b. where the arbitral tribunal has wrongly accepted or denied jurisdiction; c. where the arbitral tribunal has ruled beyond the claims submitted to it, or failed to decide one of the claims; d. where the principle of equal treatment of the parties or their right to be heard in an adversary procedure has not been observed; e. where the award is incompatible with public policy.”

37 Lenskyj, Helen (2018) “Sport Exceptionalism and the Court of Arbitration for Sport”, Journal of Criminological Research, Policy and Practice, Vol.4, N.1, p.6.

38 Article 178 of the ECHR’s decision of 28 January 2020 states that: “In addition, a distinction must be drawn between voluntary arbitration and compulsory arbitration. If arbitration is compulsory, in the sense of being required by law, the parties have no option but to refer their dispute to an arbitral tribunal, which must afford the safeguards secured by Article 6 § 1 of the Convention (*ibid.*, § 49).” (see, ECHR Ali Rıza and others v. Turkey, nos. 30226/10 and 4 others, 28 January 2020).

39 For further information on this important issue, see Gemalmaz, H. Burak (2019) “Applicability of Human Rights Standards in Turkish Football Arbitration: The Contribution of the European Court of Human Rights”, The International Sports Law Journal, Vol.9, N.1, p.38-58.

countries. Since 2000s, ADR organisations have been established in various parts of the world, which serve for the resolution of sports disputes by both arbitration and mediation methods in the CAS model.

Japan Sports Arbitration Agency (JSAA), established in 2003, is responsible for resolving sports disputes in Japan⁴⁰. JSAA has four sets of arbitration rules and one mediation rule namely: 1-Sport Arbitration Rule, 2-Special Sport Arbitration Rule, 3-Doping Arbitration Rule, 4-Sport Arbitration Rule between Affiliating Federations, 5-Sport Mediation Rule⁴¹.

Sports Resolutions (SR), previously known as Sports Dispute Resolution Panel, was established in 1997 for the resolution of sports disputes in the United Kingdom⁴². SR is an independent ADR service for UK offering arbitration, mediation and tribunal appointment and administration services⁴³. SR also works closely with national sports dispute organizations in Canada, the USA, New Zealand, Ireland and Japan⁴⁴.

In Ireland, there are two domestic bodies offering ADR in the sporting context⁴⁵. First one is the Dispute Resolution Authority (DRA) of the Gaelic Athletic Association (GAA), which was established in 2005 and is independent of the GAA⁴⁶. DRA uses arbitration and mediation methods for the resolution of disputes⁴⁷. The other is the Sport Dispute Solutions Ireland (SDSI), which was established by Federation of Irish Sport in 2007. SDSI is an independent specialised dispute resolution service for Irish Sport offering both mediation and arbitration services⁴⁸.

Sport Dispute Resolution Centre of Canada (SDRCC), which implements arbitration in the resolution of sports disputes, was established in 2002 in Canada. In 2006, a compulsory pre-arbitration mediation, called SDRCC resolution facilitation (RC), was stipulated⁴⁹. The RC practice has shown positive effects in the resolution of disputes by increasing the rates of amicable settlement⁵⁰.

40 Japan Sports Arbitration Agency, <<http://www.jsaa.jp/sportsrule/arbitration/index.html>> l.a.d.17.01.2021.

41 Kushida, Yoka (2015) "How a Dispute Body Can Contribute to the Enhancement of Sport", *International Sports Law Review Pandektis*, Vol.11, N.1-2, p.95-96.

42 Sport Resolutions, <https://www.sportresolutions.co.uk/about-us/who-we-are/our-history> l.a.d. 18.01.2021.

43 Blackshaw, Ian (2009) "Settling Sports Disputes by Adr: Some Major Sports Dispute Resolution Bodies Modelled on the Court of Arbitration for Sport", *Dispute Resolution International*, Vol.3, N.2, p.181.

44 Sport Resolutions, <<https://www.sportresolutions.co.uk/about-us/who-we-are/member-organisations>> l.a.d.18.01.2021.

45 Donellan, Laura (2009) "Dispute Resolution in Irish Sport: The Courts as Reluctant Interlopers", *Entertainment and Sports Law Journal*, Vol.14, N.1, p.8.

46 Dispute Resolution Authority, <<http://www.sportsdra.ie/>> l.a.d.18.01.2021.

47 Gaelic Athletic Association Official Guide – Part 1, <<https://www.gaa.ie/api/pdfs/image/upload/ljywtjss0-59j5omsvd3b.pdf>> l.a.d.18.01.2021.

48 Sport Dispute Solutions Ireland, <<http://sportdisputesolutions.ie/about/>> l.a.d.18.01.2021.

49 Godin, Paul Denis (2017) "Sport Mediation: Mediating High – Performance Sports Disputes", *Negotiation Journal*, Vol.33, N.1, p.29-30.

50 Mironi, Mordehai (2017) "The Promise of Mediation in Sport-Related Disputes", *The International Sports Law Journal*, Vol.16, N.3-4, p.146.

In Australia, the National Sports Tribunal Act 2019 (the Act)⁵¹ and the National Sports Tribunal (NST) were established by the Australian Government to resolve national sports disputes⁵². According to the Article 23-28 of the Act NST, arbitration, mediation, conciliation and case appraisal⁵³ methods are applied in the resolution of sports disputes.

Sports Tribunal of New Zealand (ST) was established by Sport New Zealand in 2003 in order to support national sports organizations in resolving certain sports disputes in New Zealand and to ensure fair decisions for athletes⁵⁴. Hearing and mediation methods are applied in the resolution of STNZ disputes, and if the parties agree, disputes other than anti-doping files shall be resolved through mediation⁵⁵.

