

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI
ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.01 RAQAMLI
ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

XODJIMUROTOV SHERZOD ABDAKIMOVICH

**PROFESSIONAL FUTBOLCHILAR MEHNAT SHARTNOMALARINING
HUQUQIY AHAMIYATI**

12.00.03 – Fuqarolik huquqi. Tadbirkorlik huquqi.
Oila huquqi. Xalqaro xususiy huquq

yuridik fanlar bo'yicha falsafa doktori (PhD) dissertasiyasi

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KIRISH (Falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Bugungi kunda futbolchilarning transferlari, futbolchilar va klublar o'rtasidagi mehnat munosabatlari dunyodagi eng qizg'in muhokama qilinadigan mavzulardan biridir. Dalillar shuni ko'rsatadiki, futbolchilarga nisbatan hali ham boshqa turdagi ishchilar kabi munosabatda bo'linmaydi. Aslida, futbolchilar mehnat munosabatlari bilan bog'liq qiyin vaziyatda, ular ish beruvchilarni osongina almashtira olmaydilar yoki boshqa futbol klublariga murojaat qilib, agar xohlasalar ham, ularga qo'shila olmaydilar. Buning o'rniga, klublar futbolchilarni tovar kabi sotib olishadi va sotadilar.¹ Nafaqat futbol sohasida, balki boshqa sohalarda ham har qanday ishchi o'z ish beruvchisi bilan mehnat shartnomasini bekor qilishi va o'z xatti-harakatlari bilan yetkazishi mumkin bo'lgan har qanday zararni to'lashi sharti bilan boshqasi bilan mehnat shartnomasini imzolashi mumkin.² Agar futbolchining sobiq klubi va yangi klub transfer qiymati bo'yicha kelishuvga erishmagan bo'lsa, futbolchi hozirgi klubi bilan amalda shartnomasi mavjud bo'lgan taqdirda uning boshqa klubga o'tishini talab qila olmaydi. FIFAning 2001-yil 24-avgustdagi futbolchilarning maqomi va transferi bo'yicha qayta ko'rib chiqilgan FIFA qoidalarini to'g'risidagi xatida ta'kidlanganidek, "shartnomalar barqarorligi futbol klublar, futbolchilar va jamoatchilik nuqtayi nazaridan juda muhimdir". "Shuning uchun futbolchilar va klublar o'rtasidagi munosabatlar futbolning o'ziga xos ehtiyojlariga javob beradigan va futbolchilar va klublarning tegishli manfaatlarini o'rtasida to'g'ri muvozanatni ta'minlaydigan va sport musobaqalarining muntazamligi va to'g'ri ishlashini ta'minlaydigan tizim bilan tartibga solinishi kerak".³

FIFA futbolchilarining Maqomi va Transferi to'g'risidagi Reglamentning 17-moddasiga binoan, FIFA Nizolarni hal qilish palatasi (NHP) va Lozannadagi sport arbitraj sudi (CAS) professional futbolchilar va ularning klublari o'rtasida xalqaro miqyosda yuzaga kelishi mumkin bo'lgan mehnat nizolarini ko'rib chiqadi. Yuqoridagi qoidalar bir tomondan Yevropa Komissiyasi va boshqa tomondan FIFA va UEFA o'rtasidagi 2001-yildagi Jentlmenlik kelishuvining natijasi edi.⁴

O'shandan beri, so'nggi 20 yil ichida futbol katta o'zgarishlar sodir bo'ldi, futbol klublarining daromadlari o'sdi, futbolchilarning iqtisodiy qiymati oshdi va klublar bilan birgalikda transfer to'lovlari xarajatlari ham misli ko'rilmagan darajaga ko'tarildi. FIFAning 2019-yilgi global transfer bozori hisobotiga ko'ra, xalqaro transferlarning qiymati 2019-yilda 7,35 milliard AQSH dollarini tashkil etdi, bu 2018-yilga nisbatan 5,8 foizga ko'pdir.⁵

¹ Ushbu ilmiy ishlar dissertatsiyaning foydalanilgan adabiyotlar ro'yxati qismida keltirilgan.

² Ushbu ilmiy ishlar dissertatsiyaning foydalanilgan adabiyotlar ro'yxati qismida keltirilgan.

³ FIFA Circular letter, on Revised FIFA Regulations for the Status and Transfer of Players, 24 August 2001, <https://resources.fifa.com/image/upload/769-revised-fifa-regulations-for-the-status-and-transfer-players-500345.pdf?cloudid=dml3hvtgzmjkb5hixd>

⁴ European Sports Law and Policy Bulletin, 1/2011, Contractual Stability in Football, www.sportslawandpolicycentre.com/Bulletin%20I_2011.pdf

⁵ FIFA Global Transfer Market Report, (2019) <https://resources.fifa.com/image/upload/global-transfer-market-report-2019-men.pdf?cloudid=x2wrqjstwjaoainncnod>

Yuqori ahamiyat kasb etishiga qaramay, O‘zbekistonda professional futbolni rivojlantirish bilan bog‘liq masalalar, futbolchi va uning futbol klubi o‘rtasidagi mehnat munosabatlari deyarli hech qachon ilmiy tadqiqot mavzusi bo‘lmagan.

So‘nggi bir necha yil ichida “Qonun ustuvorligini ta‘minlash va sud-huquq tizimini yanada isloh qilish”ga bag‘ishlangan O‘zbekiston Respublikasining 2017–2021-yillarga mo‘ljallangan beshta ustuvor yo‘nalishi bo‘yicha Harakatlar strategiyasining ikkinchi yo‘nalishiga kiritilgan masalalarning ahamiyatiga katta e‘tibor qaratildi.¹ U fuqarolik nizolarini hal qilish mexanizmini o‘z ichiga olganligi hamda yangi Mediatsiya instituti joriy etilganligi sababli yangi bosqichga ko‘tarildi. Bundan tashqari, alohida vazifa O‘zbekiston Respublikasi Adliya vazirligiga yuklatilgan bo‘lib, uning 208-bandida Adliya vazirligi O‘zbekiston Respublikasi Bandlik va Mehnat munosabatlari vazirligi va O‘zbekiston Respublikasi Moliya vazirligi bilan hamkorlikda “O‘zbekiston Respublikasining ayrim qonun hujjatlariga o‘zgartish va qo‘shimchalar kiritish to‘g‘risida”gi O‘zbekiston Respublikasi Qonuni loyihasini ishlab chiqish uchun mas‘ul ekanligi nazarda tutilgan. Boshqa bir qator mamlakatlarda futbol allaqachon xususiy sektorning bir qismi sifatida tan olinganligi sir emas. O‘zbekiston Respublikasi Prezidentining 2019-yil 4-dekabrda PF–5887-sonli Farmoni bilan “futbol sohasiga xususiy investitsiyalarni keng jalb etish va ularni rag‘batlantirish, futbol sohasini bozor mexanizmlari asosida boshqarish, futbol klublarini xususiy sektorga o‘tkazish hamda ular orasida sog‘lom sport raqobati muhitini yaratish” aniq ko‘rsatilgan bo‘lib bu bizning futbol klublarimizni qiynab kelayotgan muammolardan biri bo‘lib hisoblanadi.²

Mazkur ilmiy-tadqiqot ishi ma‘lum bir darajada, O‘zbekiston Respublikasining “Xalqaro arbitraj to‘g‘risida”gi Qonunida (2020-yil), O‘zbekiston Respublikasi Prezidentining 2017-yil 7-fevraldagi “O‘zbekiston Respublikasini yanada rivojlantirish bo‘yicha Harakatlar strategiyasi to‘g‘risida”gi PF–4947-sonli Farmonida, O‘zbekiston Respublikasi Prezidentining 2019-yil 4-dekabrda “O‘zbekistonda futbolni rivojlantirishni mutlaqo yangi bosqichga olib chiqish chora-tadbirlari to‘g‘risida”gi PF–5887-son Farmonida, O‘zbekiston Respublikasi Vazirlar Mahkamasining 2020-yil 22-maydagi “Hududiy futbol assotsiatsiyalari faoliyatini yanada qo‘llab-quvvatlash chora-tadbirlari to‘g‘risida”gi 311-sonli qarorida belgilangan vazifalarni samarali amalga oshirilishiga yordam beradi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo‘nalishlariga mosligi. Dissertatsiya tadqiqoti respublika fan va texnologiyalari rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma‘naviy-ma‘rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishiga muvofiq bajarilgan.

Muammoning o‘rganilganlik darajasi. Professional futbolchilar mehnat shartnomalarini huquqiy tartibga solish, ushbu turdagi shartnomalarning iqtisodiy va

¹ O‘zbekiston Respublikasining 2017–2021-yillarga mo‘ljallangan beshta ustuvor yo‘nalishi bo‘yicha Harakatlar strategiyasi Strengthened fairness and independence of the judiciary branch | The Strategy of Actions on Five Priority Areas of Development of the Republic of Uzbekistan for 2017-2021 (reforms.uz)

² O‘zbekiston Respublikasi Prezidentining 2019-yil 4-dekabrda “O‘zbekistonda futbolni rivojlantirishni mutlaqo yangi bosqichga olib chiqish chora-tadbirlari to‘g‘risida”gi PF–5887-son Farmoni

huquqiy ahamiyati, futbolchilar statusini aniqlash, futbolchilar transferi, futbolchilarni boshqa klublarga vaqtincha o'tkazish, o'quv mashg'ulotlari uchun kompensatsiya to'lovi, birdamlik mexanizmi to'lovlari, futbolchilar mehnat shartnomalarining bandlarini to'g'ri shakllantirish, futbolchilarni milliy terma jamoalar ixtiyoriga yuborish, futbolchilar mehnat shartnomalaridan kelib chiqadigan shartnomaviy munosabatlarga oid nizolar, xalqaro standartlar va xorijiy mamlakatlar tajribasi, va sportga oid nizolarda yurisdiksiya masalalari kabilar respublikamizda ilmiy nazariy va amaliy jihatdan tadqiq qilinmagan.

E.Musayev O'zbekistonda sport sohasidagi shartnomaviy munosabatlar shuningdek, sportga oid shartnomalarni huquqiy tartibga solishning dolzarb muammolari mavzularida ilmiy tadqiqot olib borgan. MDH davlatlarida S.Tukmanov, S.Vasilev, A.Aguzarov, N.Kashapov, M.Lebedeva, O.Shevchenko kabi olimlar va boshqa olimlar bu borada ilmiy tadqiqot olib borishgan.

Professional futbolchilar mehnat shartnomalarining huquqiy xarakteri, iqtisodiy va huquqiy ahamiyatini o'rgangan olimlar orasida professional futbol rivojlangan mamlakatlar mualliflari yuqori o'rinni egallaydi. Xususan, S.Vezerill, K.Pijetlovich, J.Jekson, Frans de Veger, J.Dios Krespo Peres, G.Monteneri, V.Megen, P.A.Limbert, O.Ongaro, S. Gardiner, R.Velch, I.Blekshou va Mishel Koluchchi ushbu tadqiqot ishi doirasida ilmiy izlanishlar olib borgan.

Dissertatsiya tadqiqotining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasiga kiritilgan va ilmiy tadqiqotning ustuvor yo'nalishlari doirasida amalga oshirilgan.

Tadqiqotning maqsadi professional futbolchilar mehnat shartnomalarini huquqiy tartibga solish, professional futbolchilar mehnat shartnomalarining iqtisodiy va huquqiy ahamiyati borasida huquqiy ongini oshirishga oid taklif va tavsiyalar ishlab chiqishdan, shuningdek, milliy futbol assotsiatsiyasining ichki qaror qabul qiluvchi organlarida futbol bilan bog'liq nizolarni ko'rib chiqishni FIFAning nizolarni hal qilish tizimini qo'llash orqali takomillashtirishdan iborat.

Tadqiqotning vazifalari:

professional futbolchilar va ularning klublari o'rtasidagi mehnat munosabatlari bo'yicha tadqiqotlar olib borish. O'zbekistonning amaldagi mehnat qonunchiligini professional futbolga oid mehnat munosabatlarni tartibga solish nuqtayi nazaridan takomillashtirish bo'yicha tavsiyalar va takliflar ishlab chiqish;

professional futbolchilar mehnat shartnomalarining tabiatidan kelib chiqib, professional futbolchilar mehnatini fuqarolik-huquqiy hamda mehnat qonunchiligi bilan tartibga solishning qiyosiy huquqiy tahlilini o'tkazish;

amaldagi milliy mehnat shartnomalariga oid qonun hujjatlarini tahlil qilish va ulardagi bo'shliqlarni hisobga olgan holda professional futbolchilar mehnatini huquqiy tartibga solishning o'ziga xos jihatlari to'xtalib o'tish;

futbolchilar va nufuzli futbol klublari orasida mehnatga oid nizolarning kelib chiqish xususiyatlarini aniqlash, ushbu turdagi nizolarni ko'rib chiqishda futbolning o'ziga xosligini hisobga olish;

FIFA qaror qabul qiluvchi organlarining, milliy assotsiatsiyalar ichki tribunallarining va Sport arbitraj sudining futbolga oid nizolarda yurisdiksiyasini

belgilash, shuningdek shunga o'xshash nizolarning taraflari oddiy davlat sudlariga murojaat qilish shartlarini belgilash;

professional futbolchilar mehnat shartnomalarini tartibga solishning dolzarb masalalarini tahlil qilish hamda FIFA va CAS sud amaliyotini milliy futbol assotsiatsiyalar tribunallari qarorlari bilan taqqoslash orqali huquqiy yechimlarni taklif qilish.

Tadqiqotning obyekti professional futbolchilar mehnatiga oid ijtimoiy munosabatlar tizimi hisoblanadi.

Tadqiqotning predmeti professional futbolchilar bilan mehnat shartnomalari tuzishni tartibga solish jarayonida yuzaga keladigan mehnat huquqining alohida institutlarini tartibga soluvchi huquqiy va me'yoriy hujjatlar, ularni qo'llash amaliyoti, professional futbolchilarning mehnat munosabatlariga oid reglamentlardagi nazariy qoidalar majmuidan iborat.

