

I. Articles

THE SPORTS LAW REVIEW: THE NEW REVISION SPORTS LAW OF PEOPLE'S REPUBLIC OF CHINA

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Abstract: *The newly revised Sports Law in China, which was adopted by the Standing Committee of the 13th National People's Congress on June 24, 2022 and will be implemented on January 1, 2023, is a comprehensive and thorough revision of the previous Sports Law. The new Sports Law has determined the principle of taking the people as the center; and added provisions on the connotation and protection of sports rights, the development of sports industry, opposition to the use of doping, sports arbitration system, sports supervision and administration, and the protection of sports mark rights and intangible assets and so on, which will play an important role in regulating and guiding the development of sports in China. At the same time, the implementation of the new Sports Law will also face the problems of unbalanced and insufficient sports development, difficulties in coordination between relevant departments, and relevant supporting mechanisms and legislation need to be improved.*

Keywords: *Sports Law; Revision; People's Republic of China*

Introduction

Introduction

It has become the consensus of the world to regulate and standardize sports activities through national legislation and promote the development of sports.^[1] Many countries around the world have legislation on sports. On June 24, 2022, China passed the newly revised Sports Law, which will be implemented from January 1, 2023. This is the most groundbreaking and largest revision since China first promulgated the Sports Law in 1995. The New Sports Law has increased from 8 chapters and 54 articles to 12 chapters and 122 articles. Four chapters have been added, including sports industry, Anti-Doping, sports arbitration, and supervision and administration. It has enriched and improved the basic system of sports rule of law, and is an important milestone in the construction of China's

1. Ministerial Karl-Heins Scheider. Current Aspects of International European Sports Policy [A]. Sports Law 18th IASL Congress "Sports Law: Structures, Practice, Justice ,Sports Science and Studies[C] Beijing ,Oct.2012,p15.

sports rule of law. In this paper, the background and process of the revision, the core content of the revision and difficulties in the implementation of the revised "Sports Law" in China are reviewed comprehensively.

1. The Background and process of the revision of Sports Law in China

On August 29, 1995, China passed the first Sports Law, which filled in the legislative gap in the field of sports, ended the history that sports could not be relied on, and put China's sports on the track of administration according to law. As a basic law in China's sports field, the Sports Law has laid the institutional foundation for China's sports rule of law. Since its promulgation and implementation in 1995, it has played an important role in promoting the development of China's sports and enhancing the people's physique. In 2009 and 2016, a few provisions of this law were revised twice, but on the whole, it still lags behind the new stage of economic and social development, cannot fully adapt to the strategic positioning of sports reform and development in the new era, and still lags behind the growing needs of the people for a better life, especially for sports.

In June 2017, the Department of Policies and Regulations of the General Administration of Sport of the People's Republic of China took the lead in organizing the preparatory work for the revision of the Sports Law, and successively established an organizational working group, research drafting group and an expert advisory group to carry out the revision work through field research, thematic research, discussion and other forms. In September 2018, the amendment of the Sports Law was listed as the second category item in the Legislative Plan of the Standing Committee of the 13th National People's Congress, which was clearly led by the Social Construction Committee of the National People's Congress. In August 2019, promoting the amendment of the Sports Law was included in the Outline of Building a Sports leading Nation. On August 30, 2020, the General Administration of Sport held a symposium on the 25th anniversary of the promulgation and implementation of the Sports Law to listen to the opinions and suggestions of experts and scholars again. In November 2020, the amendment of the Sports Law was included in the 2021 Annual Legislative Work Plan of the Standing Committee of the National People's Congress. Subsequently, the Social Construction Committee of the National People's Congress officially launched the revision of the Sports Law. On the basis of the preliminary work of the General Administration of Sport, it organized multi-level and large-scale research to deeply understand the implementation of the Sports Law, the existing problems, the focus of revision and possible solutions. The amended Sports Law was adopted at the 35th Meeting of the Standing Committee of the 13th National People's Congress on June 24, 2022.