As it is seen, sports dispute resolution organisations such as JSAA, SR, DRA, SDSI SDRCC, NST, and ST are ADR organisations established in various countries of the world that apply both arbitration and mediation methods based on the well-established and successful CAS model⁵⁶ in the resolution of sports disputes. However, in Turkey the only dispute resolution method to resolve sports disputes is compulsory arbitration; mediation is not accepted as an applicable method for sports disputes⁵⁷.

II. METHOD

Notably, this paper does not employ an empirical research on the data of ADR for spor disputes. Instead, it uses data taken from Turkish Athletics, Basketball and Volleyball Federation. Decisions regarding athletics in the study were obtained with written permission from TAF⁵⁸ and decisions regarding volleyball from TVF⁵⁹. Decisions regarding basketball were obtained from TBF's⁶⁰ thirteen-volume book on disciplinary board decisions. All the table contents and statistics in the study were created by analysing the decisions taken by the federations with the document analysis method.

51 National Sports Tribunal Act 2019, <<https://www.legislation.gov.au/Details/C2020C00224/Download>> l.a.d. 18.01.2021.

52 National Sports Tribunal, <<https://www.nationalsportstribunal.gov.au/about-us/legislative-framework>> l.a.d.16.01.2021.

53 The National Sports Tribunal, <<https://www.nationalsportstribunal.gov.au/about-us>> l.a.d.18.01.2021.

54 Carter, Paddy (2020) "New Zealand Sport's Year of Reckoning: Should Mediation be Used More in Sport-Related Disputes?", Victoria University of Wellington Legal Research Paper, p.3.

55 Sports Tribunal of New Zealand, <<http://www.sportstribunal.org.nz/rules-and-procedures/hearings-and-mediation/>> l.a.d.18.01.2021.

56 Blackshaw (2009), p. 184.

57 Article 59 of The Constitution of the Republic of Turkey, Official Gazette, November 9, 1982, No 17863. Additional article 9 of the Youth and Sports Services Code No. 3289, Official Gazette, May 21, 1986, No: 19120; Article 6 of the Turkish Football Federation Establishment and Duties Code Numbered 5894, Official gazette, May 16, 2009, No 27230.

58 Data obtained with TAF's letter dated 23.01.2020 and numbered 122044.

59 Data obtained with the letter of TVF dated 23.01.2020 and numbered 119404.

60 TBF Disciplinary Board Decisions (2014-2018), 13-volume book series, Ankara.

There are three different methods in qualitative research methods: observation, interview, and document analysis⁶¹. Document analysis includes the analysis of written materials that contain information about the phenomenon or facts to be researched. Document analysis is conducted in five stages: 1-accessing the documents, 2-checking the originality, 3-understanding the documents, 4-analyzing the data, 5-using the data⁶².

In this paper, the decisions rendered by TAFDC, TBFDC and TVFDC regarding sports disciplinary proceeding; disciplinary violations are classified according to the party committing the violation and disciplinary penalties. In addition, the decisions objected to the ACYSM were classified numerically in terms of their results (refusal, acceptance, partial acceptance et cetera) and their frequency and percentages were found. The specific aim of the research is to determine:

- What kind of disciplinary violations occurred in which sports branch,
- By whom these violations were committed,
- What kind of disciplinary penalties are given by the disciplinary committees,
- Which disciplinary committee decisions were objected against and how these objections were concluded.

In this paper, 85 decisions rendered by TAFDC, 1749 decisions made by TBFDC, and 152 decisions rendered by TVFDC were classified and examined (Table 2.1).

Since TBFDC and TVFDC rendered more than one judgment in a decision, the provisions regarding 2696 different violations in 1749 decisions in basketball and 256 different violations in 152 decisions in volleyball were classified and examined. For example, the judgment, given about the sports club due to the violation of spectator events in a competition, and the judgment, given about the athlete due to the violation of the insult was resolved in one single decision.

Table 2.1. Distribution of the decisions of TAFDC, TBFDC and TVFDC

Year	Decisions of TAFDC	Decisions of TBFDC	Decisions of TVFDC
2014	22	440	33
2015	14	359	17
2016	23	136	26
2017	21	449	47
2018	5	365	29
Total	85	1749	152

61 Cassell, Catherine/Symon, Gillian, (2004) Essential Guide to Qualitative Methods in Organizational Research, <https://books.google.com.tr/books?id=auAjat0t9RMC&sitesec=buy&hl=tr&source=gbs_vpt_re-ad> l.a.d. 12.02.2021, p.7.

62 Yıldırım, Ali/Şimşek, Hasan (2008) Sosyal Bilimlerde Nitel Araştırma Yöntemleri, 6. Edition, Ankara, Seçkin, p.228-239.

III. FINDINGS

In this part of the research, the parties of the subject matter cases regarding the decisions of TAFDC, TBFDC, and TVFDC are classified according to the proportional distribution of disciplinary violations and disciplinary penalties and the results of the objected ACYSM decisions. The obtained data are shown in tables and interpreted.

A. TAFDC Decisions

According to Table 3.1⁶³, it has been observed that decisions have been made on mostly on the athletes (53 decisions) and the trainers (24 decisions); at least on the club official (1 decision) and the federation manager (1 decision). It has been determined that the disciplinary penalties imposed on the athletes are mostly related to the ineligibility penalties (28 penalties) and least fine (1 penalty).

