

An Examination of the Challenges to Achieving “Procedural Justice” in Negotiation and Mediation Processes in International Sports Disputes

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Within the international sports law system, there has been a growing tendency toward the use of alternative dispute resolution (ADR) mechanisms, particularly negotiation and mediation, with the aim of reducing protracted proceedings and excessive litigation costs. Nevertheless, reliance on these processes in the presence of institutional gaps has created fundamental challenges to the realization of “procedural justice.” The present study aims to examine the tension between “operational efficiency” and “legal legitimacy” in these processes and to propose structural mechanisms for safeguarding the fundamental rights of the parties. The research adopts a descriptive-analytical approach. The findings demonstrate that the inherent confidentiality of negotiations, in the absence of adequate oversight mechanisms, may become an instrument for undermining key elements such as the “right to be heard,” “informational balance,” and the “right of defense,” thereby unfairly shifting the balance of power in favor of sports governing bodies. This situation renders the resulting agreements highly vulnerable to challenge before higher adjudicatory bodies, such as the Court of Arbitration for Sport (CAS). The study ultimately concludes that procedural justice is not merely an ethical choice but rather a “fundamental condition of validity” for legal outcomes in sport. The article proposes that, in order to achieve accountable governance, a “balanced model of procedural justice”—comprising the mandatory involvement of independent legal counsel, judicial confirmation of agreements by impartial bodies, and documentation of the negotiation process—should be institutionalized as formal procedural requirements within the disciplinary and arbitration regulations of international sports federations. Such a strategic transformation would elevate negotiations from a merely expediency-driven mechanism dependent on bargaining power to a disciplined and equitable legal process, thereby ensuring the durability, enforceability, and comprehensive legitimacy of sports-related agreements at the international level.

Keywords: *Procedural Justice, Sports Negotiations, Mediation, Legal Legitimacy, Court of Arbitration for Sport, Sports Governance.*

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1. Introduction

Over the past two decades, the international sports law system has faced structural transformations and unprecedented challenges concerning the manner in which disputes are resolved. The exponential increase in

financial and disciplinary disputes, particularly cases involving anti-doping matters, has confronted sports tribunals and dispute-resolution bodies with a serious crisis commonly described as “protracted proceedings.” In response to this growing crisis, the paradigm of “alternative dispute resolution” (ADR) has emerged as a



means of overcoming adjudicatory congestion. The significance of this shift extends beyond expeditious resolution or the reduction of litigation costs because, in sporting relationships, unlike in many other legal contexts, the “relationship between the parties” (such as the continuing club–player or athlete–federation relationship) must often endure after the dispute has been resolved, and the preservation of that relationship constitutes a vital element of the professional life of athletes and clubs. Negotiation, as a non-judicial form of dispute resolution, provides an appropriate setting for preserving such relationships and achieving realistic settlements because of its confidential, flexible, and non-adversarial nature (I. S. Blackshaw, 2021a).

Nevertheless, entering the realm of negotiation, particularly within an international context involving actors with unequal bargaining positions, presents an existential challenge to “procedural justice.” In formal and institutionalized proceedings, such as those before the Court of Arbitration for Sport (CAS), procedural justice requirements—including “equality of arms,” “independence and impartiality of the arbitrator,” and the “right to be heard”—are expressly codified in procedural rules and safeguarded by a third-party adjudicatory authority. In bilateral negotiations, however, these protective rules are often marginalized or entirely disregarded. The fundamental question is therefore how the flexibility and potential of negotiation can be utilized without allowing procedural justice to be sacrificed to “organizational expediency” or administrative pressure (Viret, 2022a). Indeed, in the absence of formal procedural standards, negotiation may become an instrument through which the dominant party imposes its will, thereby defeating the very purpose of achieving a fair resolution of the dispute (Méndez-Alonso, 2023).

The principal problem addressed in this study is the absence of a “normative” and rule-based framework governing sports negotiations. In bilateral negotiations, because no impartial judge or arbitrator is present, the stronger party—usually a federation or sports governing body—may use disciplinary, financial, or economic leverage to compel the weaker party, typically the athlete, to accept agreements that are manifestly inconsistent with minimum legal guarantees, including the right to a full defense and access to relevant documentation. This asymmetry of power further

demonstrates the need for normative intervention (Kaufmann-Kohler & Rigozzi, 2024). In such circumstances, the absence of procedural transparency not only undermines confidence in sports justice but also raises serious legal questions concerning the legitimacy of resulting settlements (Foster, 2020b; A. Goyert, 2025). Accordingly, the hypothesis of the present study is that procedural justice must be transformed from a voluntary “ethical choice” in negotiations into a structural “legal requirement.” By examining the concepts of formal and procedural justice, this article seeks to propose an operational model in which the “legitimacy of a settlement” is assessed not merely on the basis of the “principle of party autonomy,” but also according to the “integrity of the negotiation procedure” and respect for the fundamental rights of the weaker party. The objective is to move negotiation away from an opaque and non-reviewable “black box” and transform it into a “documented and reviewable” process in which justice is not perceived as being in conflict with efficiency but rather as a prerequisite for the durability and validity of any sports-related settlement.

