

Types of Disputes and Dispute Resolution Mechanisms

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Starting Point: The Rule of Law

Constitutional right to access to courts

Art. 6 European Convention on Human Rights :

„In the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.“

Alternative to state court litigation:

- arbitration, but only if arbitration is equivalent to litigation before state courts

Disputes in Sports:

- subordination → disciplinary sanction
- equals: contracts within a commercial environment
- equals: labour relationship → player contracts

How does sport deal with disputes of „equals“?

- Sponsorship/television contracts
- player contracts

„Subordination“

- disciplinary sanctions, transfer decisions by federations
- civil law disputes
- right to review by state court unless....
- arbitration agreement through reference to federation rules

Why arbitration in international sports?

- international harmonisation of decisions
- specialized judges
- speed
- low cost
- procedural versatility
- easy to enforce internationally

Arbitration is a legally admissible substitute for state court only if the arbitration fulfills certain minimum requirements

- („voluntary“) agreement to arbitrate
- independence of the arbitrators
- due process
- „control“ of the arbitral award by state courts („recours“ against CAS awards)

Vielen Dank!

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