Table 3.1. Distribution of disciplinary proceedings in athletics according to the parties

Judged Parties	The number of provisions	Ineligibility	Constraint from the competitions	Not to be punished	Warning	Excitation	Fine
Athlete	53 (%62,35)	28 (%32,94)	20 (%23,53)	2 (%2,35)	-	2 (%2,35)	1 (%1,18)
Trainer	24 (%28,24)	18 (%21,18)	-	4 (%4,71)	2 (%2,35)	-	-
Provincial Representative	3 (%3,53)	-	-	2 (%2,35)	1 (%1,18)	-	-
Referee	3 (%3,53)	1 (%1,18)	-	2 (%2,35)	-	-	-
Club Employee	1 (%1,18)	-	-	-	1 (%1,18)	-	-
Federation Manager	1 (%1,18)	1 (%1,18)	-	-	-	-	-
Total	85 (%100)	48 (%56,47)	20 (%23,53)	1 ⁰ (%11,76)	4 (%4,71)	2 (%2,35)	1 (%1,18)

As seen in Table 3.2⁶⁴, it has been determined that disciplinary violations (85 violations) are mostly related to anti-doping rule violations (57 violations) and act against fair play (10 violations); it is at least related to attack on personal rights, aggravated assault, foul and not participating in the national competition (1 violation each).

63 Data obtained with TAF's letter dated 23.01.2020 and numbered 122044.

64 Data obtained with TAF's letter dated 23.01.2020 and numbered 122044.

Table 3.2. Distribution of disciplinary violations in athletics

Disciplinary Violation	The number of provisions	Athlete	Trainer	Referee	Provincial Representative	Club Employee	Federation Manager
Anti-doping Rule Violations	57 (%67,06)	43 (%50,59)	13 (%15,29)	-	-	-	1 (%1,18)
Act Against Fair Play	10 (%11,76)	7 (%8,24)	2 (%2,35)	1 (%1,18)	-	-	-
Insult	8 (%9,41)	1 (%1,18)	3 (%3,53)	2 (%2,35)	2 (%2,35)	-	-
Acting Against the Directives	3 (%3,53)	-	2 (%2,35)	-	1 (%1,18)	-	-
Convictions (Harassment and Sexual Abuse)	3 (%3,53)	1 (%1,18)	2 (%2,35)	-	-	-	-
Attack on Personal Rights	1 (%1,18)	-	-	-	-	1 (%1,18)	-
Aggravated Assault	1 (%1,18)	-	1 (%1,18)	-	-	-	-
Foul	1 (%1,18)	-	1 (%1,18)	-	-	-	-
Not Participating in the National Competition	1 (%1,18)	1 (%1,18)	-	-	-	-	-
Total	85 (%100)	53 (%62,35)	24 (%28,24)	3 (%3,53)	3 (%3,53)	1 (%1,18)	1 (%1,18)

According to Table 3.3,⁶⁵ it is seen that objections to the ACYSM have been made in 51 files and the objections were mostly related to anti-doping rule violations (42 decisions) and act against fair play (4 decisions) disciplinary violations. As a result of the objections, it has been observed that objections were mostly rejected (19 decisions) and the decision to return it to the TAF for re-examination (12 decisions) was made. The five decisions regarding acceptance of the objection are decisions in which disciplinary penalties have been increased as a result of the objections of the Turkish Anti-Doping Commission concerning anti-doping rule violations.

In addition, a request for correction of decision was made against 23 of the objected 51 ACYSM decisions, and 22 of these requests resulted in rejection and 1 in acceptance decision (regarding doping).

65 Data obtained with TAF's letter dated 23.01.2020 and numbered 122044.

Table 3.3. Distribution of files objected to ACYSM against TAFDC decisions

ACYSM Decisions upon Objection	The number of the files	Refusal of the Objection	Return of the File to the federation	Acceptance of the Objection (abolition of penalty)	Acceptance of the Objection (increasing the penalty)	Partial acceptance of the Objection (reduction of the penalty)	Counting the Objection as unaccomplished	Taking Expert Report
Anti-doping Rule Violations	42 (%82,36)	19 (%37,25)	12 (%23,53)	1 (%1,96)	5 (%9,80)	3 (%5,88)	1 (%1,96)	1 (%1,96)
Act Against Fair Play	4 (%7,84)	-	-	3 (%5,88)	-	1 (%1,96)	-	-
Insult	2 (%3,92)	1 (%1,96)	-	1 (%1,96)	-	-	-	-
Harassment and Sexual Abuse	2 (%3,92)	1 (%1,96)	-	1 (%1,96)	-	-	-	-
Not participating in the National Competition	1 (%1,96)	1 (%1,96)	-	-	-	-	-	-
Total	51 (%100)	22 (%43,15)	12 (%23,53)	6 (%11,76)	5 (%9,80)	4 (%7,84)	1 (%1,96)	1 (%1,96)

B. TBFDC Decisions

According to Table 3.4⁶⁶, it has been observed that decisions have been made on mostly on the sports clubs (1750 decisions) and the athletes (436 decisions); at least on the referees (4 decisions) and the officials (5 decisions). It has been determined that the disciplinary penalties enacted on sports clubs are mostly related to fine (855 penalties) and least playing without spectators (2 penalties).