2. Conceptualization of Procedural Justice in Sports Law

2.1. Theoretical Foundations of Procedural Justice and Their Extension to Sport

Procedural justice, as a general principle of law, constitutes a cornerstone of democratic and international legal systems. Within sports-law doctrine, this concept refers not merely to the “right to a fair hearing,” but also to the creation of an environment in which “procedural impartiality” is guaranteed (Kaufmann-Kohler, 2019b). Unlike substantive justice, which focuses on achieving a “fair outcome,” procedural justice emphasizes “the manner in which the outcome is reached.” In the sporting context, where governing bodies frequently act simultaneously as rule-makers and adjudicators of disputes, procedural justice constitutes the principal protective safeguard available to athletes against structural arbitrariness (Mavromati & Reeb, 2015).

The right of access to legal counsel in bilateral sports negotiations constitutes one of the most challenging components of procedural justice. In many informal negotiations, federations seek to encourage athletes to

reach settlements without the presence of legal counsel in order to reduce legal costs and media scrutiny. From the perspective of human rights in sport, however, a negotiation in which the parties do not possess equivalent access to legal expertise is structurally deficient in terms of procedural justice from its inception (Tait, 2021b).

2.2. Distinction Between Substantive Justice and Procedural Justice in Negotiations

The distinction between these two concepts is particularly subtle in sports negotiations. Substantive justice in negotiation concerns whether, for example, the amount of compensation or the duration of a period of ineligibility is fair. Procedural justice, by contrast, asks whether the athlete was informed of all documents and evidence against him or her before entering the negotiation; whether sufficient time was available to consider the proposals; and whether the athlete was compelled to settle under the threat of more severe sanctions (N. Nasser, 2022).

The jurisprudence of the Court of Arbitration for Sport has repeatedly emphasized that even where a settlement appears financially reasonable, the agreement may nevertheless be legally defective if “impartiality” was not respected during the negotiation process—for example, where a mediator was biased in favor of the federation. Procedural justice in this context therefore requires “procedural transparency.” In bilateral negotiations, the absence of transparency constitutes one of the greatest threats to procedural justice. Where settlements are concluded behind closed doors without any recorded protocol, restoring rights that have been violated becomes almost impossible if a subsequent dispute arises (Siekmann, 2020).

2.3. The Status of Procedural Justice in the Olympic Charter and Federation Regulations

The Olympic Charter and the ethical codes of international federations emphasize respect for fundamental human rights. Nevertheless, a substantial regulatory gap remains within the dispute-resolution provisions of these instruments. Most federations identify “arbitration” in their statutes as the principal mechanism for resolving disputes but establish no justice-oriented protocol governing “informal negotiations.” This is despite the fact that the Court of

Arbitration for Sport has repeatedly emphasized that sports organizations must observe minimum standards of fairness in all interactions with their stakeholders (Duval, 2022b).

This disregard for procedural justice in negotiations has created “grey areas” in which federations, through expansive interpretations of their powers, may effectively restrict the opposing party’s right of access to justice. For example, in certain disciplinary proceedings, a federation may offer a reduced sanction during negotiations in exchange for an athlete’s agreement to “waive the right to appeal before judicial or arbitral bodies.” From the standpoint of procedural justice, agreements in which the “right of access to justice” is prospectively bargained away are inconsistent with the public-policy foundations of sports law (Carpenter, 2023).

3. Structural Challenges to the Implementation of Procedural Justice in Sports Negotiations

3.1. Inequality in Bargaining Power

Within the structure of international sport, the “imbalance of power” among actors is not an exception but a structural characteristic. At one end of the spectrum stand international federations possessing extensive legal resources, substantial budgets, and considerable disciplinary authority; at the other are individual athletes or smaller clubs whose ability to continue their professional activities may effectively depend upon compliance with the decisions of governing institutions. When this structural inequality is transferred to the negotiating table, the concept of “consent” becomes unstable. In bilateral negotiations, athletes are often placed in circumstances in which rejection of a federation’s proposal may mean suspension from competition, loss of sponsorship, and ultimately the destruction of their sporting careers (Viret, 2022a).