Tadqiqotning usullari tadqiqot olib borishda ilmiy bilishning tarixiylik, tarixiy tahlil, tizimli-tarkibiy, qiyosiy-huquqiy, mantiqiy, ilmiy manbalarni har tomonlama tadqiq etish, induksiya va deduksiya, statistik ma'lumotlarni tahlil qilish kabi usullardan foydalanildi.

Tadqiqotning ilmiy yangiligi quyidagilarni tashkil qiladi:

professional sport sohasida faoliyatni amalga oshiruvchi xodimlar mehnatini huquqiy jihatdan tartibga solinishining hamda sportchilar, murabbiylar bilan mehnat shartnomalarini tuzishning o'ziga xos xususiyatlari asoslantirildi;

sportchi va murabbiyning vaqtinchalik boshqa ish beruvchiga o'tkazilishi (transferlar) haqidagi ya'ni professional futbolchilarning "mavsumlar oralig'ida" vaqtinchalik transferlari (futbolchilar ijarasi) va boshqa ish beruvchilarga (klublarga) doimiy o'tkazilishi bilan bog'liq masalalar, shuningdek sportchilarni tibbiy ko'rikdan o'tkazishning sportchilar bilan mehnat shartnomalarini tuzilishida va bekor bo'lishidagi huquqiy ahamiyati asoslab berildi;

mamlakatda futbolni rivojlantirishga to'sqinlik qilib kelayotgan tizimli muammolar va ularning futbolning xolisligi va yaxlitligiga ta'sir etuvchi xavflari asoslab berildi;

oliy ta'lim muassasalarida futbol klublari, sport ta'lim muassasalari uchun sport huquqshunosi yo'nalishlari bo'yicha malakali mutaxassislar tayyorlashni yo'lga qo'yilishi va uning sport huquqiy munosabatlardagi roli va ahamiyati asoslantirildi.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

professional sport bilan shug'ullanadigan xodimlar mehnatini huquqiy tartibga solishning xususiyatlari ochib berilgan;

professional sport sohasida faoliyat yurituvchi xodimlar mehnatini huquqiy tartibga solishning o'ziga xos jihatlari yuzasidan fikr-mulohazalar bildirildi. Masalan, Belarus Respublikasi Mehnat kodeksining 314²-moddasida sportchilar va murabbiylar bilan tuziladigan mehnat shartnomalari muddatli mehnat shartnomasi sifatida tuzilishi mumkinligi belgilangan. Biroq, ushbu moddada shartnoma tuzilishi mumkin bo'lgan muayyan muddat nazarda tutilmagan. Ya'ni, Futbolchilarning maqomi va transferi bo'yicha FIFA Reglamentida (18-moddaning 2-bandi) shartnomaning minimal muddati u kuchga kirgan kundan boshlab

mavsum oxirigacha bo'lishi kerakligi, shartnomaning maksimal muddati esa besh yil bo'lishi lozimligi belgilab qo'yilgan. Professional futbolchilar bilan mehnat shartnomalari kamida 6 oy va 5 yildan ko'p bo'lmagan muddatga tuzilishi va bu muddat tegishli mamlakatlar milliy qonunchiligi va FIFA Reglamenti qoidalariga bilan belgilanishi lozimligi asoslab berildi;

ba'zi davlatlar milliy qonunchiligida professional sportchining sog'lig'ini muhofaza qilinishi, shuningdek, o'z kasbiy burchlarini samarali bajarishi uchun vaqti-vaqti bilan tegishli tibbiy ko'rikdan o'tishi lozimligi belgilab qo'yilgan. Tibbiy ko'rik birlamchi, davriy va navbatdan tashqari bo'lishi mumkin. Agar sportchilar majburiy tibbiy ko'rikdan o'tmagan bo'lsa, mashg'ulotlarga, musobaqalarda ishtirok etishga ruxsat berilmasligi asoslab berildi;

Futbolchilarning maqomi va transferi bo'yicha FIFA Reglamenti 18.4-moddasida shartnomaning amal qilish muddati tibbiy ko'rikdan muvaffaqiyatli o'tishga yoki ishlash uchun ruxsatnoma berilishiga bog'liq bo'lmisligi aytib o'tilgan. Ya'ni, agar sportchi bilan mehnat shartnomasi tuzilgan bo'lsa-da, lekin u boshqa tibbiy ko'rikdan muvaffaqiyatli o'ta olmasa yoki mamlakatda ishlash uchun ruxsatnoma (mehnat vizasi) ololmasa, sportchi va ish beruvchi (klub) o'rtasidagi mehnat shartnomasi haqiqiy hisoblanib, bekor qilinishi mumkin emas. Ya'ni, agar sportchi bilan mehnat shartnomasi imzolangan bo'lsa-da, lekin u boshqa tibbiy ko'rikdan muvaffaqiyatli o'ta olmasa yoki mamlakatda ishlash uchun ruxsatnoma ololmasa (mehnat vizasi), sportchi va ish beruvchi (klub) o'rtasidagi mehnat shartnomasi bekor qilinishi mumkin emasligi asoslab berildi;

sport klublarining sportchilarni milliy terma jamoalar ixtiyoriga yetib borishini ta'minlashda ularning to'g'ridan-to'g'ri javobgarligi har bir sport turiga boshqaruvni amalga oshiruvchi sport boshqaruv organining tegishli nizomlari va reglamentlarida aks etadi. (FIFAning hamda O'zbekiston Futbol Assotsiatsiyasining Futbolchilar maqomi va transferi to'g'risidagi reglamentning 1-ilovasi 1-moddasi). FIFA Reglamenti, O'zbekiston futbol assotsiatsiyasining Futbolchilar maqomi va transferi bo'yicha Reglamenti qoidalariga asoslanib, futbolchilarni milliy terma jamoalar ixtiyoriga yuborish eng avvalo milliy futbol assotsiatsiyasi zimmasiga yuklatilishi asoslab o'tildi;

Futbolchilarning maqomi va transferi bo'yicha FIFA Reglamentining 18-moddasi professional o'yinchilarning ish beruvchilar bilan tuzilgan mehnat shartnomalari yetarli qonuniy asoslar (just cause) mavjud bo'lgan taqdirda, bir tomonlama tartibda bekor qilinishi mumkinligi qayd etilgan. FIFA Reglamentida ushbu qoidani qo'llashda shartnomalardagi boshqa holatlar ham hisobga olinishi mumkinligi qayd etilgan. Futbolchilarning maqomi va transferi bo'yicha FIFA Reglamentining 14-moddasiga asosan futbolchilar bilan tuzilgan mehnat shartnomasini bekor qilish asoslari (huquqiy asoslar) tahlil qilindi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalari qonunchilik normalari, rivojlangan davlatlar tajribasi tahlili, huquqni qo'llash amaliyoti, shuningdek, statistik ma'lumotlar tahlili natijalarini umumlashtirish shaklidagi va natijalari vakolatli organlar tomonidan tasdiqlanadigan va amalga oshiriladigan sotsiologik tadqiqotlar tahliliga asoslanadi.

Tadqiqot natijalarining ishonchliligi shundan iboratki, tadqiqotda qo'llanilgan usullar, nazariy va ilmiy xulosalar xalqaro ilmiy asoslar va boshqa rasmiy manbalardan olingan ishonchli ma'lumotlar asosida shakllantirilgan. O'rganish jarayonida bildirilgan takliflarning bir qismi amaliyotga tatbiq etilib, tegishli vakolatli organlar tomonidan tasdiqlangan. Tadqiqot natijalari yetakchi milliy va xorijiy nashrlarda chop etilgan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati shundaki, unda ishlab chiqilgan ilmiy-nazariy g'oyalar va qonun hujjatlariga berilgan takliflardan professional futbolchilar mehnat shartnomalarini huquqiy tartibga solish sohasida ilmiy tadqiqotlar olib borishda, tegishli qonun hujjatlarini sharhlashda, milliy qonunchilik va huquqni qo'llash amaliyotini takomillashtirishda, shuningdek, sport huquqi, xalqaro xususiy huquq, mehnat huquqi, fuqarolik huquqi kabi fanlarni o'qitishda hamda uslubiy tavsiyalar ishlab chiqishda foydalanish mumkin.

Tadqiqot natijalarining joriy qilinishi. Tadqiqot ishi bo'yicha olingan ilmiy natijalardan quyidagilarda foydalanilgan:

professional sport sohasida faoliyatni amalga oshiruvchi xodimlar mehnatini huquqiy jihatdan tartibga solishning o'ziga xos xususiyatlari haqidagi taklifdan Oliy Majlis Qonunchilik palatasi tomonidan qabul qilingan va 2021-yil 14-oktabrda Senatga yuborilgan "O'zbekiston Respublikasi Mehnat kodeksini tasdiqlash to'g'risida"gi O'zbekiston Respublikasi Qonunining 503-moddasi 1-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Senatining Sud-huquq masalalari va korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 9-martdagi 9-son dalolatnomasi). Ushbu taklifning joriy qilinishi professional sport sohasidagi xodimlar mehnatini o'ziga xos jihatlarini o'zlashtirishga va huquqiy tartibga solinishini takomillashtirishga xizmat qilgan;

sportchi va murabbiyning vaqtinchalik boshqa ish beruvchiga o'tkazilishi (transferlar) haqidagi taklifdan Oliy Majlis Qonunchilik palatasi tomonidan qabul qilingan va 2021-yil 14-oktabrda Senatga yuborilgan "O'zbekiston Respublikasi Mehnat kodeksini tasdiqlash to'g'risida"gi O'zbekiston Respublikasi Qonunining 503-moddasi yettinchi, sakkizinchi, to'qqizinchi, o'ninchi, o'n birinchi, o'n ikkinchi, o'n uchinchi qismining xatboshilarini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Senatining Sud-huquq masalalari va korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 9-martdagi 9-son dalolatnomasi). Ushbu taklifni amalga oshirilishi sportchi va murabbiyning vaqtinchalik boshqa ish beruvchiga o'tkazilishi (transferlar) tartibini belgilab berishga hamda amaliyotdagi muammolarni hal qilishning aniq asoslantirilgan mexanizmlarini takomillashtirishga xizmat qilgan;

mamlakatda futbolni rivojlantirishga to'sqinlik qilib kelayotgan tizimli muammolar haqidagi taklifdan O'zbekiston Respublikasi Prezidenti tomonidan 2019-yil 4-dekabrda imzolangan "O'zbekistonda futbolni rivojlantirishni mutlaqo yangi bosqichga olib chiqish chora-tadbirlari to'g'risida"gi PF-5887-son Farmonning 2-bobi 14-qismi o'n birinchi, o'n to'rtinchi hamda o'n beshinchi xatboshilarini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Bandlik va Mehnat munosabatlari vazirligining 2022-yil 16-sentyabrdagi 01/00-03/19-

8344-son ma'lumotnomasi). Ushbu taklifning joriy qilinishi O'zbekistonda futbolni rivojlantirishga to'sqinlik qilib kelayotgan bir qancha tizimli muammolarni aniqlanishiga hamda ularga qarshi kurashish uchun kompleks chora-tadbirlar ishlab chiqilishiga xizmat qilgan;

tegishli ta'lim muassasalarida futbol klublari, sport ta'lim muassasalari uchun sport shifokori, sport psixologi, sport farmakologi, sport huquqshunosi va sport diyetologi yo'nalishlari bo'yicha malakali mutaxassislar tayyorlashni tashkil qilish haqidagi taklifdan O'zbekiston Respublikasi Prezidenti tomonidan 2019-yil 4-dekabrda imzolangan "O'zbekistonda futbolni rivojlantirishni mutlaqo yangi boskichga olib chiqish chora-tadbirlari to'g'risida"gi PF-5887-son Farmonning 4-bandi yettinchi xatboshisini tayyorlashda foydalanilgan (O'zbekiston Respublikasi Bandlik va Mehnat munosabatlari vazirligining 2022-yil 16-sentyabrdagi 01/00-03/19-8344-son ma'lumotnomasi). Ushbu taklifni amalga oshirilishi O'zbekistonda ilk bor Toshkent davlat yuridik universitetida "Sport huquqi" bo'yicha magistratura yo'nalishini tashkil etilishiga hamda sport huquqshunosligi bo'yicha malakali mutaxassislarni tayyorlash va ta'minlashga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Tadqiqot natijalari 2 ta xalqaro va 1 ta respublika miqyosida o'tkazilgan ilmiy-amaliy konferensiya va seminarlarda sinovdan o'tgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi bo'yicha jami 12 ta ilmiy ish, shu jumladan, 1 ta monografiya, ilmiy jurnallarda 8 ta (5 ta respublika va 3 ta xorijiy jurnallarda) ilmiy maqola chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tuzilishi kirish, 4 ta bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovadan iborat. Dissertatsiyaning hajmi 156 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish (dissertatsiya annotatsiyasi)** qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo'nalishlariga mosligi, tadqiq etilayotgan muammoning o'rganilganlik darajasi, dissertatsiya tadqiqotining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari bilan bog'liqligi, tadqiqotning maqsad va vazifalari, obyekti va predmeti, usullari, tadqiqotning ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, tadqiqot natijalarining ilmiy va amaliy ahamiyati, ularning joriy qilinganligi, tadqiqot natijalarining aprobatsiyasi, natijalarning e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi yoritib berilgan.

Dissertatsiyaning **"Futbolchilar migratsiyasi"** deb nomlangan birinchi bobida futbolchilar migratsiyasi tahlil qilingan, futbolchilar migratsiyasining birinchi to'lqinlari sodir bo'ladigan ushbu jarayonga ta'sir etuvchi omillar o'rganilgan, futbolchi migratsiyasida etnik va geografik elementlarning roli, shuningdek, futbolchi migratsiyasining futbolning sport turi va futbolchilarning sportchi sifatida professionallashtirilishiga ta'siri hamda bu jarayonda yuqoridagi omillar muhim rol o'ynagan degan xulosaga kelingan. Birinchi bobdan shunday

xulosa qilish mumkinki, zamonaviy futbolning shakllanishida futbol vatani hisoblangan Buyuk Britaniyaning o'rnini va ahamiyati katta bo'lgan. Bundan tashqari, butun dunyo bo'ylab yangi futbol klublarining paydo bo'lishida Britaniya jamoatchiligi muhim rol o'ynagan deyiladi. Teylorning so'zlariga ko'ra, Jenoa kriket va futbol klubi bir guruh ingliz va shotlandiyalik erkaklar tomonidan tashkil etilgan bo'lib, klub tarixi va tabiatiga ko'ra Britaniyaga xos bo'lgan.