Table 3.4. Distribution of disciplinary proceedings in basketball according to the parties

Judged Parties	The number of provisions	Fine	Warning	Constraint from the competition and fine	Ineligibility and fine	Not to be punished	Constraint from the competition	Warning and fine	Playing without spectators and fine	Injunction	Ineligibility	Downgrade, Forfeit and Fine	Forfeit by default and fine	Playing without spectators
Sports Club	1750 (%64,91)	855 (%31,71)	792 (%29,38)	-	-	44 (%1,63)	-	4 (%0,15)	39 (%1,45)	-	-	9 (%0,33)	5 (%0,19)	2 (%0,07)
Athlete	436 (%16,17)	65 (%2,41)	30 (%1,11)	224 (%8,31)	11 (%0,41)	30 (%1,11)	41 (%1,52)	22 (0,82)	-	11 (%0,41)	2 (%0,07)	-	-	-
Club Manager and Employees	319 (%11,83)	71 (%2,63)	71 (%2,63)	6 (%0,22)	120 (%4,45)	19 (%0,70)	-	10 (%0,37)	-	15 (0,56)	7 (%0,26)	-	-	-

66 TBF Disciplinary Board Decisions (2014-2018), 13-volume book series, Ankara.

Trainer	174 (%6,45)	32 (%1,19)	39 (%1,45)	64 (%2,37)	-	8 (%0,30)	16 (%0,59)	10 (%0,37)	-	3 (%0,11)	2 (%0,07)	-	-	-
Provincial Representative	8 (%0,30)	-	3 (%0,11)	-	2 (%0,07)	2 (%0,07)	-	-	-	-	1 (0,04)	-	-	-
Official	5 (%0,19)	-	-	-	2 (%0,07)	1 (0,04)	-	-	-	-	2 (%0,07)	-	-	-
Referee	4 (%0,15)	-	-	-	-	2 (%0,07)	-	-	-	-	2 (%0,07)	-	-	-
Total	2696 (%100)	1023 (%37,96)	935 (%34,69)	294 (%10,91)	135 (%5,01)	106 (%3,93)	57 (%2,12)	46 (%1,67)	39 (%1,45)	29 (%1,08)	16 (%0,59)	9 (%0,33)	5 (%0,19)	2 (%0,07)

As seen in Table 3.5⁶⁷, it has been determined that disciplinary violations (2696 violations) are mostly related to acting against the directives (1222 violations), attack on personal rights, insult and threat (411 violations), ugly and bad cheering (311 violations), and spectator events (290 violations); it is least related to misconduct or negligence (4 violations), non-participation in the national competition (4 violations) and refraining from testimony or document submission, misrepresentation violation (1 violation).

Table 3.5. Distribution of disciplinary violations in basketball branch

Disciplinary Violation	The number of provisions	Sports Club	Athlete	Club Manager and Employees	Trainer	Provincial Representative	Official	Referee
Acting Against the Directives	1222 (%45,33)	1106 (%41,02)	14 (%0,52)	73 (%2,71)	25 (%0,93)	3 (%0,11)	1 (%0,04)	-
Attack on Personal Rights, Insult and Threat	411 (%15,24)	-	185 (%6,86)	133 (%4,93)	92 (%3,41)	1 (%0,04)	-	-
Ugly and Bad Cheering	311 (%11,54)	311 (%11,54)	-	-	-	-	-	-
Spectator Events	290 (%10,76)	290 (%10,76)	-	-	-	-	-	-
Foul, Assault and Fighting	210 (%7,78)	-	144 (%5,34)	40 (%1,48)	24 (%0,89)	-	2 (%0,07)	-
Act Against Fair Play	91 (%3,37)	-	40 (%1,48)	41 (%1,52)	10 (%0,37)	-	-	-
Not Participating in and Withdraw from the Competition	57 (%2,11)	37 (%1,37)	20 (%0,74)	-	-	-	-	-
Statements Against Fair Play	44 (%1,64)	2 (%0,07)	5 (%0,20)	18 (%0,67)	17 (%0,63)	2 (%0,07)	-	-
Unfair Use of Documents and Counter feausance	25 (%0,93)	4 (%0,15)	8 (%0,30)	6 (%0,22)	3 (%0,11)	1 (%0,04)	2 (%0,07)	1 (%0,04)
Anti-Doping Rule Violations	13 (%0,48)	-	13 (%0,48)	-	-	-	-	-
Disobeying the Injunction and the Decision of the Disciplinary Committee	7 (%0,26)	-	1 (%0,04)	4 (%0,15)	2 (%0,07)	-	-	-

67 TBF Disciplinary Board Decisions (2014-2018), 13-volume book series, Ankara.

Affecting Competition Result	6 (%0,22)	-	2 (%0,07)	4 (%0,15)	-	-	-	-
Misconduct or Negligence	4 (%0,15)	-	-	-	-	1 (%0,04)	-	3 (%0,11)
Not participating in the National Competition	4 (%0,15)	-	4 (%0,15)	-	-	-	-	-
Refraining from Testimony or Document Submission, Misstatement	1 (%0,04)	-	-	-	1 (%0,04)	-	-	-
Total	2696 (%100)	1750 (%64,91)	436 (%16,18)	319 (%11,83)	174 (%6,45)	8 (%0,30)	5 (%0,18)	4 (%0,15)

According to Table 3.6⁶⁸, it is seen that objections to the ACYSM have been made in 151 provisions, and the objections were mostly related to attack on personal rights, insult and threat (41 provisions), and foul, assault and fighting (32 provisions) disciplinary violations. As a result of the objections, it has been decided mostly about the refusal of the objection (121 proceedings) and partial acceptance of the objection (17 provisions).

In addition, a request for correction of decision request was made against 47 of the objected 151 ACYSM decisions, and 45 of these requests resulted in refusal, 1 in acceptance and 1 partially in acceptance decision.