This imbalance directly undermines procedural justice because, when the weaker party is compelled to negotiate under psychological and financial pressure, the right to exercise a “free defense” is effectively deprived of substance. Studies indicate that federations may use coercive provisions in their internal regulations to steer athletes toward informal negotiations in order to avoid the costs associated with proceedings before the Court of

Arbitration for Sport (Carpenter, 2023). Under such circumstances, negotiation ceases to function as a mechanism for dispute resolution and instead becomes an instrument for the “imposition of hegemony.” Sports-law scholarship has argued that procedural justice requires negotiations between a powerful institution and an individual to be assessed in a manner analogous to “contracts of adhesion,” meaning that unfair provisions imposed through non-judicial settlements should be capable of annulment by higher adjudicatory bodies (Foster, 2020a). The absence of mechanisms designed to “rebalance” bargaining power at the negotiating table disregards the underlying spirit of the Olympic Charter, which emphasizes equality and human dignity.

3.2. *The Conflict Between Confidentiality and Transparency*

Confidentiality, as a central feature of non-judicial dispute-resolution mechanisms, is a double-edged concept. On the one hand, it allows the parties to explore creative solutions without fear of damage to their professional reputations; on the other hand, the veil of confidentiality may become a protected space within which rights are undermined. In bilateral sports negotiations, confidentiality may be used not merely to “protect privacy” but also to “conceal unfair practices” (Siekmann, 2020). This tension constitutes a fundamental challenge to procedural justice because transparency is an essential prerequisite for oversight and for evaluating whether a process has been conducted fairly. When a settlement is reached entirely in secrecy, no external actor can meaningfully determine whether procedural justice has been observed.

In cases involving financial settlements in transfers or the resolution of disciplinary disputes, absolute confidentiality can enable discriminatory practices within federations to become institutionalized. For example, if a federation reaches a confidential negotiated settlement with a prominent athlete while another athlete in substantially similar circumstances receives a severe sanction, procedural justice may be called into question from the perspective of “equality of treatment” (N. Nasser, 2022). Contemporary legal scholarship therefore suggests that confidentiality should not amount to “absolute secrecy.” Procedural justice instead requires at least “oversight reports” or “summaries of the negotiation process” to be made available to supervisory

bodies so that compliance with fundamental standards can be assessed. Without a minimum level of transparency, negotiations become the “black box” of sports law, within which athletes’ rights may easily be compromised beyond the scrutiny of independent institutions (I. S. Blackshaw, 2021b).

3.3. *Absence of Judicial Oversight and Institutional Gaps*

Perhaps the most significant structural challenge to implementing procedural justice in negotiation is the “absence of a supervisory adjudicator.” In judicial proceedings, a judge ensures compliance with procedural rules, whereas in negotiation the parties effectively become “judges of their own process” in the absence of an oversight authority. This institutional vacuum allows agreements obtained through intimidation, threats, or incomplete information to be presented as settlements “based on mutual consent” (Duval, 2022b). Where judicial supervision is absent, the stronger party, typically the federation, may employ “waiver clauses” in settlement agreements to eliminate any subsequent possibility of recourse by the athlete to the Court of Arbitration for Sport or national courts. This “absence of supervision” reduces procedural justice to a formality in which athletes may be compelled to sign instruments that permanently extinguish their right of access to justice.

Within international sports law, this problem is characterized as a “violation of the right of access to justice” (Tait, 2021a). Sports organizations should therefore incorporate mechanisms into their regulations under which settlements resulting from negotiations become enforceable only after receiving a “compliance confirmation” from an impartial body, such as an independent mediator or an internal supervisory committee. The absence of such oversight permits negotiation to become a means of circumventing human-rights protections and procedural justice, thereby threatening the integrity of the sports-law system itself. Restoring procedural justice requires moving beyond the parties’ merely formal expression of consent and assigning primary importance to “procedural validity,” meaning a process in which basic guarantees, including access to legal counsel, access to evidence, and the possibility of review where coercion is established, are institutionalized (Kaufmann-Kohler, 2019b).

In addition to the challenges discussed above, the “absence of systematic documentation of the negotiation process” where judicial oversight is lacking constitutes one of the greatest obstacles to athletes seeking to substantiate subsequent claims. In the absence of a supervisory body or even a “neutral recorder,” proving psychological pressure or fraudulent presentation of information becomes almost impossible when a subsequent dispute arises concerning the interpretation or implementation of the settlement. This “documentary gap” enables federations, through restrictive interpretations of settlement terms, effectively to deprive athletes of their legal rights. From the perspective of good governance, oversight of negotiations need not involve interference with the substantive terms of a settlement; rather, it should ensure “procedural integrity,” namely that the athlete’s consent was not shaped by systemic pressure or informational deprivation (I. Blackshaw, 2021).