1. The core content of the revision of Sports Law in China

1.1. A people-centered approach must be taken

The basic principle of the newly revised Sports Law is to adhere to the people as the center and give full play to the role of sports in promoting people's all-round development.^[2] The newly revised Sports Law added the content of "sticking to the people-centered approach" in Article 2 of the General Provisions, and added the content of "the week of the National Fitness Day on August 8 every year is the Sports Publicity Week" in Article 15 of the General Provisions. These will play an important role in publicizing and carrying forward the spirit of sports, broadcasting sports culture, popularizing sports culture, advocating a healthy, civilized and happy lifestyle, meeting people's aspirations for a better life, and promoting people's all-round development.

Focus on the people and ensure the basic status of national fitness. As China's national strategy, health for all has established the important position of people's health in national work. The newly revised Sports Law emphasizes the national strategy of fitness for all and health for all in the section of fitness for all, and clarifies the promotion of health through sports. In addition, the national strategy of national health for all can be realized by building a public service system for national fitness and promoting the deep integration of national fitness and national health.

In terms of legal provisions, in order to highlight the important basic guarantee role of fitness for all, the "social sports" in the second chapter of the original Sports Law was renamed as "fitness for all", and the following provisions were added: (1) It is clear that the country implements the fitness for all strategy, builds a public service system for fitness for all, and promotes the deep integration of fitness for all and health for all. (2) The State formulates and implements physical exercise standards, regularly conducts nationwide physical fitness monitoring and surveys of nationwide fitness activities, and conducts scientific fitness guidance. (3) The State shall establish a coordination mechanism for the work of national fitness, and the people's governments at or above the county level shall regularly organize relevant departments to evaluate the implementation of the national fitness plan and make it public to the public. (4) State departments, enterprises, institutions and mass organizations shall organize and carry out daily physical exercises, sports meetings of all kinds at all levels and other national fitness activities. Residents' committees, villagers' committees and other community organizations should organize and carry out nationwide fitness activities in light of actual conditions.

2. [Tian Siyuan. Following the Law-Based Governance with People-Centered of Xi Jinping Thought on Fundamental Guideline of the Revision of the Sports Law of the People's Republic of China. [J] Sports Science. 2021, 41(10): 3-9.

1.2. Enrich the connotation and guarantee of sports rights

It is a request of the Chinese government to strengthen the protection of human rights under the rule of law and ensure that people enjoy extensive rights and freedoms according to law. The Working Conference on the Rule of Law for All stressed that the fundamental purpose of promoting the comprehensive rule of law is to protect the rights and interests of the people in accordance with the law. Sports activities cover a wide range of subjects. From the perspective of participants, including sports administrative departments, organizations and individuals engaged in sports interaction, as well as the broad masses of the people, are the subjects covered by the Sports Law. The newly revised Sports Law stipulates in Article 5 of the General Provisions that "the right of citizens to participate in sports activities on an equal basis shall be guaranteed", and further "the rights of minors, women, the elderly, the disabled and others to participate in sports activities shall be guaranteed on a special basis", strengthening the concept of protecting citizens' sports rights.

Adolescents are the future of a country. In order to strengthen the protection of youth sports rights and realize their physical and mental health and physical fitness, the newly revised Sports Law has made provisions in the youth and school sports chapters on mechanisms, sports teaching, sports activities and competitions, sports teachers and coaches, evaluation, supervision and supporting facilities, which fully reflects the priority and special guarantee of youth sports. The legal provisions include: (1) The state gives priority to the development of youth and school sports, adheres to the integration of sports and education, coordinates cultural learning and physical exercise, and pays equal attention to physical fitness and personality, so as to promote the all-round development of youth. (2) The State shall implement the plan for promoting sports activities for adolescents and schools, and improve the system of sports work for adolescents and schools. (3) The education administration departments and schools are required to include physical education in the scope of students' comprehensive quality evaluation, and take meeting the requirements of national students' physical health standards as an important part of education and teaching assessment. (4) The sports administrative departments are required to provide guidance and assistance to schools in imparting knowledge and skills, organizing sports training, holding sports events, managing sports venues, etc., and cooperate with the education administrative departments to promote the construction of school sports teams and high-level sports teams. (5) Specify that schools must fully open physical education classes in accordance with relevant national regulations to ensure that physical education class hours are not occupied; The school is required to organize the disabled and other students with special physique to participate in sports activities suitable for their characteristics during physical education teaching. The school shall incorporate the students' extracurricular