Table 3.6. Distribution of files objected to ACYSM against TBFDC decisions

ACYSM Decisions upon Objection	The number of provisions	Refusal of the Objection	Partial Acceptance of the Objection (reduction of the penalty)	Acceptance of Objection (abolition of penalty)	Counting the Objection as unaccomplished	Precautionary Suspension of Execution
Attack on Personal Rights, Insult and Threat	41 (%27,16)	36 (%23,84)	3 (%1,99)	1 (%0,66)	-	1 (%0,66)
Foul, Assault and Fighting	32 (%21,20)	24 (%15,89)	7 (%4,64)	-	1 (%0,66)	-
Spectator Events	21 (%13,91)	20 (%13,25)	-	-	1 (%0,66)	-
Acting Against the Directives	20 (%13,25)	15 (%9,93)	1 (%0,66)	1 (%0,66)	3 (%1,99)	-
Ugly and Bad Cheering	9 (%5,96)	9 (%5,96)	-	-	-	-
Statements against fair play	7 (%4,64)	5 (%3,31)	1 (%0,66)	1 (%0,66)	-	-
Act Against Fair Play	7 (%4,64)	3 (%1,99)	3 (%1,99)	1 (%0,66)	-	-
Anti-Doping Rule Violations	4 (%2,64)	2 (%1,32)	1 (%0,66)	1 (%0,66)	-	-
Not Participating in and Withdraw from the Competition	4 (%2,64)	3 (%1,99)	1 (%0,66)	-	-	-

68 TBF Disciplinary Board Decisions (2014-2018), 13-volume book series, Ankara.

Disobeying the Injunction and the Decision of the Disciplinary Committee	2 (%1,32)	1 (%0,66)	-	1 (%0,66)	-	-
Affecting Competition Result	2 (%1,32)	2 (%1,32)	-	-	-	-
Not Participating in the National Competition	1 (%0,66)	-	-	1 (%0,66)	-	-
Unfair use of Documents and Counter feausance	1 (%0,66)	1 (%0,66)	-	-	-	-
Total	151 (%100)	121 (%80,13)	17 (%11,26)	7 (%4,64)	5 (%3,31)	1 (%0,66)

C. TVDC Decisions

According to Table 3.7⁶⁹, it has been observed that decisions have been made on mostly on the athletes (81 decisions) and the sports clubs (68 decisions); least on the provincial representatives (2 decisions) and the referees (12 decisions). It has been determined that the disciplinary penalties enacted on the athletes are mostly related to the constraint from the competition (63 penalties) and at least ineligibility penalty (2 penalties).

Table 3.7. Distribution of disciplinary proceedings in volleyball according to the parties

Judged Parties	The number of provisions	Constraint from the competition	Warning	Ineligibility	Fine	Injunction	Not to be punished	Ineligibility and Fine	Playing without spectators and Fine	Forfeit by default and Stadium Ban
Athlete	81 (%31,64)	63 (%24,61)	12 (%4,69)	2 (%0,78)	-	4 (%1,56)	-	-	-	-
Sports Club	68 (%26,56)	1 (%0,39)	48 (%18,75)	-	15 (%5,86)	-	2 (%0,78)	-	1 (%0,39)	1 (%0,39)
Trainer	61 (%23,83)	49 (%19,14)	8 (%3,13)	2 (%0,78)	-	1 (%0,39)	1 (%0,39)	-	-	-
Club Manager and Employees	32 (%12,49)	4 (%1,56)	5 (%1,95)	20 (%7,81)	-	-	-	3 (%1,17)	-	-
Referee	12 (%4,70)	-	6 (%2,35)	6 (%2,35)	-	-	-	-	-	-
Provincial Representative	2 (%0,78)	-	2 (%0,78)	-	-	-	-	-	-	-
Total	256 (%100)	117 (%45,70)	81 (%31,65)	30 (%11,72)	15 (%5,86)	5 (%1,95)	3 (%1,17)	3 (%1,17)	1 (%0,39)	1 (%0,39)

69 Data obtained with the letter of TVF dated 23.01.2020 and numbered 119404.

As seen in Table 3.8⁷⁰, it has been determined that disciplinary violations (256 violations) are mostly related to rude, obscene, humiliating behaviour (66 violations), insult (56 violations), and unintentional acts violations (51 violations); it is at least related to anti-doping rule violations (2 violations), counterfeasance (2 violations) and rude and improper behaviour violations (1 violation).

Table 3.8. Distribution of disciplinary violations in volleyball branch

Disciplinary Violation	The number of provisions	Athlete	Sports Club	Trainer	Club Managers and Employees	Referee	Provincial Representative
Rude, Obscene, Humiliating Behaviour	66 (%25,75)	26 (%10,15)	-	30 (%11,70)	8 (%3,12)	1 (%0,39)	1 (%0,39)
Insult	56 (%21,86)	28 (%10,94)	-	14 (%5,46)	14 (%5,46)	-	-
Unintentional Acts	51 (%19,92)	-	42 (%16,41)	-	3 (%1,17)	5 (%1,95)	1 (%0,39)
Act Against Sportsmanship	17 (%6,63)	9 (%3,51)	1 (%0,39)	4 (%1,56)	3 (%1,17)	-	-
Intentional Acts	17 (%6,63)	2 (%0,78)	4 (%1,56)	5 (%1,95)	1 (%0,39)	5 (%1,95)	-
Field Events	15 (%5,85)	-	15 (%5,85)	-	-	-	-
Acting Against Sports Discipline	5 (%1,95)	5 (%1,95)	-	-	-	-	-
Kicking, Headbutt, Punching or Other Ways of Hitting or Assault and Battery	5 (%1,95)	1 (%0,39)	-	3 (%1,17)	1 (%0,39)	-	-
Ugly and Bad Cheering	5 (%1,95)	-	5 (%1,95)	-	-	-	-
Preventing the Competition to Continue and Assault and Battery	5 (%1,95)	5 (%1,95)	-	-	-	-	-
Assault and Battery	5 (%1,95)	3 (%1,17)	-	1 (%0,39)	1 (%0,39)	-	-
Preventing the Competition to Continue	4 (%1,56)	-	-	3 (%1,17)	1 (%0,39)	-	-
Anti-doping Rule Violations	2 (%0,78)	2 (%0,78)	-	-	-	-	-
Counter feasance	2 (%0,78)	-	1 (%0,39)	1 (%0,39)	-	-	-
Rude and Improper Behaviour	1 (%0,39)	-	-	-	-	1 (%0,39)	-
Total	256 (%100)	81 (%31,72)	68 (%26,55)	61 (%23,79)	32 (%12,48)	12 (%4,68)	2 (%0,78)

70 Data obtained with the letter of TVF dated 23.01.2020 and numbered 119404.

According to Table 3.9⁷¹, it is seen that objections to the ACYSM have been made in 7 files and the objections were mostly related to intentional acts (3 decisions) disciplinary violations. As a result of the objections, it has been decided that 6 objections have been refused and not to render a decision for 1.