Moreover, the absence of oversight has contributed to a phenomenon that may be described as “circumvention of law under the guise of settlement.” By incorporating “waiver of appeal” clauses into negotiated settlements, many federations systematically seek to remove such agreements from the scrutiny of the Court of Arbitration for Sport (CAS). Yet fundamental principles of sports adjudication require that no agreement should absolutely extinguish the “fundamental right of access to a tribunal,” since this right is treated as a mandatory safeguard within the sports adjudicatory system (T. Goyert, 2025). Accordingly, establishing a “system for certification of procedural compliance” is not merely optional but necessary to prevent erosion of the legitimacy of the sports justice system.

It should also be recognized that the absence of oversight seriously undermines “public confidence” in sports administration. When athletes, as principal stakeholders, perceive dispute-resolution processes as lacking any external safeguards, institutionalized distrust may develop toward the entire structure of sports governance. Such distrust can itself become a vicious cycle, imposing substantial social and economic costs on international sport. To address this challenge, international sports bodies should establish “negotiation oversight councils” capable of transforming sports settlements from potentially defective private arrangements into “legally supervised processes.” Such

councils should examine the conformity of the procedure with applicable ethical charters and verify the integrity of settlements before they acquire formal enforceability (F. Nasser, 2022). Ultimately, institutionalizing such supervision would constitute a fundamental step in moving from the “absolute power of federations” toward the “rule of law” in sports mediation and negotiation processes, thereby safeguarding the durability and legitimacy of future settlements.

4. Case-Based Examination and Analysis of Practice

4.1. Analysis of Selected Cases: The Conflict Between Speed of Settlement and Procedural Integrity

In the legal analysis of sports disputes, transfer-related disputes and disciplinary proceedings constitute two principal areas in which “pre-adjudicatory settlements” frequently arise. In transfer disputes, particularly within the regulatory framework of FIFA, the parties—clubs and players—often seek expedited settlements in order to avoid disruption to registration status. Nevertheless, an examination of practice indicates that many such settlements, although economically advantageous to the parties, exhibit serious deficiencies from the perspective of “procedural justice.” In many cases, agreements are drafted in a manner that deprives the player of the right to challenge provisions concerning “substantial penalties for breach of contract,” a practice criticized in legal scholarship as constituting a “waiver of the right of access to justice” (Siekmann, 2020).

In disciplinary proceedings, particularly those arising under anti-doping rules, a concerning pattern of “disciplinary settlements” can be observed. In such cases, after receiving a positive test result, an athlete may be placed under pressure arising from the possibility of lengthy periods of ineligibility, such as four years, and consequently steered toward an “agreement to accept responsibility” in exchange for a reduced sanction. Although these “pre-emptive settlements” remove the case from formal adjudication before the Court of Arbitration for Sport, they may circumvent the processes of “establishing the violation” and “rigorous examination of the evidence,” which constitute central components of procedural justice (Viret, 2022b). Analysis of CAS jurisprudence indicates that where a negotiated settlement is based on incomplete information or where the athlete has been denied access to exculpatory

evidence, its legal legitimacy may be compromised. “Procedural integrity” should therefore not be sacrificed in favor of the “speed of dispute resolution,” because settlements concluded without observance of evidentiary standards not only fail to achieve justice but also undermine confidence in the sports legal system as a whole (Mavromati & Reeb, 2015).

4.2. *The Role of the Mediator in Rebalancing Power and Safeguarding Athletes’ Rights*

In addressing the challenge of power inequality discussed in the preceding sections, “mediation” emerges as one of the most effective forms of alternative dispute resolution. However, the function of a mediator in sports law extends beyond merely facilitating dialogue; the mediator should effectively perform the role of a “legal guardian” of the process so as to prevent negotiation from becoming coercive. In bilateral negotiations, where the mediator is selected or financed by one of the parties, such as a federation, the problem of “structural bias” arises. To safeguard procedural justice, the mediator must therefore be impartial not only in terms of legal expertise and professional conduct but also with respect to “structural independence” (I. S. Blackshaw, 2021b).

The mediator’s crucial role in protecting the rights of the weaker party may be summarized in three principal areas. First is “ensuring full awareness”: the mediator must ensure that the athlete fully understands not only the substance of the settlement but also the legal consequences of any “waiver of the right to appeal.” Second is “informational balance”: in many disputes, federations may withhold information capable of supporting the athlete’s defense during negotiations. The mediator should therefore function as an instrument of “transparency” by requiring appropriate disclosure of relevant documents between the parties (Foster, 2020c). Third is the “prevention of unlawful pressure”: the mediator should serve as a safeguard against disciplinary threats. If the mediator determines that a settlement is being obtained through threats of suspension or intense psychological pressure, professional ethics and the principles of procedural justice require that the mediator not permit the agreement to proceed to finalization. Contemporary legal doctrine expects mediators, where the imbalance of power is particularly severe, to suspend the negotiation

process and direct the weaker party toward “formal adjudication,” because pursuing “settlement at any cost” is incompatible with the fundamental concept of justice (Kaufmann-Kohler, 2019a).

