THE LEGAL NATURE OF ATHLETE LOAN AGREEMENTS: A SUI GENERIS APPROACH AND ANALYSIS OF NATIONAL LEGISLATION

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Аннотация. *Мазкур мақолада профессионал спортчиларни вақтинчалик бошқа клубга ўтказиш (ижара) шартномасининг ҳуқуқий табиати таҳлил қилинган. Муаллиф томонидан "ижара" атамасининг фуқаролик ҳуқуқи тамойилларига зидлиги асослаб берилган ҳамда қиёсий-ҳуқуқий таҳлил асосида мазкур шартномани "sui generis" (ўзига хос) ҳуқуқий ҳодиса сифатида эътироф этиш зарурати исботланган.*

Калит сўзлар: *спортчи ижараси, трансфер ҳуқуқи, sui generis, фуқаролик ҳуқуқи объекти, рўйхатдан ўтиш ҳуқуқи, меҳнат шартномасининг тўхтатилиши*

Аннотация. *В данной статье анализируется правовая природа договора временного перехода (аренды) профессиональных спортсменов. Автор обосновывает противоречие термина «аренда» принципам гражданского права и на основе сравнительно-правового анализа доказывает необходимость признания данного договора как «sui generis» (уникального) правового явления.*

Ключевые слова: *аренда спортсмена, трансферное право, sui generis, объект гражданского права, регистрационные права, приостановление трудового договора*

Abstract. *The article analyzes the legal nature of the contract for the temporary transfer (loan) of professional athletes. The author substantiates the contradiction of the term "loan" to the principles of civil law and, based on a comparative legal analysis, proves the need to recognize this contract as a sui generis (unique) legal phenomenon.*

Keywords: *athlete loan, transfer right, sui generis, object of civil law, registration rights, suspension of employment contract*

In recent years, the comprehensive reforms implemented within the framework of the "New Uzbekistan" have significantly impacted the field of physical education and sports. In particular, the decrees and resolutions of the President of the Republic of

Uzbekistan aimed at advancing this sector have necessitated the restructuring of professional sports clubs in accordance with market economy principles. As a result of the ongoing commercialization of professional sports, athletes are increasingly regarded not merely as participants in physical activity, but as key actors within substantial financial and economic transactions.

In contemporary sports practice, particularly in football, there has been a marked expansion of mechanisms governing the movement of athletes between clubs. Beyond permanent transfers, the temporary assignment of players commonly referred to as a "loan" in both international and domestic sports discourse has become widespread. This mechanism serves as an effective instrument for enhancing players' professional development while simultaneously alleviating the financial obligations of clubs.

Notwithstanding its practical significance, the legal characterization and regulation of the athlete loan institution within the national legal framework remain insufficiently developed and conceptually fragmented. The core issue stems from the attempt to apply the provisions of the Civil Code of the Republic of Uzbekistan governing property lease to relationships involving a human individual, which fundamentally contradicts established principles of human dignity and personal autonomy.

Accordingly, this article aims to critically examine the legal nature of athlete loan agreements and to substantiate the necessity of introducing a *sui generis* legal approach within the national legal system. Such an approach would allow for the development of a specialized regulatory framework that adequately reflects the unique characteristics of professional sports relations while ensuring compliance with fundamental human rights standards.

According to Article 535 of the Civil Code of the Republic of Uzbekistan, under a lease agreement, the lessor undertakes to provide the lessee with property for temporary possession and use for consideration [1]. It follows from the substance of the provision that the object of a lease may consist exclusively of non-consumable items, that is, property that does not cease to exist in the course of its use, including both movable and immovable assets.

However, in professional sports, the concept of "loaning a football player" has become a common and widely accepted practice. This gives rise to a fundamental paradox in legal doctrine: under constitutional principles and universally recognized norms of international law, a human being cannot be treated as an object (thing) of legal relations, but must be regarded as a subject thereof. Consequently, if such agreements were to be interpreted in judicial practice as constituting the "lease of a person" in a literal sense, they could be deemed inherently invalid pursuant to Article

116 of the Civil Code, which governs transactions contrary to the foundations of legal order or morality.

For this reason, it is necessary to abandon the use of the term "lease" in national legislation and instead introduce the concept of the "temporary transfer of an athlete," aligned with FIFA regulatory standards.