Tadqiqot natijalariga ko'ra, muallif shunday xulosaga keladiki, XX-asr davomida ko'p sonli afrikalik iste'dodlarni Fransiyaga ko'chib o'tishida hal qiluvchi omil bo'lgan Fransuz-Marokash ishi sababli Yevropaga ko'chib kelgan afrikalik va lotin amerikalik o'yinchilar soni keskin oshdi. Bundan tashqari, Yevropa davlatlari afrikalik o'yinchilarni arzon ishchi kuchi deb hisoblashgan va afrikalik futbolchilar Yevropa futbol klublari uchun asosiy mehnat manbaiga aylangani aniqlandi. Shuningdek, o'z milliy terma jamoasi sharafini himoya qiladigan professional futbolchilar, agar xohlasalar, boshqa terma jamoaga o'tishlari mumkinligi aniqlandi. Biroq, FIFA Reglamentining ayrim qoidalari bilan futbolchilar boshqa terma jamoaga qachon o'tishlari mumkinligi belgilanishi mumkin. FIFA Futbolchilar maqomi va transferi to'g'risidagi Reglamenti futbolchilarga terma jamoani almashtirishga imkon beradi. FIFA RSTP 7-ilovasining 3-moddasida shunday deyilgan: "Istalgan toifadagi rasmiy o'n bittalik yoki futzal musobaqalarida bir assotsiatsiya sharafini (to'liq yoki qisman) himoya qilgan har qanday futbolchi (boshqa assotsiatsiya jamoasi bilan) xalqaro o'yinda ishtirok etmasligi mumkin. Biroq FIFA RSTP 2-bobi 5-moddasi va 8-moddasida yuqoridagi qoidaga nisbatan istisno mavjud. FIFA Nizomining 8-moddasiga binoan, agar "u hozirgi assotsiatsiyasi uchun" "A" "xalqaro darajadagi rasmiy musobaqada bitta o'yinni (to'liq yoki qisman) o'tkazmagan bo'lsa va rasmiy musobaqadagi xalqaro o'yinda hozirgi assotsiatsiyasi uchun birinchi to'liq yoki qisman ishtirok etayotgan paytda u o'ynashni istagan vakillik jamoasining fuqaroligiga allaqachon ega bo'lsa" degan mazmundagi istisnolar keltirib o'tilgan.

“Professional futbolchilar mehnat shartnomalarining iqtisodiy ahamiyati” deb nomlangan ikkinchi bobda muallif futbolchilarning doimiy va vaqtinchalik transferlari, ularni amalga oshirish shartlari, klublar va futbolchilar uchun transferlar orqali keladigan iqtisodiy daromadlar, xaridor klublarning mashg'ulot kompensatsiyasini to'lash bo'yicha majburiyatlari, vaqtinchalik transferlarning ahamiyati, ularning maqsadi va futbolchilar uchun foydali xususiyatlarini sport nuqtayi nazaridan tahlil qiladi.

Futbolchilar mehnat shartnomalariga salmoqli iqtisodiy ta'sir ko'rsatishi mumkin bo'lgan elementlar va omillar Sh. Rozen, L. Brandes, E. Frank, S. Nuyesh, Koyenigstorfer, Joyerg va Groyeppel-Klein, Andrea va Kunkel, Txilo, Tyorner kabi olimlarning ilmiy yondashuvlari asosida tahlil qilindi.¹ Muallifning xulosalariga ko'ra, *futbolchining yulduzlik holati (star status), futbol klublarining jozibadorligi, professional futbol ligalarining jozibadorligi, stadion atmosferasi, dominant klublarning o'ziga xos xususiyatlari, match kunidagi tushumlar, reklamalar, transfer kompensatsiyasi* kabilar professional futbolchilar transferining ta'sirchanligini \ effektivligini \ samarasini belgilovchi determinantlar hisoblanadi.

¹ Ushbu ilmiy ishlar dissertatsiyaning foydalanilgan adabiyotlar ro'yxati qismida keltirilgan.

Muallif professional futbolchilarning “imidjga bo‘lgan huquqlarini” tan olinishi va himoya qilinishi yuqorida muhokama qilingan boshqa elementlar kabi muhim ekanligini ta’kidlaydi. Professional futbolchilarning imidjga bo‘lgan huquqlarining himoyasini ta’minlash uchun, birinchidan, futbolchilarning mehnat shartnomalariga “imidjga bo‘lgan huquqlar” deb nomlangan bandni kiritish va mustaxkamlash zarur. Transfer muzokaralari doirasida klub imidjga bo‘lgan huquqlar uchun talab etiladigan har qanday xarajatlar masalasini ham hal qilishi kerak. Biroq, futbolchi va uning klubi yoki futbolchining imidjga bo‘lgan huquqlaridan foydalanishdan manfaatdor bo‘lgan har qanday uchinchi shaxs o‘rtasida alohida imidjga bo‘lgan huquqlar bo‘yicha shartnoma tuzilishi va imzolanishi mumkin. Imidjga bo‘lgan huquqlar bo‘yicha shartnoma tuzishda shuni e’tiborga olish kerakki, bunday shartnomalar cheklovlar, soliq muammolari va futbolchilar homiylari va klub homiylari o‘rtasidagi manfaatlar to‘qnashuvi kabi turli muammolarni keltirib chiqarishi mumkin.

Muallif shunday xulosaga keladiki, agar futbolchi boshqa klubga ijaraga beriladigan bo‘lsa, yangi klub futbolchini faqat vaqtinchalik ro‘yxatdan o‘tkazish huquqiga ega bo‘ladi, futbolchining qiymati bilan bog‘liq bo‘lgan iqtisodiy huquqlarga ega bo‘lmaydi. Ba’zi ekspertlarning fikricha, futbolchini ijaraga berish jarayonida klub o‘yinchiga ro‘yxatdan o‘tish huquqini ma’lum muddatga sotadi va shu bilan birga moliyaviy huquqlarini saqlab qoladi, ya’ni bu klubning futbolchiga nisbatan iqtisodiy huquqlarga egalik qilishi qanday qilib pul oqimini yuzaga keltirishi mumkinligiga bir misoldir. Bundan tashqari, FIFA Reglamenti 10-moddasining 3-bandida qayd qilinishicha, futbolchining ijara shartnomasini tuzgan yangi klub futbolchining iqtisodiy huquqlariga ega bo‘lgan klubning yozma roziligisiz futbolchini uchinchi klubga o‘tkazish (transfer) huquqiga ega emas.

Olimlarning (V Manzenreiter, E.Moussa, P.Makdonald, I.Tugbay, C.Levent, L.Oleri, M.Maciyel, A.Valton, L.Vouter, Daan de Yong, B.Kolev, R.Siyekmann, V.Reding, F.Veger, J. Laskovski, E.Musayev, V.Emanuyel, S.Karrik, F.Steve, G.Daniyel, S.Synodinou, I.Blakshou, S.Corinna, J.Jekson, K.Pijetlovich, A.Xanter) futbolchilarning mehnat shartnomasiga ta’sir qilishi mumkin bo‘lgan iqtisodiy omillar bilan bog‘liq mavzularda ilmiy yondashuvlari yaqindan o‘rganilib, o‘yinchilarning mehnat shartnomalarining qiymatiga qanday omillar sezilarli darajada iqtisodiy hissa qo‘shishi mumkinligi haqida xulosalar ishlab chiqilgan.¹

Ushbu bobda muallif futbolchilarni milliy terma jamoalar ixtiyoriga yuborishning ahamiyatini ham ta’kidlab o‘tadi. FIFA Reglamenti 1-Ilovasining 1-moddasida belgilanishicha “Klublar ro‘yxatdan o‘tgan futbolchilarini, agar ular tegishli assotsiatsiya tomonidan chaqirilgan bo‘lsa, millati asosida futbolchi o‘ynash huquqiga ega bo‘lgan mamlakatning vakillik jamoalariga qo‘yib yuborishlari shart.” Biroq, agarda futbolchi milliy assotsiatsiya mashg‘ulot lagerida bo‘lib turgan paytida yoki milliy o‘rtoqlik o‘yinlari paytida jarohat olgan taqdirda, jarohat olgan futbolchining o‘z klubiga qaytish jarayonida tovon puli to‘lash masalalari yuzaga keladi. Bu futbolchi tegishli bo‘lgan milliy assotsiatsiya uchun ham, u bilan mehnat shartnomasiga ega klub uchun ham muammo tug‘dirishi mumkin.

¹ Ushbu ilmiy ishlar dissertatsiyaning foydalanilgan adabiyotlar ro‘yxati qismida keltirilgan.

“Futbolchilarning shartnomaviy munosabatlaridan kelib chiqadigan nizolar” deb nomlangan uchinchi bobda muallif futbolchilar va klublar o‘rtasidagi shartnomalar barqarorligiga tahdid solishi mumkin bo‘lgan bir qancha omillarni ham keltirib o‘tadi. Xususan, futbolchilar va klublar uchun qonuniy asoslar mavjud bo‘lgan taqdirda mehnat shartnomasini bir tomonlama bekor qilish holatlari (*just cause*), futbolchilar va klublar tomonidan mehnat shartnomalarini qonuniy asoslar bo‘lmagan shartlarda bir tomonlama bekor qilish holatlari, sport tamoyillari bilan bog‘liq qonuniy sabablar mavjud bo‘lganda shartnomani bekor qilish (*sporting just cause*) kabilar holatlar FIFA va CAS yurisprudensiyasiga asoslangan alohida keyslar misolida ko‘rib chiqildi.

Olimlarning (F.Veger, de Dios Krespo Peres, G.Monteneri, V.Megen, P.Limbert, Mark Valentin Lens, L.Filippa) ilmiy yondashuvlari asosida muallif futbolchilar va klublar o‘rtasidagi shartnomalar barqarorligiga xavf solishi mumkin bo‘lgan va professional futbolchilar ishtirokidagi shartnomaviy munosabatlardan kelib chiqadigan nizolarga sabab bo‘ladigan asosiy tushuncha va omillarni aniqlagan.¹

Futbolchilar va klublar o‘rtasidagi shartnomaviy munosabatlarda barqarorlikni saqlash sport va biznes nuqtayi nazaridan ikkala tomon uchun ham foydali bo‘lishi mumkin, biroq shartnoma barqarorligiga salbiy ta‘sir ko‘rsatishi mumkin bo‘lgan boshqa omillar ham mavjud. klublar uchun ham, futbolchilar uchun ham mehnat shartnomasini bir tomonlama bekor qilish imkonini beradigan, (ikkala tomon uchun ham) qonuniy asoslarni (*just cause*) beruvchi shartlar va holatlar mavjud. Ular futbolchining klub qarorgohida mavjud emasligi, futbolchining nojo‘ya xatti-harakati va giyohvand moddalarni suiiste‘mol qilganligi bo‘lib, shu sababli klublarga mehnat shartnomalarini bir tomonlama bekor qilish huquqini berishi mumkin.

Klublardan farqli ravishda, agar klublarning futbolchilar oldida maoshlardan qarzdorliklari mavjud bo‘lsa yoki futbolchi tarkibdan chiqarib tashlangan va ro‘yxatdan chiqarilgan bo‘lsa, bunday hollarda futbolchilar mehnat shartnomasini bir tomonlama bekor qilish imkoniyatiga ega bo‘lishi mumkin. Bundan tashqari, klublar va futbolchilar bir-birlari oldidagi majburiyatlarga doimiy ravishda rioya qilishlari kerak, chunki majburiyatlar bajarilmagan paytda mehnat shartnomalari bekor qilingan bo‘lsa futbolchi yoki klub qonuniy asoslar mavjud bo‘lmaganligi uchun mehnat shartnomalarini bir tomonlama bekor qilishi mumkin. Bu *without just cause* holati bo‘lib, ularga nisbatan katta moliyaviy sanksiyalar va sport sanksiyalari qo‘llanilishiga olib kelishi mumkin.

Barchaga ma‘lumki, futbolchilar klublarning aktivlaridir, ular mehnat shartnomasi asosida klublarga daromad keltiradilar. Agar futbolchilar o‘z klublari bilan amalda shartnomaga ega bo‘lsa, boshqa klublar ularga bevosita murojaat qilishlari mumkin emas. Futbolchi ro‘yxatdan o‘tgan klub FIFAning amaldagi reglamentlariga ko‘ra futbolchining qonuniy egasi hisoblanadi. Shunday qilib, klublar futbolchi bilan faqat futbolchi ro‘yxatdan o‘tgan klubning yozma roziligi asosida muloqotga kirishishi mumkin. FIFA va milliy assotsiatsiya reglamentlarida belgilanganidan boshqa shartlarda boshqa klublar futbolchilari bilan uchrashuvlar o‘tkazayotgan yoki boshqa klublar bilan shartnomaga ega futbolchilar bilan

¹ Ushbu ilmiy ishlar dissertatsiyaning foydalanilgan adabiyotlar ro‘yxati qismida keltirilgan.

muloqot qilayotganligi aniqlangan klublar jiddiy huquqiy oqibatlariga duch kelishi mumkin.

FIFA RSTPning 17-moddasi 4-bandiga binoan, shartnoma shartlarini buzgan yoki himoyalangan davr davomida shartnomani buzilishiga olib kelgan harakatlarni sodir etgan klubga sport sanksiyalari, shuningdek moliyaviy sanksiyalar qo'llanilishi mumkin. Agar boshqacha tarzda isbotlanmasa, mehnat shartnomasini uzrli sababsiz bekor qilgan futbolchi bilan shartnoma imzolagan har qanday klub ushbu professionalni qonunbuzarlik sodir qilishga undagan deb hisoblanadi. Klubga milliy va xalqaro miqyosda har qanday yangi futbolchilar bilan ikkita to'liq va ketma-ket ro'yxatdan o'tkazish oynalarida shartnoma imzolash taqiqlanadi.