In addition to these three functions, the mediator should operate as an “environmental equalizer” to ensure symmetry in the opportunities afforded to the parties to present their positions and defenses. Negotiation sessions may sometimes take place in environments that reinforce the federation’s physical or psychological dominance. Through management of the negotiation setting and by ensuring that the athlete has sufficient time to obtain advice during the session and evaluate proposals, the mediator should prevent “impulsive decision-making,” which frequently operates to the athlete’s disadvantage. This approach transforms mediation from a mere settlement mechanism into a process of “procedural monitoring” whose objective is not simply to terminate the dispute but to achieve a fair outcome founded upon informed consent (Sutton, 2023). A further issue concerns the “enforceable guarantee of mediator independence.” To operationalize this principle, a “rotational appointment” model or the selection of mediators from lists approved by independent third-party bodies, such as sports arbitration chambers, should be institutionalized instead of allowing direct appointment by the federation. Where the mediator is selected directly by the institution that is itself a party to the dispute, even the best professional intentions may remain overshadowed by a perception of institutional dependency. Accordingly, the mediator’s responsibility under procedural justice requires that any attempt to exert indirect influence over the decision-making process be transparently recorded in the minutes and, where unfair practices persist, that the mediator formally withdraw from the process. Continuing to participate in a procedurally compromised negotiation may otherwise amount to implicit validation of the violation of fairness (Tremblay, 2024). Such a responsible approach elevates the mediator from a “mere intermediary” to a “guarantor of the legitimacy of the settlement.”

5. Strategies for Enhancing Procedural Justice in Sports Negotiations

5.1. Drafting and Institutionalizing a “Code of Ethics for Negotiations” in Sports Governance

To address ambiguity in bilateral negotiation processes, drafting a dedicated “code of ethics for negotiations” should be regarded not merely as an ethical necessity but as a legal requirement for safeguarding the legitimacy of settlements. Such a code must go beyond general statements and acquire a genuinely “rule-based” character, being incorporated as a mandatory annex to the statutes of international federations. Its principal obligation should be “active transparency,” meaning that federations must provide athletes with all documents, evidence, and arguments relied upon during negotiations in order to prevent informational inequalities that may result in defective consent (Geeraedyn, 2023).

In addition, the code should establish “standards of conduct” for federation representatives. At present, many negotiations are conducted under direct threats of suspension or other sanctions, conduct that may constitute “undue pressure” under general principles of law and international sports-law doctrine. The ethical code should expressly provide that the use of a federation’s monopolistic position to compel an athlete to relinquish fundamental rights, such as the right to seek adjudication before the Court of Arbitration for Sport, is invalid and legally unenforceable (Parrish, 2021). The code should also establish a “negotiation-recording protocol” requiring each negotiation session to be documented in minutes signed by the parties and, where necessary, capable of being relied upon as evidence of their shared understanding in subsequent proceedings if negotiations fail. Such an approach reconciles the confidentiality necessary for effective negotiation with the transparency required by procedural justice (Rossi, 2022). In addition to these requirements, a crucial component of the code should be the “principle of procedural good faith,” which must be defined not merely as an ethical aspiration but as a binding standard of conduct. This principle would require sports organizations to refrain from employing “strategic delay” tactics intended to weaken an athlete’s financial or psychological position during negotiations (Anderson, 2024). The code should therefore establish

mechanisms for “reciprocal feedback” whereby, if negotiations depart from the requirements of fairness, the athlete can submit a complaint to an “independent ethics committee” within the federation without fear of disciplinary repercussions. Such a body would not act as an adjudicator but rather as a “procedural monitor” responsible for verifying compliance with the code during negotiations (Smith & Jones, 2023).

To ensure the effectiveness of the code, federation statutes should also contain an express “non-retaliation clause.” Under such a provision, any punitive or restrictive action taken by a federation against an athlete who is engaged in negotiations should be treated as a serious breach of the principles of good governance and be subject to immediate annulment by competent sports adjudicatory bodies (Dubois, 2025; Vandercammen, 2024). This approach would transform negotiations from an “unequal battlefield” into a structured environment for reaching mutual understanding. Moreover, the code should establish specific requirements for the “mandatory training of federation representatives” in procedural-justice principles and value-based negotiation techniques because many unfair practices may result not from deliberate bad faith but from sports administrators’ inadequate operational knowledge of international standards of fair procedure (O’Leary, 2022). The code could ultimately function as a “benchmark instrument” upon which arbitrators of the Court of Arbitration for Sport may rely when interpreting the parties’ intentions in post-settlement disputes, thereby institutionalizing procedural justice as a cornerstone of legitimate sports governance.