If an athlete cannot be regarded as the object of a lease, then what exactly is being transferred between clubs, and for what are payments being made? In order to address this question, it is necessary to turn to the theory of "transfer rights." Our analysis demonstrates that the subject matter of such agreements is not the physical person or bodily integrity of the athlete, but rather the "right of registration for participation in competitions" held by the club.

According to the Turkish scholar A.K. Karauz, the transfer and loan of an athlete cannot be classified as an ordinary civil law contract. Its subject matter consists of the club's "licensing quota" within the relevant federation, as well as the ability to exploit the athlete's image rights [3, p. 371]. Accordingly, a loan agreement should be understood as a transaction involving the temporary transfer (cession) of the right to use an intangible asset, rather than the transfer of any physical object.

In order to incorporate this theoretical framework into national legislation, it is proposed to introduce an amendment to Article 81 of the Civil Code (Objects of Civil Rights). Specifically, it is necessary to legally recognize the "transfer rights of professional athletes" as proprietary rights, that is, as intangible (non-material) assets within the system of civil law.

The central argument substantiated within the framework of this research is that agreements on the temporary transfer of athletes should be recognized as a *sui generis* legal phenomenon. The term *sui generis*, derived from Latin, denotes something "unique" or "of its own kind," and is employed in legal doctrine to describe complex arrangements that do not fully conform to any existing legal category or framework.

Among national scholars, E.T. Musayev also emphasizes the hybrid nature of sports contracts, noting that they embody a combination of both public and private law norms. Accordingly, he argues that it is not feasible to regulate such contracts exclusively within the framework of the Labour Code [4, p. 58].

In foreign practice, particularly within European football (e.g., Germany and England), the loan system is regarded as an important economic strategy for clubs. In his research, economist S. Block analyzes the efficiency of loan arrangements through the lens of property rights theory, concluding that loan agreements function as a mechanism of "asset management" for clubs [6, p. 45]. Major clubs often acquire promising young players and subsequently loan them to other teams in order to

facilitate their development and increase their market value. British scholars A. Bond and P. Widdop refer to this phenomenon as “talent accumulation” and emphasize the need for its proper regulation [7, p. 12].

In Uzbekistan, clubs also widely employ this practice; however, due to existing gaps in the legal framework, financial disputes arise frequently. As noted by M.B. Tleumuratov, the mechanisms for ensuring the performance of contractual obligations in professional sports through civil law instruments—such as guarantees and penalties—have not yet been fully developed [5, p. 48].

A particularly problematic issue arises when the borrowing club becomes unable to pay the athlete’s salary (for instance, in the event of bankruptcy): who bears legal responsibility in such circumstances? According to our proposal, the principle of joint and several liability should apply within a *sui generis* contractual framework. In other words, the lending club (as the holder of the transfer rights) should act as a guarantor for the payment of the athlete’s remuneration. This proposal is consistent with the ideas advanced by Sh. Khodjimurotov regarding the need to ensure the stability of football players’ employment contracts [8, p. 21].

One of the most delicate issues in athlete loan arrangements concerns the legal situation following the expiration of the loan period. Although Article 503 of the Labour Code establishes the procedure for the temporary transfer of an athlete to another employer, the mechanism governing the athlete’s “return” has not been закреπed in an imperative (mandatory) manner.

In our view, within the framework of a *sui generis* approach, it is necessary to introduce a “guaranteed return” mechanism into the Labour Code. This would imply that upon the expiration of the loan period, or in cases where the temporary (borrowing) club terminates the contract prematurely, the athlete’s employment position and working conditions with the “parent club” must be automatically reinstated. Such a provision would serve to protect athletes from unemployment and social vulnerability.

Based on the foregoing analysis, the following theoretical and practical conclusions may be formulated:

First, it is necessary to abandon the term “athlete lease” in national legislation, as it undermines human dignity and is legally inaccurate, and to replace it with the concept of the “temporary transfer of an athlete,” aligned with international standards.

Second, agreements on the temporary transfer of athletes should not be classified as ordinary civil lease or service contracts, but rather recognized as *sui generis* legal arrangements of a complex tripartite nature (Club–Athlete–Club). Third, it is proposed to amend Article 81 of the Civil Code of the Republic of Uzbekistan by introducing “transfer rights of athletes” as an independent object of civil (proprietary) rights.

The implementation of these proposals in practice would contribute to the development of a more civilized legal framework for the professional sports market in Uzbekistan, ensure effective protection of athletes' labour rights, and facilitate the harmonization of national legislation with the standards of FIFA and the International Labour Organization.