Shuningdek, futbolchilarning xalqaro miqyosdagi terma jamoadagi majburiyatlarini bajarib qaytib kelishlari vaqt chegaralari, mamlakatlararo sayohatlar nuqtayi nazaridan muammoli bo'lishi mumkin. Agar futbolchi milliy futbol jamoasi sharafini himoya qilishga chaqirilsa va uzrli sabablarsiz o'z vaqtida klubidagi vazifasiga qaytmasa, unday holda bu futbolchi uchun salbiy oqibatlar keltirib chiqarishi mumkin. Agar futbolchi uzrli sabablar keltira olmasa, klub bir tomonlama just cause (qonuniy asoslar) bilan mehnat shartnomasini bekor qilishi mumkin. FIFA RSTPning 8-ilovasining 4-moddasida ko'rsatilganidek, "Shartnoma just cause (qonuniy asoslar) mavjud bo'lsa taraflardan biri tomonidan kompensatsiya to'lamasdan bekor qilinishi mumkin. Bir tomonning ikkinchi tomonga nisbatan shartnoma shartlarini bekor qilishga yoki o'zgartirishga majburlashga qaratilgan har qanday xatti-harakati ikkinchi tomonga shartnomani just cause (qonuniy asoslar)ga ko'ra bekor qilish huquqini beradi".

Dissertatsiyaning "**Professional futbolchilar mehnati bilan bog'liq nizolar bo'yicha FIFA va CAS yurisdiksiyasi**" deb nomlangan to'rtinchi bobida muallif bunday nizolarni hal qilishda FIFA va CAS ning yurisdiksiyasini yuzaga keltiruvchi asoslarni, FIFA Tribunalining yurisdiksiyasini belgilashda kelib chiquvchi masalalarni, Sport arbitraj sudi yurisdiksiyani rad etish uchun alohida asoslarni ko'rib chiqadi.

Ushbu bobda, asosan FIFAning qarorlar qabul qiluvchi organlarining yurisdiksiyasi, shuningdek Lozannadagi Sport arbitraj sudining vakolatlari hamda xalqaro elementga (international dimension) ega nizolarni hal qilishda FIFA Tribunalining yurisdiksiyasini belgilashda "international dimension"ning ahamiyati tadqiq qilindi. Ushbu "international dimension" ning ahamiyatini hisobga olsak, tomonlar uchun nizoni tegishli qaror qabul qiluvchi sport organiga topshirish oson kechmasligi mumkin. Bundan tashqari, futbolchilar ikki fuqarolikka ega bo'lgan hollarda tomonlar qiyinchiliklarga duch kelishi hamda bu holat ishni yanada murakkablashtirishi mumkin.

Futbol bilan bog'liq nizolarda tomonlar sport mediatsiyasidan kamroq foydalanadilar, ammo ba'zilar vositachilikda vaqtni tejash va aloqalar hamda hamkorlikni saqlab qolish imkoniyatlarining mavjudligi tufayli bu xizmatdan hali ham foydalanadilar. Biroq, CAS Vositachilik\mediatsiya qoidalarining 1-moddasiga binoan, CAS mediatsiyasining majburiy emasligi va norasmiy tartibi tufayli (u shartnomaga asoslanadi) har bir tomon istalgan vaqtda vositachilik\mediatsiyani tark etishi va\yoki tugatishi mumkin. Agar nizoni

mediatsiya yo‘li bilan hal qilishning iloji bo‘lmasa, tomonlar o‘rtasida arbitraj sudiga murojaat qilish bo‘yicha kelishuv mavjud bo‘lgan taqdirda, tomonlar arbitraj sudiga murojaat qilishlari mumkin.

Tadqiqot jarayonida muallif tomonidan O‘zbekiston Respublikasining “Jismoniy tarbiya va sport to‘g‘risida”gi Qonunida (tegishli sport federatsiyasida) professional sportchilar va ularning klublari ishtirokidagi nizolarni hal qilishda nizolarni sudgacha majburiy hal qilish bo‘yicha norma nazarda tutilmaganligi aniqlangan.

Arbitraj bitimining shaklini tadqiq qilish natijasida muallif tomonidan arbitraj kelishuvini haqiqiy deb topish uchun muayyan talablarga rioya qilish lozimligi aniqlandi. PILA (Xalqaro xususiy huquq to‘g‘risidagi Shveysariya qonuni)ning 178-moddasiga muvofiq, arbitraj kelishuvi agar u “yozma shaklda, telegramma, teleks va faks orqali yoki shartnomani matn orqali tasdiqlash imkonini beradigan boshqa har qanday uzatish shaklida” bo‘lsa, haqiqiy deb topiladi.

Futbolga oid mehnat nizolarini ko‘rib chiqishda, tadqiqotchi tomonidan CAS Sport bilan bog‘liq Arbitraj Kodeksi va FIFAning turli reglamentlari, shuningdek, Shveysariya qonunchiligi qo‘llanilishi mumkinligiga aniqlik kiritildi.

Professional futbolchilar milliy assotsiatsiya tribunallarining qarorlari yoki FIFA DRC qarorlari ustidan shikoyat qilishga qaror qilganda, ular FIFA Nizomining 58-moddasida belgilangan qat‘iy muddatlarga amal qilishlari shart. FIFA Nizomining 58-moddasi Sport arbitraj sudining yurisdiksiyasiga bag‘ishlangan bo‘lib, unda barcha tomonlar hurmat qilishi kerak bo‘lgan qat‘iy muddatlar nazarda tutiladi. Sport arbitraj sudiga apellyatsiya berishni istagan Tomonlar belgilangan muddatlarga rioya qilishlari kerak. FIFAning qaror qabul qiluvchi organlari tomonidan qabul qilingan yakuniy qarorlar, shuningdek, konfederatsiyalar, a‘zo assotsiatsiyalar yoki ligalar tomonidan qabul qilingan qarorlar ustidan barcha shikoyatlar, tegishli qaror olingan kundan boshlab 21 kun ichida CASga taqdim etilishi kerak.

Muallif tomonidan, shuningdek, CASga murojaat qilinganda Tomonlar qanday shartlarda CAS yurisdiksiyasiga apellyatsiya bilan murojaat qilishi mumkin va qanday holatlarda buni amalga oshira olmasliklarini bilishlari lozimligi tahlil qilingan. Bundan tashqari, CAS shikoyatni qabul qilmasligi mumkin, o‘zining yurisdiksiyasiga kirmaydi deb topishi, har qanday ish bo‘yicha qaror qabul qilishdan bosh tortishi mumkin.

Quyidagi shikoyatlar bo‘yicha CAS o‘z vakolatlarini amalga oshirishdan bosh tortishi mumkin:

- a) o‘yin qoidalarini buzilganligi;
- b) to‘rtta o‘yinga yoki uch oygacha bo‘lgan muddatga diskvalifikatsiya qilinganlik (doping bo‘yicha qarorlar bundan mustasno);
- c) assotsiatsiya yoki konfederatsiya qoidalariga muvofiq tan olingan mustaqil va tegishli tartibda tuzilgan arbitraj sudining qaroriga nisbatan shikoyat qilinishi mumkin bo‘lgan qarorlar.

XULOSA

Professional futbolchilar mehnat shartnomalarining huquqiy ahamiyati mavzusidagi dissertatsiya bo'yicha olib borilgan tadqiqot natijasida quyidagi xulosalarga kelindi:

I. Ilmiy nazariy xulosalar:

1. Shartnoma barqarorligini ta'minlash konsepsiyasiga ko'ra, mehnat shartnomasi Tomonlari shartnomaviy munosabatlariga hurmat ko'rsatishlari va "*pacta sunt servanda*" tamoyiliga rioya qilishlari kerak. Shunga qaramay, RSTPning 14-moddasi qoidalariga ko'ra, "*pacta sunt servanda*" tamoyili futbolchilar va klublar o'rtasidagi shartnomaviy munosabatlarga nisbatan mutlaq tamoyil sifatida qo'llanilishi mumkin emas. Unga ko'ra, Tomonlardan har qaysisi agarda qonuniy asoslari ya'ni "just cause" mavjud bo'lsa mehnat shartnomasini bir tomonlama bekor qilish huquqiga ega.

2. Sport tamoyillari bilan bog'liq qonuniy asoslarni ya'ni "sporting just cause"ni belgilash uchun futbolchilarning mavsum davomida professional futbol klubining asosiy tarkibida 10 foizdan kam rasmiy o'yinda maydonga tushganligini aniqlash masalasida FIFA DRC va CAS turlicha yondashuvlarga ega, bu masalada aniq mezonlar mavjud emas. Bunda, futbolchining maydonga tushgan o'yinlari sonimi yoki asosiy tarkib yoki zaxira futbolchisi sifatida maydonda o'tkazgan daqiqalari bo'ladimi hisobga olinishi kerak. DRC o'zining 2007-yil 10-avgustdagi qarorida 10% hisobi daqiqalarga asoslanib emas, balki futbolchi o'ynagan rasmiy o'yinlar asosida belgilanishi kerakligini ta'kidlaydi. DRCning qaroridan farqli ravishda, CAS yurisprudensiyasi FIFAning Futbolchilar maqomi va transferi reglamentiga bergan Sharhiga tayanib, o'yinlardagi ishtirok etishlar soni emas, balki maydonda o'ynagan daqiqalar muhimligini ta'kidlaydi. Qaror qabul qiluvchi organlarning ushbu ikki xil yondashuvi kelajakda nizolarni hal qilish jarayonlarida munozaralar va noaniqliklarni keltirib chiqarishi mumkin.

3. O'zbekiston Respublikasining "Jismoniy tarbiya va sport to'g'risida"gi Qonunida ko'zda tutilmagan yana bir masala bu "training compensation" va solidarity mechanism, ya'ni "mashg'ulot kompensatsiyasi" hamda "birdamlik mexanizmi" to'lovlaridir. Bu har qanday darajadagi futbol klublarida yosh futbolchilarni tayyorlash va tarbiyalash uchun moliyaviy to'lov sifatida talqin qilinishi mumkin. Bu futbol maktablari va akademiyalari, kichik va o'rta darajadagi klublar uchun muhim daromad manbai bo'lib, sektorda raqobatbardosh futbol klubi sifatida o'z bizneslarini rivojlantirishlariga xizmat qilishi mumkin. Yuqoridagilardan kelib chiqqan holda, O'zbekiston Respublikasining "Jismoniy tarbiya va sport to'g'risida"gi Qonuniga "training compensation" va "solidarity mechanism", ya'ni "mashg'ulot kompensatsiyasi" hamda "birdamlik mexanizmi" to'lovlari to'g'risidagi normalar kiritilsa maqsadga muvofiq bo'lardi.

4. RSTPning 15-moddasi "established professional" "malakali futbolchi" tushunchasiga ta'rif bermaydi. De Vegerning fikricha, juda yosh futbolchini futbol bo'yicha tajribasi kamligi sababli malakali futbolchi deb atab bo'lmaydi. Karyerasi tez sur'atlar bilan o'sib borayotgan futbolchilarning muvaffaqiyatlariga nazar tashlasak, De Vegerning fikriga qo'shilish qiyin. RSTPning 15-moddasida o'yinchining yoshi muhim emasligi qayd etilgan, ya'ni unda "muayyan darajada futbol o'ynash mahoratiga ega o'yinchi" deyiladi. Bu shuni anglatadiki, o'yinchi

hatto 17 yoshida ham professional darajasiga erishishi va jamoadoshlari bilan teng ravishda ajoyib mahoratga ega bo'lishi mumkin.

5. Mehnat shartnomasini bir tomonlama bekor qilish uchun qonuniy asos sifatida keltirilgan to'lanmagan ish haqi yuzasidan qaror qabul qilishda DRCning turli xil yondashuvi shuni ko'rsatadiki, ishni ko'rib xal etishda to'lov to'lanmaganlik davri hisobga olinishi kerak. Masalan, ish haqi to'lanmaganligi faktini aniqlash uchun necha oylik muddat talab etiladi? Ikki oymi? yoki uch oymi? FIFA DRC va CAS yurisprudensiyasi bu borada aniq izoh bermaydi. Biroq FIFA RSTPning 2021 yilgi nashrining 14bis-moddasida shunday deyiladi: "Klub o'z o'yinchisiga kamida ikki oylik maoshini belgilangan muddatda noqonuniy ravishda to'lamagan taqdirda, futbolchi shartnomasini bekor qilish uchun qonuniy asosga "just cause" ga ega deb hisoblanadi".

6. FIFAning 1714-sonli sirkulyar xati Pandemiya bilan bog'liq mavjud vaziyatni hisobga olgan holda Yevropa Ittifoqi/EIH fuqarolari uchun 4-ilovaning 6-moddasi 3-bandiga yangi qoidalarni kiritdi. Unga ko'ra, agar klub a'zolari tegishli hukumat tomonidan ko'rilgan ma'muriy choralar tufayli pochta aloqasi vositalaridan bevosita foydalana olmasalar, bunday holatda, sobiq klub har qanday ishonchli vositalar orqali futbolchidan taklifni qabul qilganligi to'g'risidagi tasdiq javobi olishi mumkinligini hisobga olib, sobiq klub uchun elektron pochta orqali taklif yuborish qulay yo'l deb topilishi kerak. RSTPning 4-ilovasi 6-moddasiga ko'ra, ushbu qoida faqat Yevropa Ittifoqi/EIH fuqarolariga nisbatan qo'llaniladi.

7. FIFA DRC amaliyotiga ko'ra, futbolchining klub qarorgohida bo'lmasligi klub tomonidan mehnat shartnomasini bir tomonlama bekor qilish uchun qonuniy asos - just cause bo'lishi mumkin. Agar futbolchi o'z terma jamoasiga chaqirilgan bo'lsa va COVID-19 tufayli tegishli muddatda o'z klubidagi faoliyatini qayta boshlay olmasa, kelajakda assotsiatsiyaga va futbolchiga hech qanday cheklovlar yoki intizomiy choralar qo'llanilmaydi.