sports activities carried out in the school into the teaching plan, link them with the teaching content of physical education, and ensure that students can participate in physical exercise for at least one hour every day during the school period. (6) Schools are encouraged to set up sports teams, clubs and other sports training organizations, carry out various forms of after-school sports training, and set up high-level sports teams if conditions permit, so as to cultivate reserve talents for competitive sports. (7) The State shall hold the National Student (Youth) Games on a regular basis, and the local people's governments at various levels shall organize the student (youth) games in their respective regions on a regular basis in light of actual conditions; The school shall hold a school wide sports meeting at least once a school year, encourage the public sports venues and facilities to be open to the school for free, and provide service guarantee for the school to hold sports meetings; Encourage various forms of student sports exchange activities. (8) The state should include physical education subjects in the scope of academic level examination of junior and senior high schools, and establish an assessment mechanism that conforms to the characteristics of the subject. (9) Explicitly require that physical education teachers enjoy the same treatment as teachers of other disciplines; Schools can set up sports coach posts, and give priority to hiring outstanding retired athletes who meet relevant conditions to engage in school sports teaching and training activities. (10) Establish and improve the insurance mechanism for accidental injuries in students' sports activities. The education administrative department and the school should do a good job in the safety management of school sports activities and the prevention and control of sports injury risks. (11) Kindergartens shall provide suitable indoor and outdoor sports venues, sports facilities and equipment for preschool children, and carry out sports activities that conform to the characteristics of preschool children. (12) The education administrative departments, sports administrative departments and schools are required to organize and guide young people to participate in sports activities to prevent and control such unhealthy health conditions as myopia and obesity. Families should cooperate.

Athletes are the core of the development of competitive sports. In order to protect the rights of athletes, the newly revised Sports Law clearly stipulates in the competitive sports chapter the athletes' right to education, the right to exchange and register, the right to receive preferential treatment for entering schools and employment, the right to participate in competitions and the right to retirement security. In Article 90, it is stipulated to establish and improve the athletes' disability insurance, sports accident insurance and place liability insurance systems. Provide all-round guarantee for athletes to engage in competitive sports from the perspective of safety, health and development. The terms include: (1) Strengthen the construction of sports schools and sports schools with traditional characteristics, encourage and support amateur sports training, and cultivate excellent reserve talents for competitive sports. (2) Strengthen the re-

search, development and application of sports training science and technology, conduct scientific and civilized training for athletes, and maintain their physical and mental health. (3) The right of athletes to receive culture and education shall be guaranteed according to law. The sports administrative department and the education administrative department shall ensure that athletes at the stage of compulsory education complete compulsory education. (4) The right of athletes to choose registration and exchange shall be guaranteed according to law. Athletes may participate in the registration of individual sports associations and exchange in accordance with relevant regulations. (5) The governments at all levels are required to strengthen vocational skills training and social security for retired athletes, and provide guidance and services for retired athletes to find jobs and start businesses.

1.3. Promoting the development of sports industry

In recent years, sports industry in China has developed rapidly and has broad prospects. It is of great significance to increase employment, foster new economic growth, and meet the diverse sports needs of the people. Chinese Outline for Building a Sports Leading Nation clearly states that the sports industry will become a pillar industry of the national economy by 2035. In order to promote the development of the sports industry, China has issued a series of sports industry policies. However, in order to ensure the long-term stable and healthy development of the sports industry, policies are not enough, and more stable and consistent legislative guarantees are needed. Articles 69 to 76 of the sports industry chapter of the newly revised Sports Law raise the sports policy to sports industry legislation, realizing the legalization of the policy^[3], which mainly stipulates the following contents: (1) It stipulates that the state should formulate the sports industry development plan, expand the scale of the sports industry, enhance the vitality of the sports industry, promote the high-quality development of the sports industry, and meet the diversified sports needs of the people. (2) It stipulates that the state supports and standardizes the development of sports industries such as sports goods manufacturing and sports services, and promotes the integrated development of sports and health, culture, tourism, elderly care, science and technology. (3) It stipulates that the state supports the innovative development of the sports goods manufacturing industry, cultivates service formats such as fitness and leisure, competition and performance, venue service, sports brokerage, and sports training, and improves the level and quality of sports service industry. (4) It stipulates to improve the development system of professional sports, expand the development channels of professional sports, and support the professional development of athletes and coaches; It is required that professional