5.2. Making the Presence of Independent Legal Counsel Mandatory

One of the most serious procedural challenges in bilateral negotiations arises when athletes are required to rely upon their own capacities or upon advisers whose independence is compromised by connections with the federation. The principle of “access to justice” requires that any party involved in a dispute carrying significant professional and financial consequences have access to professional legal assistance. A practical solution would therefore be to make the presence of “independent legal counsel” not merely an optional right but a “condition of validity” throughout all stages of sensitive negotiations, particularly disciplinary proceedings and substantial

financial disputes, under applicable sports regulations (Carpenter, 2023).

This legal requirement would perform two functions. First, it would rebalance bargaining power by equipping athletes with specialized sports-law expertise. Second, it would signal to federations that they may not exploit the weaker party's lack of legal knowledge in order to impose one-sided settlements. Legal scholarship argues that where a bilateral settlement is concluded without the presence and approval of independent legal counsel, it should be capable of automatic annulment before higher adjudicatory bodies, such as the Court of Arbitration for Sport, unless the federation can demonstrate that the athlete knowingly and voluntarily waived the right to legal representation (Tait, 2021a). Such a mechanism would function as a form of "procedural audit," helping to ensure that the resulting agreement represents genuinely free and informed consent rather than the product of the athlete's legal vulnerability (Duval, 2022a).

Beyond the inherent necessity of legal representation, a framework must also be developed for establishing counsel's "independence." Some sports organizations, with the stated objective of controlling costs or managing the direction of negotiations, recommend advisers to athletes who have previously maintained close relationships with the federation or remain subject to the direct influence of its management. This creates a "structural conflict of interest" and undermines freedom of choice of legal counsel, which constitutes an important component of human-rights protections in sports adjudication (Beloff, 2024). Regulations should therefore require that selected counsel have no contractual relationship or employment dependency with the institutional party to the dispute. In this context, the establishment of a "legal aid fund" by international federations to cover the costs of independent representation for athletes who lack sufficient financial resources could help prevent inequality in access to legal expertise and transform procedural justice from a merely rhetorical concept into a practical reality (Mazzanti, 2023).

Furthermore, making legal representation mandatory would create an effective deterrent against "attritional strategies" employed by federations. Experience indicates that some sports authorities may deliberately prolong negotiations or present complex legal claims in

an attempt to induce athletes who lack the capacity to assess the legal dimensions of the dispute to retreat or accept unfair conditions (Zollinger, 2023). The presence of knowledgeable legal counsel establishes balance in "procedural information" because counsel can effectively defend the athlete's right to ask questions, request supporting documents and evidence, and seek reasonable time to evaluate proposals (Parrish, 2022). Such involvement does not necessarily reduce procedural efficiency; rather, by identifying legal issues at an early stage, it can prevent subsequent referral to lengthy proceedings before the Court of Arbitration for Sport, which impose substantial costs on the parties and consume significant institutional resources (Stanton, 2025). Ultimately, this mechanism would enhance the "transparency of settlement agreements" and prevent the incorporation of ambiguous provisions that could later generate misinterpretation or infringe the parties' fundamental rights.

5.3. Mechanism for Judicial Confirmation of Settlements

To complete a system of procedural justice in negotiations, establishing a mechanism for the "judicial confirmation of settlements" is indispensable. Many contemporary sports settlements, once signed, fall entirely outside formal oversight and are immediately implemented. It is therefore proposed that settlements resulting from negotiations should acquire "legal enforceability" only after examination and confirmation by an impartial body, such as a federation mediation committee or, in appropriate cases, a supervisory mechanism associated with the Court of Arbitration for Sport. Such a judicial or quasi-judicial body would not be required to rewrite the substance of the settlement but rather to assess its "procedural compliance" (Kaufmann-Kohler, 2019b; F. Nasser, 2022).

At present, many agreements concluded between parties in sport, particularly at national and institutional levels, fall entirely outside formal supervision after signature and are implemented solely on the basis of party autonomy or the internal mechanisms of the institution concerned. This supervisory gap creates conditions in which procedural deficiencies and infringements of the weaker party's rights may arise because there is no guarantee that the negotiation process complied with all requirements of procedural justice.

Accordingly, settlements resulting from negotiations, particularly where fundamental interests of athletes or the institutional integrity of sports organizations are involved, should possess adequate legal enforceability only after review and confirmation by an impartial and independent authority. Such a body might take the form of a specialized committee composed of sports-law experts within federations or, in more sensitive cases and international disputes, a supervisory authority operating within or alongside the Court of Arbitration for Sport or a comparable institution. The principal function of this judicial or quasi-judicial body would be to provide “confirmation of procedural compliance.” In other words, it would not reassess the substantive content of the settlement or determine whether the compromise itself is optimal; rather, its mandate would be confined to examining whether the process through which the agreement was reached complied with principles of procedural justice (Kaufmann-Kohler, 2019b). This approach ensures that attention remains focused on the manner in which the settlement was reached rather than its ultimate substantive outcome, which remains within the sphere of the parties’ free autonomy.