8. Agar futbolchi boshqa klubga ijaraga beriladigan bo'lsa, yangi klub futbolchini faqat vaqtinchalik ro'yxatdan o'tkazish huquqiga ega bo'ladi, futbolchining qiymati bilan bog'liq bo'lgan iqtisodiy huquqlarga ega bo'lmaydi. Ba'zi ekspertlarning fikricha, futbolchini ijaraga berish jarayonida klub o'yinchini ro'yxatdan o'tkazish huquqini ma'lum muddatga boshqa klubga sotadi va shu bilan birga moliyaviy huquqlarini saqlab qoladi. Bundan tashqari, FIFA Reglamentining 10-moddasi 3-bandida qayd qilinishicha, o'yinchining ijara shartnomasini amalga oshirgan yangi klub futbolchiga bo'lgan iqtisodiy huquqlarga egalik qiluvchi klubning yozma roziligisiz o'yinchini uchinchi klubga o'tkazish (transfer qilish) huquqiga ega emas.

9. Futbolchi ijarasi va ijara shartnomalari futbolchining moliyaviy farovonligiga sezilarli ta'sir ko'rsatadi, biroq avval futbolchining yangi klubidagi huquq va majburiyatlarini, shuningdek uning ish haqi shartlarini oldindan belgilab olish talab etiladi. Futbolchini ijaraga beruvchi klub va ijara oluvchi klub o'yinchini vaqtincha ish bilan ta'minlash bilan bog'liq to'lovlarni tartibga soluvchi ijara shartnomasini imzolashi kerak. Ba'zi hollarda, ijara oluvchi klublar ko'pincha ushbu klubda ijara asosida faoliyat yurituvchi futbolchining maoshini qoplashni o'z zimmalariga olishadi. Daniya Futbol Assotsiatsiyasi tomonidan ishlab chiqilgan futbolchilar standart ijara shartnomasi futbolchiga to'lanadigan ish

haqi va boshqa bonuslarni kim tomonidan qoplanishi kerakligi to'g'risidagi ma'lumotlarni o'z ichiga oladi.

10. Futbolchini ro'yxatdan o'tkazgan klub FIFA Reglamentiga ko'ra futbolchining qonuniy egasi hisoblanadi. Ya'ni, boshqa klublar futbolchilar bilan faqat ular ro'yxatdan o'tgan klublarning yozma roziligi bo'lgandagina muloqotga kirishishi mumkin. FIFA va milliy assotsiatsiya reglamentida belgilangan qoidalardan boshqa asoslarda boshqa klublar futbolchilari bilan uchrashuvlar o'tkazayotganligi yoki boshqa klublar bilan shartnoma tuzgan futbolchilar bilan muloqot qilayotganligi aniqlangan klublar uchun og'ir huquqiy oqibatlar yuzaga kelishi mumkin.

11. FIFAning qarorlar qabul qiluvchi organlarining yurisdiksiyasi, shuningdek Lozannadagi Sport arbitraj sudining vakolatlari hamda xalqaro elementga (international dimension) ega nizolarni hal qilishda FIFA Tribunalining yurisdiksiyasini belgilashda "international dimension"ning ahamiyati tadqiq qilindi. Ushbu "international dimension" ning ahamiyatini hisobga olsak, tomonlar uchun nizoni tegishli qaror qabul qiluvchi sport organiga topshirish oson kechmasligi mumkin. Bundan tashqari, futbolchilar ikki fuqarolikga ega bo'lgan hollarda tomonlar qiyinchiliklarga duch kelishi hamda bu holat ishni yanada murakkablashtirishi mumkin.

12. Professional futbolchilar mehnat shartnomalarining o'ziga xos xususiyatlarini hisobga olgan holda quyidagi tushunchalar ishlab chiqildi:

Professional futbolchi – bu u uchun sport asosiy faoliyat hisoblanadigan va professional sport klubi bilan mehnat shartnomasiga muvofiq sport musobaqalariga tayyorgarlik ko'rish va ularda ishtirok etish uchun ish haqi oladigan professional futbol klubining sportchisidir.

Professional futbol klubi – professional futbol sohasida faoliyatni amalga oshiradigan va professional futbolchi bilan sport faoliyati bo'yicha mehnat shartnomasini tuzgan har qanday tashkiliy-huquqiy shakldagi yuridik shaxs.

13. Muallifning fikricha, professional futbolchining ijara asosida vaqtincha transfer qilinishi mehnat shartnomasini to'xtatishga asos bo'ladigan faktidir. Vaqtinchalik transfer muddati tugagandan so'ng, futbolchi transferdan avval o'ynagan futbol klubi bilan mehnat munosabatlari tugamaganligi sababli, futbolchi o'zining doimiy futbol klubiga qaytadi. Bir vaqtni o'zida uning ijarachi klubidagi kunlik mehnat munosabatlari to'xtatiladi.

II. Qonunchilikni takomillashtirish bo'yicha takliflar

16. O'zbekiston Respublikasi Mehnat kodeksini quyidagi mazmundagi 97¹-modda bilan to'ldirish taklif etiladi:

“97¹-modda. Professional sportchilar mehnat shartnomalarini bekor qilish asoslari

Professional sportchilarning ish beruvchilar bilan tuzilgan mehnat shartnomalari sportchi uchun yetarli qonuniy asoslar mavjud bo'lgan taqdirda, bir tomonlama tartibda sportchi tomonidan bekor qilinishi mumkin.

Professional sportchilarning ish beruvchilar bilan tuzilgan mehnat shartnomalari sport tashkiloti (klub) uchun yetarli qonuniy asoslar mavjud bo'lgan

taqdirda, bir tomonlama tartibda sport tashkiloti (klub) tomonidan bekor qilinishi mumkin.

Mehnat shartnomasini bekor qilish uchun qonuniy asoslar sifatida tan olinadigan holatlar tegishli xalqaro va milliy sport assotsiatsiyasi tomonidan belgilanishi mumkin.”

17. O‘zbekiston Respublikasining “Jismoniy tarbiya va sport to‘g‘risida”gi Qonunining “Asosiy tushunchalar” deb nomlanuvchi 3-moddasi quyidagi jumlar bilan to‘ldirilishi taklif qilinadi:

“Professional sportchi – mehnat munosabatlariga kirishgan, sport u uchun asosiy faoliyat turi hisoblangan, belgilangan tartibda sport bilan shug‘ullanuvchi professional sport tashkilotiga a‘zo bo‘lgan, ro‘yxatga olingan, litsenziya egalarining rasmiy ryestriga kiritilgan va litsenziya olgan shaxsdir.”

18. O‘zbekiston Respublikasi Fuqarolik kodeksining “Shaxsiy nomulkiy huquqlar va boshqa nomoddiy ne‘matlar” deb nomlanuvchi 99-moddasi quyidagicha mazmunda to‘ldirilishi lozim:

“Sportchi imidji” – sportchining ismi, taxallusi, shon-shuhrati, tasviri, imzosi, ovozi, shuningdek, film va fotosurat tasviri, virtual va/yoki elektron ko‘rinishi, ishchanlik obro‘si va sportchining boshqa barcha xususiyatlarini, shu jumladan uning sport kiyimining raqamini anglatadi.”

19. O‘zbekiston Respublikasining yangi taxrirdagi Mehnat kodeksiga 503¹-modda qo‘shimcha ravishda kiritilishi taklif etiladi:

“503¹-modda Terma jamoalar tarkibida faoliyat yuritayotgan professional sportchilar va ularning sport tashkilotlari uchun kafolatlar

Sport turlari bo‘yicha O‘zbekiston terma jamoalari tarkibiga kelib qo‘shilgan sportchilar terma jamoa bazasida bo‘lib turgan vaqtda rasmiy va o‘rtoqlik o‘yinlarida ishtiroki paytida jarohat olsalar va bu jarohat 28 kundan ko‘proq muddat davom etsa, sportchilar va ularning sport tashkilotlariga kompensatsiyalar to‘lanishi lozim. Kompensatsiyalarni to‘lash tartibi va miqdorlari sport turi bo‘yicha tegishli xalqaro va milliy sport tashkilotlarining reglamentlari asosida belgilanadi.”

20. O‘zbekiston Respublikasi “Jismoniy tarbiya va sport to‘g‘risida”gi Qonunining 3-moddasiga “mashg‘ulot kompensatsiyasi” tushunchasi yuzasidan quyidagilarni kiritib o‘tish taklif etiladi:

“Mashg‘ulot kompensatsiyasi” – sportchi professional sifatida ilk bor o‘zining birinchi shartnomasini imzolaganda va professional sportchini mavsum oxiriga qadar 23 yoshigacha bo‘lgan vaqt davomida, tayyorlagan xar bir sport klubiga to‘lanishi lozim bo‘lgan kompensatsiya to‘lovidir.

21. O‘zbekiston Futbol Assotsiatsiyasi tarkibida futbolchilar va klublar o‘rtasidagi nizolarni hal qilish uchun FIFA Nizolarni hal etish palatasi (DRC) analogini yo‘lga qo‘yish taklif sifatida beriladi. Bundan tashqari, O‘FA NHP (DRC) tarkibini shakllantirishda manfaatlar to‘qnashuvi va ular a‘zolarining boshqa klublar va assotsiatsiyadan mustaqilligi masalalarini har tomonlama o‘rganib chiqilishi tavsiya etiladi.

22. O‘zbekiston Respublikasi “Jismoniy tarbiya va sport to‘g‘risida”gi Qonunining “Nizolarni hal etish” nomli 46-moddasini quyidagicha to‘ldirish taklif etiladi:

“Professional sportchilar hamda sport tashkilotlari bilan bog‘liq nizolarni ko‘rib chiqishda nizoni tegishli sport federatsiyasida majburiy sudgacha hal qilish tartibiga rioya etilishi lozim. Sportga oid nizolarni sudgacha hal etish sport huquqi sohasida maxsus bilimga ega bo‘lgan mutaxassislar tomonidan amalga oshirilishi mumkin”.

23. O‘zbekiston Respublikasining yangi taxrirdagi Mehnat Kodeksiga “Professional sportchilarni sport musobaqalaridan vaqtinchalik chetlatish” deb nomlangan 503²-moddani quyidagi tahrirda qabul qilish taklif etiladi:

“Agar professional sportchi sport musobaqalaridan vaqtinchalik diskvalifikatsiya qilinsa, (ish beruvchi) sport tashkiloti uni klubning sport musobaqalarida ishtirok etishdan chetlatishi shart. Sportchi professional faoliyati bilan bog‘liq bo‘lgan musobaqalardan chetlashtirilgan taqdirda ham, u vaqtinchalik diskvalifikatsiya vaqtida klub mashg‘ulotlarida qatnashishni davom ettirishi lozim va unga mehnat shartnomasi bo‘yicha maosh to‘lanadi”.

**SCIENTIFIC COUNCIL AWARDING OF THE SCIENTIFIC
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UNIVERSITY OF LAW**

TASHKENT STATE UNIVERSITY OF LAW

KHODJIMUROTOV SHERZOD ABDAKIMOVICH

**LEGAL SIGNIFICANCE OF EMPLOYMENT CONTRACTS OF
PROFESSIONAL FOOTBALL PLAYERS**

12.00.03 - Civil law. Business law.
Family law. International private law

**DOCTORAL (PhD) DISSERTATION ABSTRACT
ON LEGAL SCIENCES**

The theme of the doctoral dissertation (PhD) was registered at the Supreme Attestation Commission at the Ministry of Higher education, science and innovations of the Republic of Uzbekistan under number B2022.2. PhD/Yu742.

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The leading organization:	Lawyers' Training Center under the Ministry of Justice of the Republic of Uzbekistan

The defense of the dissertation will be held on at 10:00 on August 17, 2023 at the Session of the Scientific Council DSc.07/30.12/2019.Yu.22.01 at the Tashkent State University of Law (Address: 100047, Sayilgokh street, 35. Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48; e-mail: info@tsul.uz).

The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No 1163), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: (99871) 233-66-36).

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INTRODUCTION (abstract of PhD thesis)

The actuality and relevance of the dissertation theme. These days, the football player transfers, employment relations between players and clubs are one of the hot and most discussed topics in the world. As facts indicate, that football players still not treated in the same way as other types of employees. In fact, players are in a complicated situation regarding their employment relations, they cannot easily swap their employers, or, simply cannot freely knock on the doors of other football clubs and join them if they wish to do so. Instead, clubs buy and sell players as if they were commodities.¹ Not only in football industry, in other fields, any worker is free to terminate employment contract with his employer and sign for another one, as long as they pay for any damages they may cause with their actions.² Unless player`s former club and new club reach an agreement on a transfer fee, player cannot force his move if he is still under contract with his current club. As stated in FIFA Circular letter dated 24 August 2001, on Revised FIFA Regulations for the Status and Transfer of Players, “Contractual stability is of paramount importance in football, from the perspective of clubs, players, and the public.” “The relations between players and clubs must therefore be governed by a regulatory system which responds to the specific needs of football and which strikes the right balance between the respective interests of players and clubs and preserves the regularity and proper functioning of sporting competition.”³

According to Art. 17 of the FIFA Regulations on the Status and Transfer of Players, the FIFA Dispute Resolution Chamber (DRC) and the Court of Arbitration for Sport (CAS) in Lausanne deal with employment related disputes that may arise between professional football players and their clubs at international level. Those above-mentioned regulations were the outcome of the 2001 Gentlemen’s Agreement between the European Commission on one side and FIFA and UEFA on the other.⁴

Since then, for the last 20 years football has changed rapidly, football club revenues increased, player economic value went up and with clubs, spending on transfer fees has also grown to unprecedented level. According to FIFA Global Transfer Market Report 2019, the value of international transfers in 2019 reached USD 7.35 billion, 5.8% more than in 2018.⁵

Despite their importance, the issues surrounding the development of professional football in Uzbekistan, employment relationships between the football player and his football club have practically never been the subject of scientific research.