3. Jiang Shibo. Promotion and regulation: Dual approaches to sports industry legislation [J] Journal of Chengdu Sports University, 2022, 48 (4): 8-10.

sports clubs should improve their internal governance mechanism, improve the corporate governance structure, and give full play to their role as market players. (5) It is required to establish and improve the coordination and interaction mechanism of regional sports industry, promote the exchange and sharing of sports industry resources among regions, promote the coordinated development of regional sports, and support local development of sports industry with regional and national characteristics. (6) The regulations encourage qualified colleges and universities to set up sports industry related majors, carry out school enterprise cooperation, strengthen vocational education and training, cultivate sports industry professionals, and form a talent team that effectively supports the development of the sports industry. (7) It is required to improve the sports industry statistics system, carry out statistical monitoring of the sports industry, and regularly release sports industry data.

1.4. Firmly fight against using doping

Fair and equality are the cornerstone of sports and the core of the Olympic spirit. The use of doping in sports to shake the cornerstone of fair competition in sports has become the consensus of the world against it. China attaches great importance to combating and opposing the use of doping, and adheres to the principle of "zero occurrence" and "zero tolerance" in dealing with the use of doping. The newly revised Sports Law has added Anti-Doping chapters, which has solved the problem that the Anti-Doping governance in China mainly depends on normative documents with low rank and the key and difficult problems are vacant in legislation.^[4] In terms of content, articles 53 to 60 of the newly revised Sports Law explicitly prohibit any subject from using doping in sports; Clearly establish an international Anti-Doping system and mechanism, define the responsibilities of relevant administrative organs, and form a corresponding governance system; Stipulated doping testing, education, science and other related work, and established the implementation of international Anti-Doping obligations to achieve the convergence of domestic and international Anti-Doping work. On the whole, an Anti-Doping legal system has been formed with the Sports Law as the core and criminal law, administrative laws and regulations as the common component, which protects China's Anti-Doping work and contributes Chinese wisdom to the world's Anti-Doping.^[2]

4. Ma Hongjun. From Regulations to Laws -- A special chapter on Anti-Doping was added in the amendment of the Sports Law.[J] Journal of Chengdu Sports University.2022, 48 (4) : 5-7.

[2]. Xiang Huiying. Adding a special chapter to strengthen the Anti-Doping legal system -- an important task for the revision of the Sports Law [N]. Shanghai Legal Daily, 2021-9-16, (B06).

2. Establish sports arbitration system

There is no right without relief. Due to the absence of sports arbitration system for many years in China, some disputes in sports cannot be effectively remedied, which is also a phenomenon criticized by people for many years. The newly revised Sports Law has established a chapter on sports arbitration, which stipulates the establishment of arbitration institutions, the scope of arbitration, the effectiveness of arbitration awards, the internal and external connection of sports arbitration procedures, and the formulation of rules. It has established an independent and professional sports arbitration system from the perspective of legislation, thus promoting the construction of a sports diversified dispute resolution mechanism^[5], and laying a foundation for the protection of the rights and interests of the parties in sports activities.

