

Case Study in Japanese Sports Arbitration

Kazushige Ogawa

Expert Staff, Japan Sports Arbitration Agency

Kazushige Ogawa

■PROFILE

■ Who I am

- Expert Staff, Japan Sports Arbitration Agency
- Deputy Secretary General, Japan International Dispute Resolution Center
- Part-time Lecturer at Sophia Law School, Rikkyo University and etc. (International Trade Law, Arbitration, Sport Law, and Conflict of Laws)
- Steering Committee Member, Intercollegiate Negotiation Competition

■ Books, Articles (In Japanese)

- 「国際商事仲裁の法と実務」 谷口安平・鈴木五十三（編著）丸善雄松堂（共著）第9章
 - 「スポーツ法へのファーストステップ」 石堂典秀・建石真公子（編著）法律文化社 第9章・第14章
 - 「オリンピック・パラリンピックから考えるスポーツと法」 早川吉尚（編著）有斐閣
- その他、JCAジャーナルに「仲裁文献紹介」（共著）、「投資協定仲裁判断例研究」などを執筆

Statistics (統計)

Appeal Arbitration

Year	Registered Cases					Refusal
	Awards	Withdrawal	Terminated	Pending		
2003	3	3	0	0	0	2
2004	2	2	0	0	0	1
2005	2	1	1	0	0	0
2006	1	1	0	0	0	0
2007	0	0	0	0	0	2
2008	1	1	0	0	0	0
2009	2	2	0	0	0	0
2010	5	3	2	0	0	0
2011	3	3	0	0	0	2
2012	4	3	1	0	0	1
2013	24	8	16	0	0	3
2014	6	4	2	0	0	3
2015	7	6	1	0	0	1
2016	8	8	0	0	0	0
2017	5	2	3	0	0	2
2018	10	10	0	0	0	8
2019	11	5	2	4	0	1
2020	8	8	0	0	0	0
2021	10	6	3	1	0	0
2022	18	14	1	0	2	1
合計	130	90	32	5	2	27

1st Decade

3 to 5 cases a year

2nd Decade

5 to 10 cases a year

Duration of Arbitration Proceedings/仲裁手続の期間 4

Statistics (統計)

Appeal Arbitration

Years	Expedited Proceedings		Normal Proceedings		Total	
	Single Year	Cumulative Year	Single Year	Cumulative Year	Single Year	Cumulative Year
2003	5.0	5.0	115.0	115.0	78.3	78.3
2004	26.0	19.0	N/A	115.0	26.0	57.4
2005	10.0	16.8	N/A	115.0	10.0	49.5
2006	N/A	16.8	55.0	95.0	55.0	50.3
2007	N/A	16.8	N/A	95.0	N/A	50.3
2008	0.0	13.4	145.0	107.5	72.5	55.2
2009	43.0	18.3	N/A	107.5	43.0	54.0
2010	15.7	17.4	N/A	107.5	15.7	45.2
2011	25.0	18.2	169.5	128.2	121.3	59.4
2012	N/A	18.2	156.3	137.6	156.3	74.7
2013	11.4	15.9	202.7	153.8	83.1	77.2
2014	24.0	17.3	128.5	150.2	65.8	75.4
2015	26.2	19.2	N/A	150.2	26.2	68.8
2016	3.0	18.5	162.0	152.3	122.3	74.0
2017	6.0	18.0	82.0	144.9	56.7	72.8
2018	12.3	17.4	167.6	149.6	109.4	78.4
2019	13.5	16.9	271.5	159.0	99.5	80.6
2020	24.3	17.6	275.6	177.8	181.4	92.8
2021	28.0	18.1	276.6	191.5	205.6	103.6
2022	20.4	18.5	89.5	186.2	34.2	95.3