One of the most significant and frequently disputed issues in athlete loan relations concerns the determination of liability for damage to an athlete's health and for sports-related injuries. Under classical civil law principles governing lease relationships, liability for damage to leased property is generally borne by the lessee. However, this rule cannot be fully applied to professional sports relations. This is because an athlete is not an ordinary material asset, but rather a labour subject engaged in activities inherently associated with elevated risk.

If an athlete sustains a serious injury during the loan period or suffers an irreversible deterioration in health, conventional medical insurance mechanisms may prove insufficient to fully compensate for such harm. Therefore, the issue of allocating responsibility for damages arising from the loss of an athlete's working capacity requires specific and independent legal regulation.

In our view, within the framework of a *sui generis* contractual model for regulating athlete loan relations, it is appropriate to introduce the institution of joint and several liability with respect to medical and social guarantees. Under such an approach, if an athlete sustains an injury while performing for the borrowing club, the costs associated with medical treatment, rehabilitation, and the restoration of working capacity should not be borne solely by the temporary club. Rather, the "lending club," which holds the primary contractual relationship with the athlete, should also assume a proportionate share of responsibility.

This approach is consistent with the fundamental principles of international labour law, particularly with the standards established in the conventions of the International Labour Organization concerning the protection of workers' health [9, p. 16].

At the same time, in regulating the temporary transfer of professional athletes to other clubs, it is of particular importance to incorporate into national legislation the restrictive norms introduced by international sports organizations. In particular, Article 10 of the FIFA Regulations on the Status and Transfer of Players, which entered into force in 2024, establishes a number of strict limitations regarding athlete loan arrangements. According to these provisions, the maximum duration of a loan agreement is set at one year, and the practice of re-loaning a player to a third club (sub-loan) is strictly prohibited [10, p. 10].

Although these international standards are partially reflected in the regulations of the Uzbekistan Professional Football League (UzPFL) [11, p. 24], their application remains limited exclusively to the field of football. However, considering the rapid development of other professional sports in the country—such as basketball, volleyball, and handball—it appears appropriate to codify key principles, including the prohibition of sub-loans and the establishment of a maximum loan duration, at the level of the Law of the Republic of Uzbekistan "On Physical Culture and Sports" [12, p. 17].

In light of the foregoing analysis, it becomes evident that the absence of a coherent and comprehensive legal framework governing athlete loan relations gives rise to significant theoretical inconsistencies and practical challenges. The continued use of the term "athlete lease" not only reflects conceptual inaccuracy but also risks undermining fundamental principles of human dignity and personal autonomy. Accordingly, replacing this terminology with the notion of the "temporary transfer of an athlete," aligned with international standards, constitutes an essential step toward doctrinal clarity and normative precision.

Furthermore, the recognition of athlete transfer agreements as *sui generis* legal arrangements provides a more adequate conceptual foundation for regulating these complex relations. Such an approach allows for the integration of elements of civil, labour, and sports law, thereby reflecting the hybrid nature of professional sports contracts. In this context, the proposed inclusion of "transfer rights of athletes" as independent objects of civil rights within the Civil Code would facilitate the development of a more consistent and functional legal regime.

At the same time, the effective regulation of athlete loan relations requires the incorporation of key international standards into national legislation. The introduction of limitations such as the prohibition of sub-loans and the establishment of maximum loan durations would prevent the excessive commodification of athletes and ensure that their professional development is not subordinated solely to commercial interests. In parallel, particular emphasis must be placed on safeguarding the fundamental rights of athletes, especially their freedom of labour and personal autonomy. In this regard, the requirement of the athlete's prior written consent for any temporary transfer should be закреπed as a mandatory legal condition, and any agreements concluded in its absence should be deemed invalid.

Moreover, addressing issues of liability—particularly in relation to injuries and the loss of working capacity—necessitates the adoption of innovative legal mechanisms, including the principle of joint and several liability within a *sui generis* contractual framework. Such measures would ensure a fair allocation of risks between

the lending and borrowing clubs, while simultaneously enhancing the level of social protection afforded to athletes.

Ultimately, the implementation of the proposed reforms would contribute to the establishment of a more coherent, balanced, and human rights–oriented legal framework for professional sports in Uzbekistan. This, in turn, would not only strengthen the protection of athletes' labour rights but also promote the harmonization of national legislation with international standards, including those developed by FIFA and the International Labour Organization, thereby facilitating the integration of Uzbekistan's sports sector into the global legal and economic environment.

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