In addition, 2 of the objected 7 ACYSM decisions (regarding intentional acts violation) were requested to for correction of decision, and 1 of these requests resulted in refusal and 1 with an acceptance decision.

Table 3.9. Distribution of files objected to ACYSM against TVFDC decisions

ACYSM Decisions upon Objection	The number of files	Refusal of the Objection	Not to be Decided
Intentional Acts	3 (%42,86)	3 (%42,86)	-
Rude, Obscene, Humiliating Behaviour	1 (%14,29)	1 (%14,29)	-
Insult	1 (%14,29)	1 (%14,29)	-
Preventing the Competition to Continue and Assault and Battery	1 (%14,29)	-	1 (%14,29)
Acting Against Sports Discipline	1 (%14,29)	1 (%14,29)	-
Total	7 (%100)	6 (%85,73)	1 (%14,29)

IV. DISCUSSION

According to the results of the research, it is seen that disciplinary proceedings in athletics (Table 3.2) were mostly related to anti-doping rule violations (67.06%). Doping violations by athletes in athletics, as included in Article 2 of Turkish Anti-Doping Regulation (TADR)⁷², seem to be caused by the actions such as identifying a prohibited substance in the sample taken from the athlete, using or attempting to use a prohibited substance or method, refraining from giving a sample, refusing to give or not giving a sample, breaking or attempting to disrupt any part of the doping control, cheating or attempting to cheat. Doping violations committed by trainers are because of applying or attempting to apply a prohibited substance or method to the athlete in or out of competition according to Article 2.8. of the TADR.

Since the use of drugs to increase performance is considered unethical, international sports organizations banned the use of doping. Athletes also take various measures to avoid doping violations that are considered unethical⁷³. In CAS, after the objections made against the decisions of FIFA, mostly

71 Data obtained with the letter of TVF dated 23.01.2020 and numbered 119404.

72 Turkey Anti-Doping Regulation of 1 January 2021. See <http://www.tdmk.org.tr/wpcontent/uploads/2020/12-/TU%CC%88RKI%CC%87YE-DOPI%CC%87NGLE-MU%CC%88CADELE-TALI%CC%87MATI2021 - V-1.0.pdf>

73 Tayade, M. C./Latri, R. G. (2017) "Doping In Sports: Physiology Review", Medworld -Asia International Publishers, Vol.2, N.3, p.5.

the disputes regarding disciplinary penalties are examined, and most of these disputes are related to anti-doping rule violations⁷⁴. Doping is essentially a form of cheating⁷⁵ performed by athletes, and according to the rules set by the World Anti-Doping Agency (WADA), cheaters are tried to be identified. Many studies have been conducted in the literature to determine the actual doping usage rates of athletes operating in various sports branches⁷⁶. In the study conducted by Ulrich et al., (2018)⁷⁷, the estimated average doping violation of athletes participating in the 2011 World Championships in Athletics (WCA) and 2011 Pan-Arab Games (PAG) has been indicated to be well above the official results (WCA official rate: 0.5%, estimated rate: 43.6 – PAG official rate: 3.6%, estimated rate: 57.1%).

Doping violations have serious consequences such as long-term ineligibility, the cancellation of the degrees achieved in the competitions, and the return of the rewards⁷⁸. The main reason for the prohibition of the use of performance-enhancing drugs is to provide equal opportunities for athletes, the health hazards of doping, and the exemplary effect of non-drug sports for the public⁷⁹. Many studies have shown that certain prohibited substances used by athletes cause serious health problems and diseases⁸⁰. Why do athletes resort to doping violations despite these negative effects? The answer to this question has been investigated in various studies. In a study conducted by Özbek and Doğaner⁸¹, with bodybuilding, wrestling, and kickboxing athletes, it was

74 Rigozzi, Antonio/Besson, Sébastien/Mcauliffe, William (2016) “International Sports Arbitration”, Europe – an, Middle Eastern and African Arbitration Review, p.6.

75 Lenard, p.181.

76 Striegel, Heiko/Ulrich, Rolf/Simon, Perikles (2010) “Randomized Response Estimates for Doping and Illicit Drug Use in Elite Athletes”, Drug and Alcohol Dependence, Vol.106, N.2-3, p.230–232; Pitsch, Werner/Emrich, Eike (2012) “The Frequency of Doping in Elite Sport: Results of a Replication Study”, International Review for the Sociology Sport, Vol.47, N.5, p.559–580; Dietz, Pavel/Ulrich, Rolf/Dalaker, Robert/Striegel, Heiko/Franke, Andreas G./Lieb, Klaus/Simon, Perikles (2013) “Associations Between Physical and Cognitive Doping—A Cross-Sectional Study in 2.997 Triathletes”, PLoS One, Vol.8, N.11, e78702; Schroter, Hannes/Studzinski, Beatrix/Dietz, Pavel/Ulrich, Rolf/Striegel, Heiko/Simon, Perikles (2016) “A Comparison of the Cheater Detection and the Unrelated Question Models: a Randomized Response Survey on Physical and Cognitive Doping in Recreational Triathletes”, Plos One, Vol.11, N.5; Pitsch, Werner/Emrich, Eike/Klein, Markus (2016) “Doping in Elite Sports in Germany: Results of a www Survey”, European Journal for Sport and Society, Vol.4, N.2, p.89–102.

