

EXTENDED SUMMARY

Is it a coincidence that the disciplinary and arbitration process in sports law are not independent and impartial even though as a signatory state the Republic of Türkiye is obliged to comply with the ECHR and the additional protocols that we have signed? Or are these violations of the rights the general structure of the Turkish Judiciary and “Turkish Style” Governance? What structural problems do the ECtHR judgements point to in our country?

It is possible to answer these questions with the determination or proposition that human rights problems related to sports justice are the reflection of the political and economic fluctuations tackled by the Republic of Türkiye in the judicial world.

Nevertheless, it is necessary to be hopeful for the Republic of Türkiye, which is still a member state of the Council of Europe, for developing a human rights approach in sports justice. After the decisions of violations of related rights, the Republic of Türkiye has taken steps towards an independent and impartial sports judiciary, which is the basis of the violations. It is impossible to expect fair judgements in terms of respect for private life and freedom of expression if the sports governing bodies, disciplinary bodies and arbitration committee are not independent and impartial and is subject to all kinds of economic and political fluctuations.

However, although existence of many impeding sports governing bodies, disciplinary and arbitration process across the Council of Europe zone it has been tried to settle a fairly new orientation for the human rights approach in sports justice. With the Mutu and Pechstein judgement of the ECtHR in 2018, a minimum standard on human rights in lex sportiva jurisdiction has been set. The Mutu and Pechstein judgement also triggered the judgements for the applicants named Ali Rıza and Serkan Akal. The violation judgements for Ali Rıza and Serkan Akal became a legal elaborated reference for subsequent applications as well applications brought against Türkiye.

As for Türkiye, following a large number of violation judgements clustered under Article 6 of the ECHR, therefore the law was amended. With the legal amendment made to the Law on Regarding the Establishment and Duty of Turkish Football Federation in April 2022; ECtHR standards were established in terms of the composition of the first instance judicial bodies, the

arbitration comitee of the election of the two bodies's members, the duties of the members during their term of Office and the procedure.

What will happen next for the sustainability of the European Human Rights Standard, remains to be seen. As of the new amendment, it is possible to predict that violations of the rights to respect for private life and freedom of expression will at least decrease due the existance of an independent and impartial sports bodies's judgements. However, the implementation of the legislative amendment in substantive and procedural law, its sustainability and auditability will make this prediction real.

European Human Rights Standards should be applied to the management of sports activities from the moment of the establishment of the legal relationship in sports law. In this way, it can be ensured that this standard can be applied in the Republic of Türkiye in terms of procedural and substantive rights in lex sportiva jurisdiction.

Although the Republic of Türkiye has taken important steps as of the ECHR judgments, in addition it should be noted that much remains to be done. Specialised sports courts should be established for the disputes related sports law that are not subject to mandatory arbitration. In this regard, specialised lawyers, judges, prosecutors should be trained by the Ministry of Justice.

Furthermore the most significant step is Article 59 of the Constitution of the Republic of Türkiye are to be changed because of the fact that the finality of the decision rendered as a result of compulsory arbitration proceedings in disputes regarding the issue is regulated in Article 59 of the Constitution of the Republic of Türkiye. Moreover, this issue is important in terms of the national human rights jurisprudence that is to be made effective and sustainable in our country.

An independent and impartial judiciary, respect for human rights and protection of human rights is a vital issue not only for sports law but also for the legal system of the Republic of Türkiye.

Unless the structural problems in the governing and judiciary are solved on a national basis, it is inevitable that endless violations of the state's positive obligations regarding procedural and substantive law will occur.

In order to make human rights effective in sports justice and to prevent new violations, the European Human Rights Standards must be accepted as the national human rights standard.