This “judicial confirmation” would operate as a precise yet efficient protective filter for procedural justice and should encompass examination of at least three core areas. First, it should determine whether the parties, particularly the weaker party, were afforded the right to obtain advice freely and without coercion. This requires ensuring the absence of abnormal pressure, implicit threats, or abuse of a dominant position. Second, it should determine whether the parties enjoyed equal and transparent access throughout the negotiation process to all evidence, documents, and information relevant to the dispute. This would ensure that neither party concealed critical information or placed the other party in a position of informational uncertainty (I. Blackshaw, 2021). Finally, it should examine whether the contractual provisions incorporated into the settlement violate fundamental principles of sports law, including fair treatment, non-discrimination, or rules concerning athletes’ health and safety (Méndez-Alonso, 2023).

Where the supervisory authority identifies a deficiency in compliance with the procedural requirements established under the proposed system, it should be entitled to refuse confirmation of the settlement and require the parties either to rectify the procedural defect

or, where rectification is impossible, submit the dispute to mandatory formal adjudication (T. Goyert, 2025). This supervisory mechanism would effectively transform negotiation from a “mere administrative instrument” controlled by powerful institutions into a “disciplined and rule-governed legal process.” Within such a process, the athlete’s dignity, fundamental rights, and procedural-justice guarantees would be protected to the greatest practicable extent, while the legitimacy of sports settlements within the international sporting community would be strengthened.

6. Conclusion

The present study, through examining the fundamental dimensions of the challenges associated with achieving “procedural justice” in negotiation and mediation processes in international sports disputes, concludes that the prevailing paradigm in this field is characterized by a structural tension between “operational efficiency” and “legal legitimacy.” The findings indicate that sports governing bodies, under the pressure of temporal and economic imperatives, continually seek mechanisms capable of resolving disputes rapidly and at low cost in order to avoid the depletion of resources through formal adjudicatory proceedings, including those before the Court of Arbitration for Sport. Within this context, bilateral negotiation has emerged as an “expediency-oriented” mechanism.

Nevertheless, the analysis demonstrates that operating these mechanisms within a supervisory vacuum has weakened fundamental standards of procedural justice, including the “right to be heard,” “procedural transparency,” and “informational balance.” The principal risk is that the inherent confidentiality of negotiations may become a legitimizing “veil” for structural inequalities, shifting the balance of power between powerful sports organizations and individual athletes or smaller clubs disproportionately in favor of the dominant party. More precisely, when dispute-resolution processes operate according to the “dominance of will” rather than principles of fairness, the legal legitimacy of the resulting settlements becomes highly vulnerable.

This study emphasizes that procedural justice should not be regarded as a voluntary “ethical choice” situated at the margins of negotiation; rather, its principles constitute “fundamental conditions of validity” for any legal

outcome in the field of sport. The absence of “structural transparency” in these negotiations destabilizes the durability of settlements and exposes them to the risk of annulment by higher adjudicatory bodies. Accordingly, achieving genuine justice in this field requires moving beyond a purely “expediency-oriented approach” toward a model of “accountable governance” in which procedural justice is institutionalized as a cornerstone of the legitimacy of mediation processes in international sport.

To move beyond the current situation and reduce the gap between operational efficiency and the requirements of procedural justice in negotiation and mediation processes involving international sports disputes, this study proposes adoption of a “balanced procedural justice model” as a normative and operational framework. The central rationale of this model is that the degree of supervisory intervention should not be identical in every dispute but should instead be calibrated according to the risk level of the dispute, the degree of power inequality between the parties, and the legal and professional consequences of the prospective settlement. Under such a framework, supervision of negotiations would function not as an obstacle to expeditious dispute resolution but as a mechanism for ensuring the validity, voluntariness, and reliability of the final settlement. Accordingly, the more severe the consequences of the dispute for the weaker party and the more pronounced the structural inequality between the parties, the more extensive, precise, and mandatory procedural-justice protections should become.

At the first level of this model, adjudicatory bodies and sports governing institutions should develop a clear protocol for classifying disputes according to their level of risk. Such a classification could distinguish between low-risk, medium-risk, and high-risk disputes. Low-risk cases, such as limited financial disputes or straightforward questions concerning the interpretation of competition regulations, could be resolved through expedited and informal procedures subject to minimal supervision. In contrast, disputes involving lengthy periods of ineligibility, substantial financial consequences, damage to an athlete’s employment or professional standing, or restrictions upon the right to continue a professional sporting career should not remain solely within the domain of private negotiation. In such disputes, more stringent minimum requirements

of procedural justice—including access to independent legal advice, full disclosure of relevant documentation, a meaningful opportunity to respond, and transparent communication of the consequences of the settlement—should be mandatory. The rationale underlying this proposal is that, as the legal and professional risks to the weaker party increase, so too does the likelihood that apparently voluntary consent may not represent genuine consent. The level of procedural protection should therefore increase proportionately with the severity of the risk.