77 Ulrich, Rolf/Pope, Harrison, G./Cleret, Lea/Petroczi, Andrea/Nepusz, Tamas/Schaffer, Jay/KanayaMa, Gen/ Comstock, R. Dawn/Simon, Perikles (2018) “Doping in Two Elite Athletics Competitions Assessed by Randomized-Response Surveys”, Sports Medicine, Vol.48, N.1, p.211-219.

78 Turkey Anti-Doping Regulation of 1 January 2021. See <http://www.tdmk.org.tr/wpcontent/uploads/2020/12/TU%CC%88RKI%CC%87YE-DOPI%CC%87NGLE-MU%CC%88CADELE-TALI%CC%87MATI2021 - V-1.0.pdf>

79 Tayade/Latri, p.5.

80 Striegel, Heiko/Simon, Perikles/Frisch, Steffan (2006) “Anabolic Ergogenic Substance Users in Fitness-Sports: a Distinct Group Supported by the Health Care System”, Drug and Alcohol Dependence, Vol.81, N.1, p.11-19; Amsterdam, Jan Van/Opperhuizen, Antoon/Hartgens, Fred, (2010) “Adverse Health Effects of Anabolic-Androgenic Steroids”, Regulatory Toxicology and Pharmacology, Vol.57, N.1, p.117– 123; Ntoumanis, Nikos/Ng, Johan Y. Y./Barkoukis, Vasilis/Backhouse, Susan (2014) “Personal and Psychosocial Predictors of Doping Use in Physical Activity Settings: a Meta-Analysis”, Sports Medicine, Vol.44, N.11, p.1603-1624; Hoff, David, (2015) “The Significance of Social Learning Processes for Doping Use in the Elite Sport Environment: an Interview Study of AAS-Using Athletes, In Malmö, Sweden: Research Seminar Series in Sport Sciences, Malmö University, retrieved from http://idrottsforum.org/wpc/Nyent/uplo-ads/2015/02/David-Hoff_doping.pdf; Atienza-Macias, Elena (2018) “Public Health Law Perspectives: Nutritional Supplements and Doping in Sports”, International Journal of Law and Public Administration, Vol.1, N.1, p.1-7.

81 Özbek, Oğuz/Doğaner, Seçkin (2019) “Doping in Sports: Athletes’ and Coaches’ Views. International Journal of Sports, Exercise & Training Sciences, Vol.5, N.4, p.163-174.

emphasized that the participants preferred the use of doping for rapid muscle development and increased performance, and a better physical appearance. Lentillon et al.⁸², stated that young cyclists do not care about the health problems that may be caused by prohibited substance use and focus on performance improvement in a short time. Petróczi and Aidman⁸³, emphasized that the use of doping is a purposeful act rather than a reflexive act. Wagner⁸⁴, stated that IAAF was an “*anti-doping corporate entrepreneur*” in the establishment of WADA and that he considered doping as the biggest problem that athletics athletes could face. These studies coincide with the research results and it appears that doping violations in athletics are an important problem for athletes. Accordingly, it is important to raise awareness of athletes by creating awareness⁸⁵ about the potential harms of doping in order to reduce doping violations.

Within the scope of the research, it was found that the disciplinary proceeding carried out in basketball (Table 3.5) was mostly related to violations of acting against the directives (45.33%), attack on personal rights, insult and threat (15.24%), ugly and bad cheering (11.54%) and spectator events (10.76%).

In the Article 34 of the TBF Disciplinary Directive titled “Acting against the directives”, it is stated that “*individuals or clubs that violate the provisions of the legislation on basketball, TBF regulations, basketball game rules will be punished with disciplinary penalties specified in this directive unless there is a separate sentence in this regard*”. It has been observed that sports clubs are punished within the scope of disciplinary violations of “acting against the directives” such as lack of qualifications of the playground and the stadium, improper working of lighting, generator, air conditioning, heating, ventilation systems of the stadium, taking spectator above the capacity into the stadium, not taking first aid measures, violation of the requirement to have a medical team and ambulance before the competition, using the announcement system against the rules, and similar deficiencies specified in other directives, and due to the fact that the officers and sportsman are not wearing the identical type of uniform.

In Article 39/1 of the TBF Disciplinary Directive, within the scope of the regulation: “*The clubs responsible for making humiliating, provocative or harassing cheers inside or outside the halls where the competitions are played, collectively, with words, and actions or similar means, are punished with fines, closing the hall and playing without spectators, depending on the severity of the event*”, therefore sports clubs were punished for violation of “ugly and bad cheering”.

82 Lentillon-Kaestner, Vanessa/Hagger, Martin S./Hardcastle, Sarah (2012) “Health and Doping in Elite-Level Cycling”, Scandinavian Journal of Medicine & Science in Sports, Vol.22, N.5, p.596-606.

83 Petróczi, Andrea/Aidman, Eugene (2008) “Psychological Drivers in Doping: the Life-Cycle Model of Performance Enhancement”, Substance Abuse Treatment, Prevention, and Policy, Vol.3, N.1., p.1-12

84 Wagner, Ulrik (2011) “Towards the Construction of the World Anti-Doping Agency: Analyzing the Approaches of FIFA and the IAAF to Doping in Sport”, European Sport Management Quarterly, Vol.11, N.5, p.445-470.