One of the highlights of the revision of the Sports Law is to establish a sports arbitration system suitable for the national conditions, set up a basic framework for the sports arbitration system, and change the status quo that the sports arbitration provisions have not been implemented for a long time. The new "sports law" in the ninth chapter of the sports arbitration chapter mainly provides the following contents: (1) It define the scope of sports arbitration. It stipulates that the parties may apply for sports arbitration for relevant disputes in accordance with the arbitration agreement, the regulations of association of sports organizations, the rules of sports events, etc. (2) The sports administrative department under the State Council shall, in accordance with this Law, organize the establishment of sports arbitration committees and formulate sports arbitration rules. (3) It is stipulated that the parties concerned may apply for sports arbitration if they are not satisfied with the handling decisions of sports organizations or the handling results of the internal dispute resolution mechanism, if the sports organization does not have an internal dispute resolution mechanism or if the internal dispute resolution mechanism fails to handle disputes in a timely manner. (4) It clarifies the effect of sports arbitration award, and stipulate that the sports arbitration award shall have legal effect from the date of making. After the award is made, the sports arbitration commission or the people's court shall not accept the application for sports arbitration or bring a suit to the people's court for the same dispute. (5) It clarifies the cancellation of the sports arbitration award. If the sports arbitration award has errors in the application of laws and regulations, the parties may apply for cancellation of the arbitration award according to law. (6) It to make provisions on the enforcement of sports arbitration awards, and the parties may apply to the people's court for enforcement in accordance with the relevant provisions of the Civil Procedure Law.

5. Li Zhi. Safeguarding Sports Rights and Maintaining Competitive Fairness: Promoting the New Development of Competitive Sports by Law [J] Journal of Chengdu Sports University, 2022,48 (4) : 11-13.

2.1 Strengthen sports supervision and administration

In the process of sports administrative reform, the government has released the power of some sports matters. However, due to insufficient supervision and services, the lack of legal provisions, unclear specific processes at the normative level, and incomplete implementation of responsibilities, it is one of the reasons for frequent accidents in sports events. The newly revised Sports Law has added a chapter on supervision and administration. By defining the supervision responsibilities of sports administration and other departments, establishing a sports administrative law enforcement mechanism, strengthening the unity and coordination of various administrative departments, it has stipulated that sports administrative supervision should not be "offside" or "absent", and should be compacted.^[6] The main provisions include: (1) stipulating that the sports administrative departments and other departments of the people's governments at or above the county level shall perform their duties of supervision according to law, and supervise relevant sports events according to law; The market supervision, sports administration and other departments of the people's governments at or above the county level shall supervise and administer the sports market according to their respective duties. (2) It stipulates that the organizers of sports events shall perform their security obligations, provide qualified security conditions, formulate risk prevention and emergency response plans and other security measures, and maintain the safety of sports events. (3) It is stipulated that the organizers of sports events shall suspend them in a timely manner if they do not meet the conditions for hosting sports events due to extreme weather, natural disasters, public health events and other emergencies; If the suspension is not granted, the people's government at or above the county level shall order the suspension. (4) The State establishes a system for the management of sports events. The newly established sports events shall be recognized by the sports administrative department under the State Council. The catalogue of sports events shall be published every four years. (5) The operation of high-risk sports events and the holding of high-risk sports events must meet the statutory requirements and be verified and approved by the sports administrative department of the local people's government at or above the county level. The sports administrative department of the State Council shall, together with other relevant departments, formulate and adjust the catalogue of high-risk sports events and high-risk sports events. (6) It stipulates that local people's governments at or above the county level should establish a sports law enforcement mechanism to provide necessary guarantees for sports law enforcement. (7) To stipulate that local people's governments at or above the county level shall report to the people's congresses at the corresponding levels or their standing committees at least once during their

6. Yuan Gang. No "offside" and "no" vacancy ": legalization of sports administrative supervision [J]. Journal of Chengdu Sports University, 2022, 48 (4) 1-4.

term of office on the work of national fitness, youth and school physical education. In addition, this amendment to the Sports Law also substantially improved the provisions on legal liability, further improved the punishment measures for illegal acts, increased the punishment for illegal acts, and protected the stable and sustainable development of sports.