¹ The full list of scientific works of authors is indicated in the list of references of the dissertation.

² The full list of scientific works of authors is indicated in the list of references of the dissertation.

³ FIFA Circular letter, on Revised FIFA Regulations for the Status and Transfer of Players, 24 August 2001, <https://resources.fifa.com/image/upload/769-revised-fifa-regulations-for-the-status-and-transfer-players-500345.pdf?cloudid=dml3hvtpgzmjkb5hixd>

⁴ European Sports Law and Policy Bulletin, 1/2011, Contractual Stability in Football, www.sportslawandpolicycentre.com/Bulletin%20I_2011.pdf

⁵ FIFA Global Transfer Market Report, (2019) <https://resources.fifa.com/image/upload/global-transfer-market-report-2019-men.pdf?cloudid=x2wrqjstwjaoilnncnod>

During the past few years, considerable attention has been directed to the significance of the issues included in the second track of the Strategy of Actions on five priority areas of development in the Republic of Uzbekistan in 2017–2021, which was dedicated to “ensuring the rule of law and further reforming the judicial and legal system.”¹ As it contained the mechanism for resolving civil disputes has been taken to the next level, as the new institute of Mediation has been introduced. In addition, a separate task was assigned to the Ministry of Justice of the Republic of Uzbekistan, which stipulates in paragraph 208, that the Ministry of Justice, in collaboration with the Ministry of Labour of the Republic of Uzbekistan and the Ministry of Finance of the Republic of Uzbekistan, is responsible for developing the draught of the Law of the Republic of Uzbekistan “On amendments and additions to some legislative acts of the Republic of Uzbekistan.” A clear example of this is found in paragraph 208, which states that “simplifying the process of concluding an employment contract between the employer and the employee in the private sector, expansion of the fundamentals of concluding a fixed-term employment contract” should be taken into consideration when developing the draught of the Law. The fact that football is already being recognised as a part of the private sector in several other nations is not a secret. The Decree of the President of the Republic of Uzbekistan No. PD-5887 dated December 4, 2019, which clearly states that “broad involvement and the promotion of private investment in the football sector, management of the football sector based on market mechanisms, transfer of football clubs to the private sector, and creation of a healthy sports competition environment among them” are some of those issues that our football clubs are struggling with.²

To a certain degree, the research paper will contribute to the effective fulfilment of the objectives outlined in law of Uzbekistan “On International Arbitration” (2020), Decree of the President of the Republic of Uzbekistan dated February 7, 2017 No. DP-4947 “On the Strategy of Actions for the Further Development of the Republic of Uzbekistan”, Decree of the President of the Republic of Uzbekistan “On measures taking football development in Uzbekistan to a whole new stage”, No. PD-5887 dated December 4, 2019, Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On measures for further support of regional football associations` activities”, No. 311 dated May 22, 2020.

The dependence of the research on the priority areas of development of science and technologies in the country. This research was carried out in the priority direction of the development of science and technology of the republic I. “Formation of a system of innovative ideas and ways to implement them in the social, legal, economic, cultural, spiritual and educational development of an informed society and a democratic state”.

¹Strategy of Actions on five priority areas of development of the Republic of Uzbekistan in 2017-2021, Strengthened fairness and independence of the judiciary branch | The Strategy of Actions on Five Priority Areas of Development of the Republic of Uzbekistan for 2017-2021 (reforms.uz)

² Decree of the President of the Republic of Uzbekistan, dated 04.12.2019, No. DP-5887 “On measures to raise the development of football in Uzbekistan to a completely new stage”.

The extent of the study of the research problem. The legal regulation of professional football players` employment contracts, the economic and legal importance of professional football player employment contracts, definition of player`s status, transfer of football players, loan of football players to other clubs, training compensation, solidarity mechanism, image right clauses in football player employment contracts, release of players to the association national team, disputes arising from contractual relationships of football players, as well as international standards and the experience of foreign countries, and jurisdiction matters in sports disputes in this given area has not been studied in our country as an independent research object.

E.Musayev conducted research studies in Uzbekistan on the subject of contractual relationships in the sphere of sport, as well as actual problems of legal regulation of sports contracts.

In the CIS countries, some scholars such as S.Tukmanov, S.Vasilyev, A.Aguzarov, N.Kashapov, M.Lebedeva, O.Shevchenko, and other scientists conducted research on this subject.

The authors of the countries in which professional football has developed hold the top ranks among scientists who have researched the legal character, economic and legal importance of the employment contracts of professional football players. In Particular, the works of scientists such as S.Weatherill, K.Pijetlovic, J.Jackson, Frans de Weger, J.de Dios Crespo Pérez, G.Monteneri, W.van Megen, P.A.Limbert, O.Ongaro, S.Gardiner, R.Welch, I.Blackshaw, Michele Colucci have been studied within the framework of this research work.¹

Relation of the dissertation`s theme to the scientific-research work of higher education institution where it was implemented.

The theme of the dissertation is included in the plan of research plan of Tashkent State Law University and carried out within the priorities of scientific research.

The aim of the research is to develop proposals and recommendations aimed at forming the regulation of professional football player employment contracts, increase awareness of the economic and legal significance of professional football player employment contracts, and provide insight into FIFA's dispute resolution system when dealing with football-related disputes in national football associations' internal decision-making bodies.

The tasks of the research:

a) to undertake research into the employment relationships between professional footballers and their clubs. Formulate recommendations and proposals for improving the current labour legislation of Uzbekistan in terms of regulating employment relationships of the subjects concerned;

b) taking into account mixed character of employment contracts of professional football players to conduct a comparative legal analysis of employment law and civil law regulation of the work of professional football players;

¹ The full list of scientific works of authors is indicated in the list of references of the dissertation.

c) based on the analysis of the current national employment legislation and considering the loopholes in them to show the features of the legal regulation of the work of professional football players;

d) clarification of the legal status of a professional football player and an amateur football player;

e) to conduct an analysis of the issues involved in amending, suspending, and terminating a professional football player's employment contract, as well as to consider professional football player transfers in light of FIFA Regulations and national law perspective;

f) to determine the specifics of the emergence of employment disputes involving football players and their respected football clubs, to take into account the specificity of football while handling those types of disputes;

g) to establish the jurisdiction of decision-making bodies of FIFA, internal tribunals of national member associations, and the Court of Arbitration for Sport in football-related disputes, as well as the conditions under which parties to same type of disputes may seek recourse in ordinary state courts;

h) to conduct an analysis on the modern issues of the regulation of employment contracts of professional football players and provide legal solutions comparing the FIFA jurisprudence and the CAS with the decisions of national football associations' tribunals.

The object of the research is social relations connected with the employment of professional football players.

The subject matter of the research includes legal acts and regulatory norms regulating individual institutions of employment law arising in the process of regulating the employment of professional football players, the practice of their application, as well as a set of theoretical provisions and provisions of regulations on the employment relations of professional football players.

Research methods. In the course of the research, such methods as historical analysis, system-structural, comparative-legal, logical, comprehensive research of scientific sources, induction and deduction, and analysis of statistical data were used.

Scientific novelty of the research is as follows:

the features of the legal regulation of the work of employees engaged in professional sports, as well as the conclusion of employment contracts with athletes, coaches are substantiated;

legal issues regarding the temporary transfer (loan transfers) of athletes and coaches to another employer, that is, temporary transfers of professional players (loan of players) "in the "off-season" and permanent transfers to other employers (clubs), as well as the legal significance of the medical examination of athletes in the conclusion and termination of employment contracts with athletes were substantiated;

the systemic problems hindering the development of football in the country and their risks affecting the impartiality and integrity of football were substantiated;

the establishment of training of qualified specialists in higher educational institutions in the areas of sports law for football clubs, sports educational institutions, their role and significance in sports legal relations was substantiated.

Practical results of the research include the following:

the features of the legal regulation of the work of employees engaged in professional sports are disclosed;

comments were made on the peculiarities of the legal regulation of the work of employees carrying out activities in the field of professional sports. For example, Article 314² of the Labor Code of the Republic of Belarus states that employment contracts with athletes and coaches can be concluded for a fixed-term employment contract. However, this article does not provide for a certain duration which contract can be concluded for. That is, in the FIFA regulations on the status and transfers of players (clause 2 of Article 18), it is prescribed that the minimum term of the contract should be from the date of its entry into force until the end of the season, and the maximum term of the contract is five years. In addition, in this article of the FIFA regulations, it was clarified that contracts of any other term can be allowed only in accordance with national legislation, while taking into account the specifics of each sport. The fact that the FIFA regulations do not clearly specify the minimum term of the employment contract also seems abstract. Based on the provisions of Article 18 of the FIFA regulations on the status and transfer of players, it is advisable to accept the validity of this minimum employment contract for 6 months, since when players transfer to another club on loan terms, an employment contract for a period of 6 months can be concluded with them (Article 10 of the FIFA regulations on the status of players and transfers). It was explained that employment contracts with professional players are concluded for a term of at least 6 months and no more than 5 years, and this term is determined by the national legislation of the respective countries and the rules of the FIFA regulations;

the national legislation of the countries indicate that in order to protect the health of a professional athlete, as well as to enable him to perform his professional duties, he must periodically undergo appropriate medical examinations. Examinations can be primary, periodic and extraordinary. Athletes may not be allowed to train, compete, if they have not passed a mandatory medical examination;

article 18.4 of the FIFA Regulations on the status and transfers of players explains that the validity of the contract cannot depend on the successful completion of a medical examination or the issuance of a work permit. That is, if an employment contract is signed with an athlete, but he cannot successfully pass another medical examination or obtain a work permit in the country (work visa), it was justified that the employment contract between the athlete and the employer (club) cannot be invalidated;

the direct responsibility of sports clubs to ensure that release of athletes to national association teams is reflected in the relevant statutes and regulations of the sports governing body, which governs each type of sport. (Article 1 of Annex 1 of the Regulation on the status and transfer of players of FIFA and the Football

Association of Uzbekistan). According to Article 14 of the Law of the Republic of Belarus “On physical culture and sports” dated January 4, 2014 No. 125-Z, the formation and training of national teams is carried out by the relevant federations on sports. The criteria for inclusion in the national team are determined by the Ministry of Sports and Tourism of Republic of Belarus.¹ Based on the provisions of the FIFA regulations, the regulations of the Football Association of Uzbekistan on the status and transfers of football players, it was justified that first of all the responsibility for the release of football players to national teams lies with the National Football Association;

the articles of the FIFA Regulations on the status and transfers of players (Article 18 FIFA RSTP) state that the employment contracts of professional players with their employers can be terminated unilaterally if there are sufficient legal grounds (just cause). The FIFA Regulations also state that other circumstances in contracts may be taken into account during the application of this provision. The grounds for termination of employment contracts with players (legal grounds) has been analysed in accordance with Article 14 of the FIFA Regulations on the status and transfers of players.

Reliability of research results.

The results of the study are based on the analysis of national legislation, the experience of developed countries, law enforcement practices, as well as sociological research in the form of generalization of the results of statistical analysis, the results of which are approved and implemented by the authorities.

Reliability of the results of the research, the methods used in the work, the theoretical and scientific conclusions used within it are formed on the basis of reliable data obtained from international scientific bases and other official sources. Some of the suggestions communicated in the course of carrying out the study were put into practice and the relevant competent authorities confirmed this. The results of the study were published in leading national and foreign publications.

The scientific and practical significance of the results of the research.

The scientific significance of the research results lies in the fact that the scientific and theoretical ideas reflected in it and proposals given to the legislation can be used for conducting scientific research in the field of legal regulation of employment contracts of professional football players, interpretation of relevant legislation, improvement of national legislation and law enforcement practice, as well as in the teaching of such disciplines, such as Sports law, Private international law, Labor law, and Civil law and can be used in the development of methodological recommendations.

Implementation of research results.

The scientific results of the research were used in the following:

the proposal on the specifics of the legal regulation of the work of employees engaged in professional sports was used in the development of part 1 of Article 503 of the Law of the Republic of Uzbekistan “On approval of the Labor Code of

¹ Law of the Republic of Belarus “On physical culture and sports” dated January 4, 2014 No. 125-Z. (2014, January 4).<https://etalonline.by/document/?regnum=h11400125>

the Republic of Uzbekistan”, which was adopted by the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan and sent to the Senate on October 14, 2021 (Act No. 9 of March 9, 2022, Committee of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on combating Corruption and Judicial and Legal Issues). The introduction of this proposal served to master the specifics of the work of employees in the field of professional sports and improve their legal regulation;

the proposal for the temporary transfer of an athlete and coach to another employer was used in the development of paragraphs of the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth parts of Article 503 of the Law of the Republic of Uzbekistan “On approval of the Labor Code of the Republic of Uzbekistan”, which was adopted by the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan and sent to the Senate on October 14, 2021 (Act No. 9 of March 9, 2022, of the Committee of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on Combating Corruption and Judicial and Legal Issues). The implementation of this proposal served to establish the procedure for the temporary transfer of the athlete and coach to another employer (transfers), as well as to improve the clearly substantiated mechanisms for solving problems in practice;

the proposal on systemic problems that hinder the development of football in the country was used in the development of paragraphs of the eleventh, fourteenth and fifteenth, Chapter 2, Part 14, of the Decree “On measures taking football development in Uzbekistan to a whole new stage”, No. PD-5887, signed by the President of the Republic of Uzbekistan on December 4, 2019 (reference No. 01/00-03/19-8344 dated September 16, 2022, Ministry of Employment and Labor Relations of the Republic of Uzbekistan). The implementation of this proposal served to identify several systemic problems hindering the development of football in Uzbekistan, as well as the formulation of comprehensive measures to combat them;

the proposal to organize training in the relevant educational institutions of qualified specialists in the areas of “sports doctor”, “sports psychologist”, “sports pharmacologist”, “sports lawyer” and “sports nutritionist” for football clubs and sports educational institutions was used in the preparation of the seventh paragraph of the Decree “On measures taking football development in Uzbekistan to a whole new stage”, No. PD-5887, signed by the President of the Republic of Uzbekistan on December 4, 2019 (reference No. 01/00-03/19-8344 from September 16, 2022, Ministry of Employment and Labor Relations of the Republic of Uzbekistan). The introduction of this proposal served for the first time in Uzbekistan to establish a master’s degree in sports law at the Tashkent State University of Law, as well as the training and provision of qualified specialists in the field of sports law.