85 Allen, Justine/Taylor, John/Dimeo, Paul/Dixon, Sarah/Robinson, Leigh (2015) “Predicting Elite Scottish Athletes’ Attitudes Towards Doping: Examining the Contribution of Achievement Goals and Motivational Climate”, Journal of Sports Sciences, Vol.33, N.9, p.899-906.

In Article 38/1 of the TBF Disciplinary Directive, it is stated that “*clubs responsible for violating the rules on ensuring security, order, and discipline by the spectator, officials, basketball players, and other members individually or collectively can be punished*”. Within the scope of this article, sports clubs were punished within the scope of “spectator events” violations due to the throwing of foreign matters such as water bottles, lighters or coins on the field, the use of stun grenades, flammable or caustic materials in the stadiums, the entrance of the spectators or the involvement of the spectators, athletes or club officials in a fight.

Disciplinary proceedings about athletes, club managers and officials, and trainers in basketball were mostly about the attack on personal rights, insult and threat violations (15.24%, Table 3.5). According to Article 31 of the TBF Disciplinary Directive, within the scope of the regulation: “*Basketball players, club managers, and officials, competition officials or officials who, in any way, insult, swear, threaten, or attack personal rights of TBF or its members, competition officials, basketball players, managers or other related clubs and persons, are punished*.” these persons were punished within the scope of violation of “attack on personal rights, insult, and threat”.

Within the scope of the research, it was observed that the disciplinary proceeding carried out in volleyball (Table 3.8) was mostly related to violations of rude, obscene, humiliating behaviour (25.75%), insult (21.86%) and unintentional acts (19.92%).

Disciplinary proceedings about club managers and officials and trainers in volleyball were mostly conducted on insult and violations of rude, obscene, and humiliating behaviour (Table 3.8). Within the scope of Article 58 of the TVF Disciplinary Directive, those who insult or swear at any person or group during the competition are punished within the scope of “insult” violation. Within the scope of Article 57 of the TVF Disciplinary Directive, those who act contrary to sports discipline against any person, those who make degrading movements with their hand, arm, or body movements, or those who utter words are punished within the scope of “rude, obscene, humiliating behaviour” violation.

It has been observed that the disciplinary proceedings made against sports clubs in volleyball are mostly related to unintentional acts and field events (Table 3.8). Unintentional acts are defined in Article 32 of the TVF Disciplinary Directive, as “*unintentional non-execution of an action that is obliged to be made for the Federation and the competent authorities and organs, or to be fulfilled incompletely, incorrectly or exceeding the time*.” Field events, regulated in Article 44/1 of the TVF Disciplinary Directive, include the same subject and action types as “Spectator events” violation in the TBF Disciplinary Directive.

V. CONCLUSION

Between January 1, 2014 and January 1, 2019; There are clear differences between the types of disciplinary violations that occur in athletics, a branch of individual sports, and team sports (basketball and volleyball). For instance, there has been no disciplinary proceeding in athletics regarding the ugly and bad cheering and spectator / field events that occur frequently in basketball and volleyball.

In athletics, although disciplinary proceedings regarding anti-doping rule violations (67.06%) are made mostly, only 0.48% of disciplinary proceedings in basketball and only 0.78% in volleyball are related to anti-doping rule violations (Table 3.2, Table 3.5, Table 3.8). This result shows that the types and frequencies of disciplinary violations occur according to the types of sports branches.

In athletics, disciplinary proceedings were made mostly for anti-doping rule violations. In terms of the party, most of the proceedings were made on athletes and trainers. As a result of these proceedings; mostly ineligibility and constraint from the competition penalties were enacted.

In basketball, disciplinary proceedings were made mostly for acting against the directives, attacks on personal rights, insults and threats, ugly and bad cheering, and spectator events. In terms of the party, most of the proceedings were made on sports clubs and athletes. As a result of these proceedings; mostly fine and warning penalties were enacted.

In volleyball, disciplinary proceedings were made mostly for rude, obscene, humiliating behaviour, insult, and unintentional acts. In terms of the party, most of the proceedings were made on athletes and sports clubs. As a result of these proceedings; mostly constraint from the competition and warning penalties were enacted.

Within the scope of the research results, bilateral interviews with the people who committed the disciplinary violations regarding the disciplinary violations most common in the branches of athletics, basketball and volleyball shall be conducted to investigate the reasons for these people to commit disciplinary violations and these people can be informed by developing suggestions to reduce these violations. It is important to reduce disciplinary violations in order to carry out sports activities in a fair play understanding. For this purpose, the federation's disciplinary directives shall be rearranged in a way to increase the deterrence of disciplinary violations.

In most of the modern systems for the resolution of sports law disputes, arbitration and mediation method are applied together like in the CAS system. On the other hand, the mediation method is not applied in Turkey. ACYSM is in charge of disciplinary proceedings regarding all sports branches except football, and it works only with seven members. For this reason, disputes cannot be resolved quickly and effectively. If the pre-arbitration mediation method is applied, the workload of the ACYSM can be reduced and the disputes can be resolved faster due to the disputes resolved during the mediation phase. In addition, mediation is cheaper, faster, and more time-efficient than other ADR methods. In mediation, the parties establish an open dialogue, recognize the events causing the conflict and cooperate to seek a solution. Due to the aforementioned positive features of mediation, it is considered that it would be beneficial to implement the mediation-arbitration model in the resolution of sports disputes in Turkey.

Since there is not enough research in other sports branches regarding sports discipline trials, disciplinary violations in other sports branches shall be detected in future studies and suggestions shall be developed for these sports branches.

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