2.2 Strengthen the protection of trademark right and intangible property right

The protection of property rights is the cornerstone of the market economy, and the clarity of property rights is the precondition for the market to optimize the allocation of resources. In order to promote the high-quality development of the sports industry, the newly revised Article 52 of the Sports Law stipulates that "the names, emblems, flags, mascots and other signs of sports events held in China shall be protected in accordance with the relevant provisions of the State", emphasizing the protection of the right to mark sports events. It also stipulates that "without the permission of the organizers of sports events and other relevant rights holders, it is not allowed to collect or disseminate the on-site pictures, audio and video information of sports events for profit", which further clarifies the rights of sports event organizers to develop and protect sports intangible assets, so as to stimulate the organizers of sports events and stimulate the vitality of sports events.

In addition, this revision for the first time includes the provision of "promoting Chinese sports spirit and cultivating Chinese sports culture" in Article 1, reflecting the value orientation and spiritual and cultural pursuit of Chinese sports. In Article 120 of the additional provisions, "If any country, region or organization damages the sovereignty, security, development interests and dignity of the People's Republic of China in international sports, the People's Republic of China may take corresponding measures according to the actual situation." This article provides a legal basis for China to take countermeasures against the violations of other organizations or countries in the face of a complex and volatile international environment.

3. Possible difficulties in implementing the Sports Law

3.1 Unbalanced and insufficient sports development

China has a vast territory and a large population. There are great differences in economic development levels and various aspects between the eastern coastal areas and inland areas, urban and rural areas.^[7] In order to protect citizens' rights to sports, Article 6 of the new Sports Law stipulates that the state should expand the supply of public welfare and basic public sports services, promote the

7. Wang Li, Zhang Changsi, Zhong Binshu, Su Min. Main Social Contradictions and Sports Development in China in the New Era.[J]Journal of Beijing Sport University.2019,Vol.2.p8-15.

equalization of basic public sports services, and gradually improve the basic public service system that covers the whole people, benefits all and shares, and integrates urban and rural areas. Article 7 further stipulates that the State shall take measures such as financial support and assistance in the construction of sports facilities to support the development of sports in old revolutionary base areas, ethnic minority areas, border areas and economically underdeveloped areas. However, unbalanced and insufficient development is still one of the main contradictions in China's society, and will exist for a long time.

3.2 Difficulties in Coordination between relevant departments

The development of sports involves cross sectoral coordination and cooperation. For example, Anti-Doping involves the coordination of drug supervision, health, commerce, customs and other departments. The supervision of sports events involves the coordination and cooperation of public security, market supervision and emergency management departments. The administrative management mode of Chinese government departments is changing from "departments work independently" to "inter department coordination" and "inter department cooperation".^[8] Improving the inter department coordination and cooperation mechanism is an important part of China's administrative sports reform, which will also directly affect the implementation of the new Sports Law.

3.3 Incomplete supporting mechanisms and legislation

Compared with the previous Sports Law, the new Sports Law has greatly enhanced its enforceability. However, as a comprehensive basic law, the implementation of the new Sports Law still needs supporting administrative regulations, departmental rules and local legislation to implement. At present, the General Administration of Sport of the People's Republic of China has initiated the drafting of departmental regulations such as the Regulations on Sports Market and the Regulations on Professional Sports, and provinces, cities and local governments are also actively formulating local supporting legislation for the new Sports Law. Finally, a sports law regulation system will be formed, with the Sports Law as the general leader, supported by a number of administrative regulations and departmental rules, and implemented by local governments.

Conclusion

The revision of the Sports Law is undoubtedly comprehensive and will have a far-reaching impact on China's sports development including national fitness, competitive sports, youth sports and other aspects. This revision is also thor-

8. [2]. Zhang Huijuan, LiChuncheng. Cross department cooperation: the optimal strategy for the relationship between administrative service departments [J] Public administration and human resources, 2019. (1) : 3-15.

ough, breaking the original concept in many aspects such as people centered principle and new connotation of Sports Rights. In general, this revision reflects the response to the situation and demands of sports development in the new era in China, reflects the development trend of sports in China, and will also standardize and lead sports to achieve further development in China.

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- [3] Tian Siyuan. Following the Law-Based Governance with People-Centered of Xi Jinping Thought on Fundamental Guideline of the Revision of the Sports Law of the People's Republic of China. [J] Sports Science.2021,41(10):3-9.
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