Approbation of research results.

The results of the research were discussed at 3 scientific and practical conferences, including 2 international and 1 national scientific conferences.

Publication of research results. A total number of 12 scientific papers on the topic of the dissertation, including 1 monograph, 8 (5 national and 3 foreign journals) scientific were published.

The structure and volume of the dissertation. The dissertation consists of an introduction, four chapters, a conclusion, a bibliography and appendix. The volume of the dissertation is 156 pages.

THE MAIN CONTENT OF THE DISSERTATION

The **introduction** of the dissertation includes the relevance and necessity of the research theme, the relevance of the research to the main priorities of the national science and technology development, the review of foreign scientific research on the subject, the level of studying the problem, the relation of the dissertation theme to the scientific research work of higher education institution where the dissertation is written, the aim and tasks, object and subject, methods, scientific novelty and results of the research, reliability of the research results, scientific and practical significance of the research results, their implementation, the approbation, announcement of the results, structure and the volume of the dissertation.

The first chapter of the dissertation is entitled “**The migration of football players**”, the chapter analyzes the migration of players, examines the factors influencing this process, during which periods the first waves of migration of players took place, the role of ethnic and geographical elements in the migration of players, as well as the impact of migration of players on the professionalization of football as a sport and players as athletes, and concludes that the above factors played a major role in this process.

It can be concluded from the first chapter that Britain’s role and significance was huge in the build up of modern day football as it was claimed as the home of football. Moreover, it’s believed that the British public has been a driving factor behind the establishment of new football clubs across the world. As Taylor's assertions demonstrate that the Genoa Cricket and Football Club was created by a group of English and Scottish men, and the club's history and character were distinctly British.

From the research outcomes, the author concludes that the number of African and Latin American players migrating to Europe has expanded dramatically in the twentieth century, thanks in large part to the French-Moroccan case, which was a deciding factor in the transfer of numerous African talents to France. Additionally, it was determined that European nations considered African players as a cheap labour force, which explains why African football players have developed into a primary source of labour for European football teams.

It was also clarified that the professional football players who represent their national country's team may choose to switch to another national team if they so prefer. However, certain provisions of FIFA Regulations may specify when they are eligible to switch to another national team. FIFA's Regulations on the Status

and Transfer of Players allow players to switch national teams. Article 3 of Annex 7 of FIFA RSTP stipulates that “Any player who has already represented one association (either in full or in part) in an official eleven-a-side or futsal competition of any category may not play an international match with another association team. However, there is an exception provided in Article 5 paragraph 2 and article 8 of the Regulations Governing the Application of the FIFA Statutes. As Article 8 of the FIFA Statutes establishes if “he has not played a match (either in full or in part) in an official competition at “A” international level for his current association, and at the time of his first full or partial appearance in an international match in an official competition for his current association, he already had the nationality of the representative team for which he wishes to play.”

The second chapter of the dissertation is devoted to the “**The Economic importance of professional players’ employment contracts**”, the author analyses permanent and temporary transfers of players, their realization conditions, economic benefits for clubs and players, purchasing clubs' obligations for training compensation, the importance of temporary transfers, their purpose and useful characteristics from a sports perspective for players.

The elements and factors that could make a great economic impact on the player`s employment contract has been analyzed on the basis of scientific approaches of scholars (Rosen, S. Brandes, L. Franck, E. Nüesch, S. Koenigstorfer, Joerg and Groeppel-Klein, Andrea and Kunkel, Thilo, Turner, M.) the author was convinced that the *Player’s star status, Attractiveness of football clubs, Attractiveness of Professional Football Leagues, Stadium Atmosphere, The Exceptional Characteristics of Dominating Clubs, Matchday revenue, Promotional tours and Transfer compensation* are the influential determinants of professional football player transfer.

Author strongly believes that recognizing and protecting one’s “image rights” is equally important as other elements discussed above. In order to ensure the protection of the image rights of professional football players, first, it is necessary to include and strengthen the “image rights” in the employment contracts of football players. As part of the transfer negotiations, the club must also settle any image rights costs. However, a separate image rights agreement can be formed and signed between the player and its club or any other third party that is interested in obtaining image rights use from a player. It must be taken into account while concluding image rights agreements, that the image rights deals may pose a variety of problems, including restrictions, tax issues and conflicts of interests between players` sponsorships and club’s sponsors.

Author came to conclusion that, when a player is about to be loaned to another club, it is assumed that the new club will only acquire temporary registration rights and not the economic rights that are linked to the player's value. According to some experts, loaning a football player – a process in which a club sells the registration rights to a player for a certain time while keeping the financial rights – is one example of how a club's ownership of a player’s rights may generate cash flow. Furthermore, paragraph 3 of FIFA RSTP Article 10 explicitly states that the new club that completes the loan of the player has no right to transfer the

player to a third club without the written approval of the club that owns the player's economic rights.

The scientific approaches, on the subjects related to economic factors that can make an impact on the players employment contract of the scholars (Manzenreiter.W, Moussa E, Macdonald, P. Tugbay I, Levent C, O'Leary L. Maciel, M., Walton, A. Wouter L, Daan de Jong, Kolev, B. Siekmann R.C.R. Reding, V. de Weger F. Laskowski, J. Musaev E, Emanuele V, Carrick, S. Steve F, Daniel G, Synodinou E, Blackshaw I.S. Corinna C, Weatherill S, Jackson J, Pijetlovic K, Hunter A.) have been closely studied and conclusions have been developed on what factors do significantly make an economic contribution to the value of employment contracts of the players.

In this Chapter, the author also emphasises the significance of release of players to association national teams in this passage. Article 1 of the Annex of the FIFA RSTP establishes that "Clubs are obliged to release their registered players to the representative teams of the country for which the player is eligible to play on the basis of his nationality if they are called up by the association concerned." However, when a player gets injured while he was in national association's training camp or during the national friendly matches, then the compensation issues for the injured player returning to his football club would arise and it might pose issues for both the national association to which a player belongs and the club to which he is bound by an employment contract.

The third chapter of the dissertation is entitled "**Disputes arising from contractual relationships of football players**", in this chapter the researcher also identified several factors that could threaten the contractual stability between players and clubs. In particular, the cases of unilateral termination of an employment contract in the presence of legal justifications for players and clubs (just cause), unilateral termination of employment contracts by players and clubs without legal justifications, and termination of the contract in the presence of legitimate reasons related to sports principles (sporting just cause) are addressed through special cases based on FIFA and CAS jurisprudence.

Based on the scientific approaches of the scholars (de Weger F, de Dios Crespo Pérez J., Monteneri G., van Megen W., Limbert P.A, Marc Valentin Lenz, Philippa L) the author has identified key concepts and factors that may jeopardise football's contractual stability and lead to conflicts arising from contractual ties involving professional players.

Maintaining stability in contractual relationships between players and clubs could be beneficial for both parties from the sporting point of view and business point of view, but there are other factors that might affect contractual stability negatively. There are conditions and circumstances that constitute *just cause* for clubs and *just cause* for players, to enable them to terminate employment contracts unilaterally. They could be absence of a player, misbehaviour by a player, and a drug abuse misconducts that could entitle clubs for the unilateral termination of employment contracts.

Contrary to clubs, when there are outstanding salaries owed by clubs or exclusion and deregistration of a player, and then players will be able to terminate

their contracts unilaterally. Furthermore, clubs and players must constantly be cautious of their commitments to one another since a football player or a club may terminate their employment contracts without legal justified reasons, which is *without just cause*, resulting in significant financial sanctions and sports sanctions being imposed on them.

It is widely recognised that football players are assets of the clubs, while they are under employment contract they generate income to the clubs, whilst having a valid contract with their clubs other clubs are not allowed to directly approach them. The club that owns a player's registration is considered the player's legal owner under current FIFA regulations. Thus, clubs may speak to players only with the written approval of the clubs that hold the players' registration. Clubs that are found to be holding meetings with players of other clubs or communicating with players contracted to other clubs under conditions other than those specified in FIFA and national association regulations may face heavy consequences.

According to paragraph 4 of Article 17 of FIFA RSTP sporting sanctions as well as the financial sanctions can be imposed on a club found to be in breach of contract or found to be inducing a breach of contract during the protected period. Unless proven otherwise, it will be believed that any club that signs a professional who has terminated his contract without just cause has induced that professional to commit a breach. The club shall be prohibited from signing any new players, either nationally or internationally, for two entire and consecutive registration windows.

Its also believed that returning from international duty can be problematic in terms of time limits, travels between the countries. If a player is called up to represent the national football team and fails to report back to duty on time without any justified reasons, then the player might risk facing the consequences. If player cannot provide with any justified reasons then the club would be in the position to terminate the employment contract with just cause unilaterally. As FIFA RSTP Annex 8 Article 4 stipulates “A contract may be terminated by either party without the payment of compensation where there is just cause. Any abusive conduct of a party aimed at forcing the counterparty to terminate or change the terms of the contract shall entitle the counterparty to terminate the contract with just cause.”

In chapter IV of the dissertation, known as the “**The jurisdiction of the FIFA and the CAS on employment-related disputes involving professional players**”, the author examined the grounds for the jurisdiction of the FIFA and CAS Tribunal in the resolution of such disputes, issues arising in determining the jurisdiction of the FIFA Tribunal, separate grounds for the refusal of the Court of Arbitration for Sport in jurisdiction.

In this chapter, mainly attention has been given to the establishment of jurisdiction of FIFA decision-making bodies as well as the Court of Arbitration for Sport in Lausanne, the importance of a so-called “international dimension” in defining the jurisdiction of FIFA tribunals in disputes with an international element. In light of the significance of this “international dimension”, “parties to a dispute may find it incredibly difficult to submit their case before the appropriate sports decision-making body. Furthermore, parties may also have challenges in

circumstances when football players have a “dual citizenship,” which makes the case much more complicated.

The parties, particularly in football-related disputes, less often use sport mediation but some still choose it because of the timesaving nature of the process as well as the prospect of maintaining future connections and collaborations. However, Article 1 of CAS Mediation Rules clearly states that due to the non-binding nature and informal procedure of the CAS mediation, which is based on an agreement, each party may pull out of the mediation at any time, thereby terminating it. When a dispute cannot be settled through mediation, the parties may choose to resort to arbitration, provided that an arbitration agreement or clause exists between the parties.

While conducting the research it has been established by the author that the law of the republic of Uzbekistan “On physical culture and sports” does not provide for a norm prescribing, when settling disputes involving a professional athletes and their clubs, mandatory pre-court dispute settlement in the relevant federation by sport.

While examining the form of the arbitration agreement, it has been determined by the author that in order to find an arbitration agreement valid certain requirements must be met. That according to Article 178 of the PILA (Private International Law Act) that the arbitration agreement shall be found valid if it is “made in writing, by telegram, telex, and fax or in any other form of transmission that enables proof of the agreement by text”.

When dealing with the employment related football cases, it has been clarified by the researcher that the CAS Code of Sports-Related Arbitration and various FIFA regulations, as well as Swiss law, are applicable.

When professional football players decide to appeal against the decisions of the national association tribunals or FIFA DRC decisions they have to keep in mind some strict deadlines set in the Article 58 of FIFA Statutes. As Article 58 of FIFA Statutes is dedicated to the jurisdiction of the Court of Arbitration for Sport. It emphasizes that that there is a strict deadline, which must be respected by all parties. Parties that wish to file their appeals with the Court of Arbitration for Sport have to comply with the deadline time limits if they wish to do so. All appeals against final decisions rendered by FIFA decision-making bodies, as well as against decisions passed by confederations, member associations, or leagues, must be submitted to CAS within 21 days of receipt of the relevant decision.

The author also established that when submitting an appeal with the CAS, parties must consider under what conditions they may submit their appeals to the jurisdiction of the CAS and under what circumstances they are unable to do so. Moreover, CAS itself may find it inadmissible and decline its jurisdiction to rule on any case if it arrives at the CAS office.

The following are the appeals on which CAS declines to exercise its competence:

a) violations of the Laws of the Game; b) suspensions of up to four matches or up to three months (with the exception of doping decisions); c) decisions against

which an appeal to an independent and duly constituted arbitration tribunal recognised under the rules of an association or confederation may be made.

CONCLUSION

The results of the scientific-theoretical analysis of professional football players employment contracts and their legal and economic significance set for the research led to the following scientific and practical conclusions, as well as suggestions and recommendations for further improvement of the normative legal basis.

I. Scientific and theoretical conclusions

1. According to the concept of maintenance of contractual stability, parties of the employment contract have to show respect to their contractual relationships and honour the so-called principle of *pacta sunt servanda*. Nevertheless, the provisions of the Art.14 of RSTP establish that the *pacta sunt servanda* cannot be accepted as an absolute principle in contractual relationships between players and clubs. As it stipulates that, either party without any consequences may terminate an employment contract unilaterally if they have just cause to do so.

2. While establishing sporting just cause FIFA DRC and the CAS have different approaches to players` appearances concerning the 10% limit, there is no concrete criteria that it could be established based on. Whether it's the number of matches in which a player appeared or the minutes on the pitch that he played as a starter or a substitute player should be counted. In its decision of 10 August 2007, the DRC specified that the floor of 10% must be determined on the basis of the official matches in which the player played but not the minutes. Contrary to the DRC assertion, CAS jurisprudence referring to the FIFA Commentary, states, that it is not the number of appearances in the games that matters, but the minutes actually played on the pitch. Those two different approaches from the deciding bodies might cause a controversy and ambiguity in the future dispute resolution processes.