At the second level, the role of the mediator should be expanded beyond that of a merely neutral facilitator whose function is confined to organizing dialogue, toward that of an active supervisory and evaluative mediator. In many sports disputes, passive neutrality alone is insufficient to prevent the formation of unfair settlements because disparities in power among federations, clubs, administrators, and athletes substantially constrain the possibility of genuinely free and equal negotiation. The mediator should therefore possess legal expertise and an understanding of power structures within sporting relationships so as to identify during the negotiation process indicators of undue pressure, informational deception, implicit threats, or the artificial appearance of consent. Under such circumstances, the mediator would not simply organize communication but would act as the legal guardian of the process, responsible for preventing negotiation from becoming a mechanism through which the stronger party imposes its will. Accordingly, wherever clear signs or credible indications of a severe imbalance of power arise, the mediator should possess the authority to suspend, postpone, or redesign the procedure so that the final agreement is not generated through coercion or structural abuse. Such an approach elevates mediation from a purely communicative mechanism to an instrument for safeguarding procedural fairness.

At the third level, settlements reached in high-risk or high-stakes disputes should be subject to a mechanism of “certification of compliance with procedural justice.” Under this mechanism, no settlement should be regarded as automatically valid and enforceable merely because it has been signed by the parties. Instead, it should pass through review by an independent authority whose function is not to evaluate the economic substance or ultimate outcome of the agreement but to examine the

integrity of the process through which it was formed. Such an independent authority could operate as a specialized committee composed of sports-law experts, procedural-law specialists, and impartial professionals responsible for verifying that the weaker party entered into the settlement knowingly, freely, and with a genuine opportunity to make an alternative choice. By moving negotiations beyond the status of a “black box,” this mechanism would enable subsequent review, documentation, and evaluation and would prevent settlements resulting from pressure, inadequate information, or severe inequality from acquiring legitimacy under the appearance of consent. Moreover, such certification could perform an important preventive function by discouraging powerful parties from using negotiation instrumentally to circumvent legal safeguards.

From the perspective of structural reform, the legal instruments of sports federations, particularly their statutes, disciplinary regulations, and dispute-resolution rules, should be revised so that procedural justice is elevated from an ethical principle to an enforceable legal requirement. Provisions governing the validity of settlements should expressly state that any compromise or bilateral agreement resulting in the waiver or restriction of one party’s fundamental rights before formal adjudicatory bodies is valid only where it is established that the weaker party accepted the agreement with full knowledge of its legal consequences, with access to independent legal counsel, and without direct or indirect pressure. In practical terms, this reform would shift the burden of proof away from the athlete or weaker party and require the federation or dominant party to demonstrate that consent was voluntary and informed. Such a change is essential for reducing coercive settlements and protecting the principle of genuine consent.

An express requirement for documentation of the negotiation process should also be incorporated into federation regulations. Under such a framework, all proposals, written exchanges, arguments advanced by the parties, minutes of meetings, and documents disclosed during negotiations should be maintained in an independent and retrievable case file so that, if a subsequent dispute arises, the integrity of the process can be assessed. Detailed documentation would not only discourage hasty and opaque decision-making but would

also strengthen the capacity of higher authorities to conduct ex post review and prevent the negotiation process from remaining shrouded in ambiguity and lacking traceability. At the same time, such transparency could strengthen institutional discipline and reduce tactical or abusive conduct during negotiations.

Finally, disciplinary rules and internal federation regulations should expressly and precisely define the concept of “unfair conditions” in order to provide a clear basis for supervision and accountability. Conduct such as threatening suspension without a sufficient legal basis, deliberately creating ambiguity in documents, concealing material information, preventing equal access to evidence, or exploiting a dominant position to impose a settlement should be expressly identified as forms of procedural injustice. Codifying these practices in regulatory instruments would not only create normative clarity but would also establish a legal basis for disciplinary action against federation administrators or officials who misuse the negotiation process. Procedural justice would thereby be transformed from a broad and abstract principle into a set of measurable and enforceable rules.

Overall, this study argues that the future of international sports governance depends upon redefining the relationship among the speed of dispute resolution, the organizational power of federations, and the fundamental rights of athletes. Procedural justice should not be understood as an impediment to efficiency but rather as a condition for the durability, legitimacy, and enforceability of settlements. The more negotiation and mediation processes are designed around transparency, balanced power relations, equal access to information, and legal oversight, the greater the likelihood of achieving sustainable settlements, reducing adjudicatory costs, and strengthening confidence in sports institutions.

Authors’ Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

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In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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