3. Another area that the law of Uzbekistan "On physical culture and sports" does not address is so-called "training compensation" and "solidarity payments" – which might be interpreted as financial remuneration for the training and education of young football players at any level of football clubs. As a significant source of income for football schools and academies, small and average clubs that may place them on a level playing field with their competitors and develop their business as a competitive football club in the sector. In light of the foregoing, it would be very appropriate if training compensation and solidarity payments were incorporated into Uzbekistan's law "On physical culture and sports."

4. RSTP Art.15 seems problematic, as it does not provide any definition of "established professional." As de Weger believes that *established professional* cannot be a very young player because of his lack of football experience. In that context, it is difficult to agree with de Weger's opinion, as it leads to certain concerns about the successes of footballers whose careers have escalated rapidly.

By referring to Art. 15 of RSTP it will be clear that the age of a player does not really matter, as it says “a player with a certain level of footballing skill,” which means that even a player can become professional at the age of 17 and possess great skills as equal to his teammates, which enables him to compete for the first team football in the starting eleven.

5. Different approach by the DRC in rendering a decision concerning outstanding salaries as just cause shows that the non-payment period should be taken into account when deciding case at hand. How many months required establishing the fact of outstanding salaries? Two months? or Three months? In this regard, FIFA DRC and CAS Jurisprudence do not provide a clear interpretation. However Article 14bis of the 2021 Edition of FIFA RSTP includes that “in the case of a club unlawfully failing to pay its player at least two monthly salaries on their due dates, the player will be deemed to have a just cause to terminate his contract”.

6. FIFA Circular letter no.1714, introduced new provisions for the EU/EEA nationals in relation to Art. 6 para. 3 of Annexe 4, taking into account current situation surrounding Pandemic, which specifies that, when club members are unable to directly use postal facilities because of administrative measures taken by the respective government, it should be appropriate for the former club to make an offer via email, considering that the former club receives confirmation from the player through any reliable means, that he has obtained a copy of the offer. Based on the information provided in RSTP Art. 6 of Annexe 4, the scope of this provision applies only to EU/EEA nationals.

7. According to FIFA DRC practice, absence of a player could be qualified as a just cause for a club to unilaterally terminate employment contract. In case, if a player was called up to his national team and was unable to resume duty with his club by the relevant deadline due to COVID-19, no future restrictions or disciplinary sanctions shall be imposed on the association and the player.

8. When a player is about to be loaned to another club, it is assumed that the new club will only acquire temporary registration rights and not the economic rights that are linked to the player's value. According to some experts, loaning a football player – a process in which a club sells the registration rights to a player for a certain time while keeping the financial rights. Furthermore, paragraph 3 of FIFA RSTP Article 10 explicitly states that the new club that completes the loan of the player has no right to transfer the player to a third club without the written approval of the club that owns the player's economic rights.

9. Player loans and loan agreements have a significant impact on a player's financial well-being, but it is first required to set in advance the player's rights and responsibilities at his new club, as well as the terms of his remuneration. The lending club and the borrowing club must sign a loan agreement that regulates the payments that is related to the employment of the player during his temporary employment. In some cases, often borrowing clubs will undertake to cover player's wages while he is on loan at that club. A standard player loan agreement form, which was introduced by the Danish Football Association, contains information on who has to cover the wages and other bonuses that is payable to the player.

10. The club that owns a player's registration is considered the player's legal owner under current FIFA regulations. Thus, clubs may speak to players only with the written approval of the clubs that hold the players' registration. Clubs that are found to be holding meetings with players of other clubs or communicating with players contracted to other clubs under conditions other than those specified in FIFA and national association regulations may face heavy consequences.

11. Establishment of jurisdiction of FIFA decision-making bodies as well as the Court of Arbitration for Sport, the importance of a so-called "international dimension" in defining the jurisdiction of FIFA Tribunals in disputes with an international element. In light of the significance of this "international dimension," parties to a dispute may find it incredibly difficult to submit their case before the appropriate sports decision-making body. Furthermore, parties may also have challenges in circumstances when football players have a "dual citizenship," which makes the case much more complicated.

12. Taking into account peculiar characteristics of employment of football players following concepts have been developed:

A professional football player - is an athlete of a professional football club, for whom sports are the main activity, and who receives, in accordance with an employment contract with a professional sports club, a salary for preparing for sports competitions and for participating in them.

A professional football club - is a legal entity of any organizational and legal form that carries out activities in the field of professional football and has concluded an employment contract with a professional football player on sports activities.

13. The author believes that the temporary transfer of a professional football player on the terms of a "loan" is a fact that gives rise to the suspension of the employment contract. Since the employment relationship with the football club where he worked before the transfer does not stop, as after the expiration of the temporary transfer period, the player will return to his permanent football club, at the same time, the daily implementation of this employment relationship at his loanee club will be stopped.

II. Suggestions and recommendations for further improving the normative legal base:

14. It is proposed to supplement the Labor Code of the Republic of Uzbekistan with Article 97.1 as follows:

Article 97.1. Fundamentals of termination of employment contracts of professional athletes

Employment contracts of Professional athletes with employers can be terminated by an athlete in a unilateral manner, provided that there are sufficient legal grounds for the athlete.

Employment contracts of Professional athletes with employers can be terminated by a sports organization (club) in a unilateral manner, provided that there are sufficient legal grounds for a sports organization (club).

The relevant international and national sports association may establish cases recognized as legitimate grounds for termination of an employment contract.

15. Article 3 of the Law of the Republic of Uzbekistan “On physical education and Sports”, known as “basic concepts”, is proposed to be supplemented with the following sentences:

“A professional athlete is a person who has entered into an employment relationship, sport is considered his main activity, is a member of a professional sports organization engaged in sports in accordance with the established procedure, is registered, entered into the official register of license holders and possesses a license.”

18. Article 99 of the Civil Code of the Republic of Uzbekistan, known as “personal non-property rights and other intangible goods”, should be filled in the following content:

“Athlete image” - refers to the name, nickname, fame, image, signature, voice of an athlete, as well as the image of a film and photo, virtual and/or electronic appearance, business reputation and all other characteristics of an athlete, including the number of his sportswear.”

19. Article 503.1 is proposed to be additionally included in the new edition of the Labor Code of the Republic of Uzbekistan:

Article. 503.1 guarantees for professional athletes and their sports organizations operating as part of national teams

If athletes who are part of the national sports teams of Uzbekistan are injured during their participation in official and friendly matches while remaining in the camps of the national team, and this injury lasts for more than 28 days, athletes and their sports organizations must be compensated. The procedure and amount of compensation payments are determined on the basis of regulations of relevant international and national sports organizations in the relevant type of sport.

20. It is proposed to include the following on the concept of “training compensation” to the Article 3 of the law of the Republic of Uzbekistan "On physical education and sports":

“Training compensation” – is a compensation payment that must be paid when an athlete signs his first contract for the first time as a professional and to every sports club that contributed to the training of an athlete and for a period of time until the end of the season until the age of 23.

21. Within the framework of the Football Association of Uzbekistan, the creation of an analogue of the FIFA Dispute Resolution Chamber (DRC) for resolving disputes between players and clubs is given as a proposal. In addition, when forming the structure of the UFA Dispute Resolution Chamber (DRC), it is recommended to conduct a comprehensive study of the issues of conflict of interests and independence of their members from other clubs and like-minded people.

22. Article 46 of the Law of the Republic of Uzbekistan “On Physical Education and Sports”, entitled “dispute resolution”, is proposed to be supplemented as follows: “when considering disputes related to professional athletes and sports organizations, the procedure of mandatory pre-trial settlement of the dispute in the relevant sports federation must be followed. Pre-trial

settlement of sports disputes can be carried out by specialists with special knowledge in the field of sports law.”

23. Article 503.2, entitled “Temporary suspension of professional athletes from sports competitions”, is proposed to be adopted in the Labor Code of the Republic of Uzbekistan in the following wording:

“If a professional athlete is temporarily disqualified from sports competitions, the sports organization (employer) is obliged to exclude him from participating in the club's sports competitions. Even if the athlete is excluded from competitions related to his professional activities, he must continue to participate in club training at the time of temporary disqualification, and he will be paid a salary under an employment contract.”

**НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.01 ПО ПРИСУЖДЕНИЮ
УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ
ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

ХОДЖИМУРОТОВ ШЕРЗОД АБДАКИМОВИЧ

**ПРАВОВОЕ ЗНАЧЕНИЕ ТРУДОВЫХ ДОГОВОРОВ
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АВТОРЕФЕРАТ
диссертации доктора философии по юридическим наукам (PhD)

Ташкент – 2023

Тема диссертации доктора философии (Doctor of Philosophy) зарегистрирована Высшей аттестационной комиссией при Министерстве Высшего образования, науки и инноваций Республики Узбекистан за № B2022.2. PhD/Yu742.

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С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № 1163). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: (99871) 233-66-36).

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ВВЕДЕНИЕ (Аннотация диссертации доктора философии (PhD))

Целью исследования. Целью исследования является разработка предложений и рекомендаций, направленных на формирование регулирования трудовых договоров профессиональных футболистов, повышение осведомленности об экономическом и юридическом значении трудовых договоров профессиональных футболистов, а также представление о системе разрешения споров ФИФА при рассмотрении споров, связанных с футболом, во внутренних органах национальных футбольных ассоциаций, принимающих решения.

Объектом исследования является система социальных отношений, связанных с трудом профессиональных футболистов.

Научная новизна исследования состоит в следующем:

были обоснованы особенности правового регулирования труда работников, занимающихся профессиональным спортом, а также заключения трудовых договоров со спортсменами, тренерами;

были обоснованы юридические вопросы, касающиеся временного перевода (арендных трансферов) спортсменов и тренеров к другому работодателю, то есть временных трансферов профессиональных игроков (аренда игроков) "в межсезонье" и постоянных трансферов к другим работодателям (клубам), а также юридическое значение медицинского освидетельствования спортсменов при заключении и расторжении трудовых договоров со спортсменами;

были обоснованы системные проблемы, препятствующие развитию футбола в стране, и их риски, влияющие на беспристрастность и неподкупность футбола;

были обоснованы организация подготовки квалифицированных специалистов в высших учебных заведениях в области спортивного права для футбольных клубов, спортивных учебных заведений, их роль и значение в спортивных правоотношениях.

Внедрение результатов исследования. Научные результаты, полученные в ходе исследовательской работы, были использованы в:

предложение об особенностях правового регулирования труда работников, осуществляющих деятельность в сфере профессионального спорта было использовано при разработке части 1 статьи 503 Закона Республики Узбекистан «Об утверждении Трудового кодекса Республики Узбекистан», который был принят Законодательной палатой Олий Мажлиса Республики Узбекистан и направлен в Сенат 14 октября 2021 года (акт №9 от 9 марта 2022 года, Комитета Законодательной палаты Олий Мажлиса Республики Узбекистан по противодействию коррупции и судебно-правовым вопросам). Внедрение этого предложения послужило освоению специфики работы сотрудников в сфере профессионального спорта и совершенствованию их правового регулирования;

предложение о временном переводе спортсмена и тренера к другому работодателю (переводы - трансферы) было использовано при разработке

абзацев седьмой, восьмой, девятой, десятой, одиннадцатой, двенадцатой, тринадцатой части статьи 503 Закона Республики Узбекистан «Об утверждении Трудового кодекса Республики Узбекистан», который был принят Законодательной палатой Олий Мажлиса Республики Узбекистан и направлен в Сенат 14 октября 2021 года (акт № 9 от 9 марта 2022 года, Комитета Законодательной палаты Олий Мажлиса Республики Узбекистан по противодействию коррупции и судебно-правовым вопросам). Реализация этого предложения послужила установлению процедуры временного перевода спортсмена и тренера к другому работодателю (трансферы), а также совершенствованию четко обоснованных механизмов решения проблем на практике;

предложение о системных проблемах, которые препятствующие развитию футбола в стране было использовано при разработке пунктов одиннадцатого, четырнадцатого и пятнадцатого, Главы 2, части 14, Указа «О мерах по поднятию на совершенно новый этап развития футбола в Узбекистане», №УП-5887, подписанного Президентом Республики Узбекистан 4 декабря 2019 года (справка № 01/00-03/19-8344 от 16 сентября 2022 года, Министерства занятости и трудовых отношений Республики Узбекистан). Реализация данного предложения послужила выявлению нескольких системных проблем, препятствующих развитию футбола в Узбекистане, а также разработке комплексных мер по борьбе с ними.

предложение об организации подготовки в соответствующих образовательных учреждениях квалифицированных специалистов по направлениям «спортивный врач», «спортивный психолог», «спортивный фармаколог», «спортивный юрист» и «спортивный диетолог» для футбольных клубов и спортивных образовательных учреждений было использовано при подготовке седьмого пункта Указа «О мерах по поднятию на совершенно новый этап развития футбола в Узбекистане», №УП-5887, подписанного Президентом Республики Узбекистан 4 декабря 2019 года (справка № 01/00-03/19-8344 от 16 сентября 2022 года, Министерства занятости и трудовых отношений Республики Узбекистан). Внедрение этого предложения послужило впервые в Узбекистане учреждению направлению магистратуры по-спортивному права в Ташкентском государственном юридическом университете, а также подготовке и предоставлению квалифицированных специалистов в области спортивного права.

Структура и объем диссертации. Структура диссертации состоит из введения, четырех глав, заключения, списка использованной литературы и приложений. Объем диссертации составляет 156 страниц.

E'LON QILINGAN ISHLAR RO'YXATI
LIST OF PUBLISHED WORKS
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ

I bo'lim (I часть; I part)

1. Xodjimurotov Sh.A. Sport bukmekerligi va vositachilik faoliyatini huquqiy tartibga solish masalalari. Monografiya. – Toshkent: TDYU, 2021-yil. – 109 bet.
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II bo'lim (II часть; II part)

10. Ходжимуротов Ш.А. Регламент ФИФА по деятельности футбольных агентов: его роль и значение в будущей деятельности футбольных агентов // “Theoretical aspects in the formation of pedagogical sciences” mavzusidagi xalqaro ilmiy amaliy masofaviy onlayn konferensiya materiallari. – London: Masofaviy xalqaro onlayn konferensiya, 2023. – B. 180-185.
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