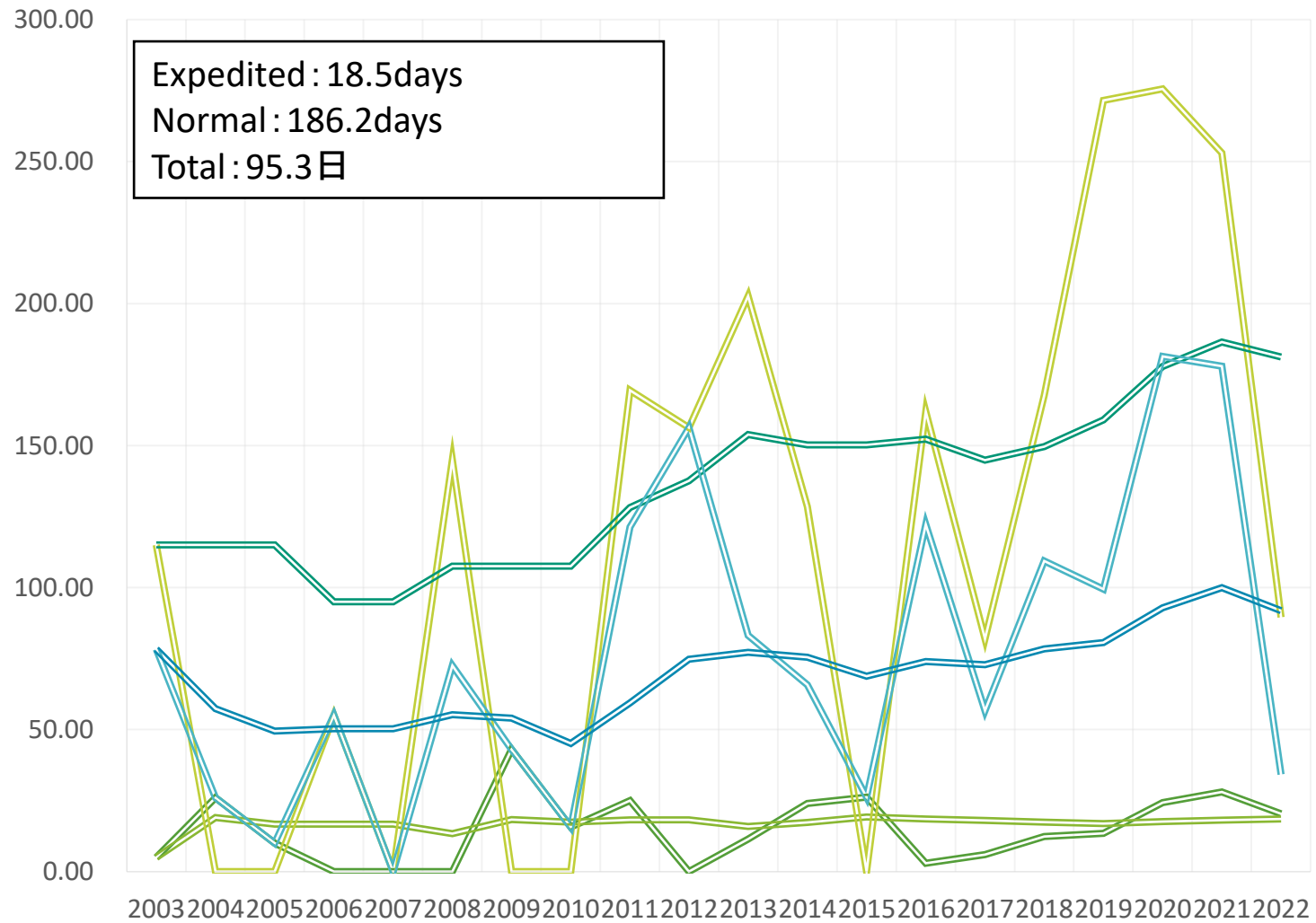
**Expedited
緊急仲裁**

18.5days

**Normal
通常仲裁**

186.2days

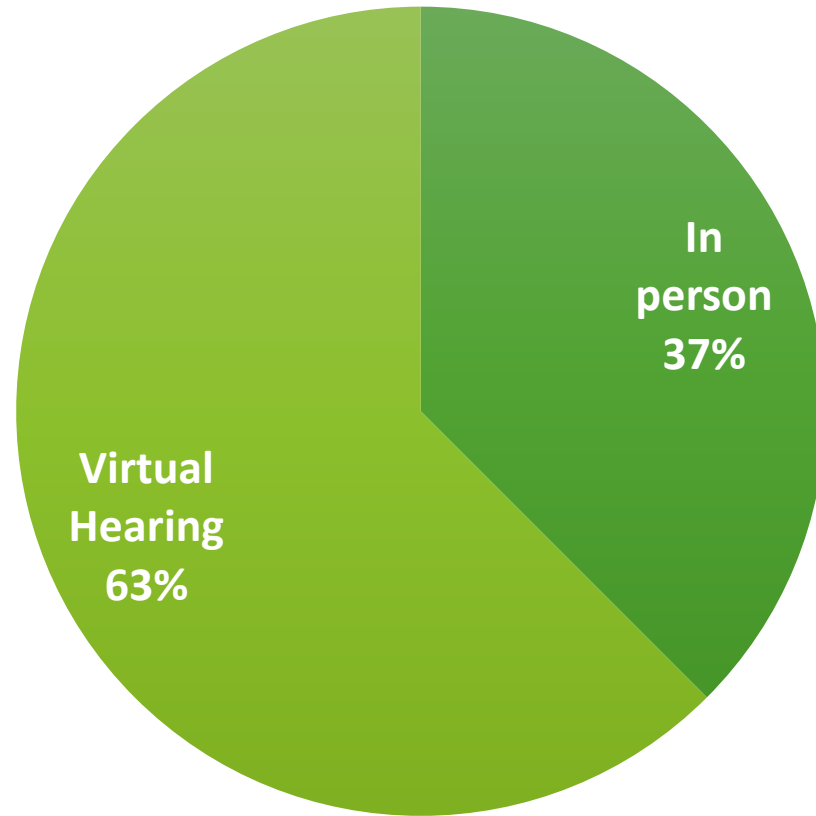
Duration of Arbitration Proceedings 仲裁手続にかかる期間



- Expedited :Sgl Yr
- Expedited :Cml Yr
- Normal :Sgl Yr
- Normal :Cml Yr
- Overall :Sgl Yr
- Overall :Cml Yr

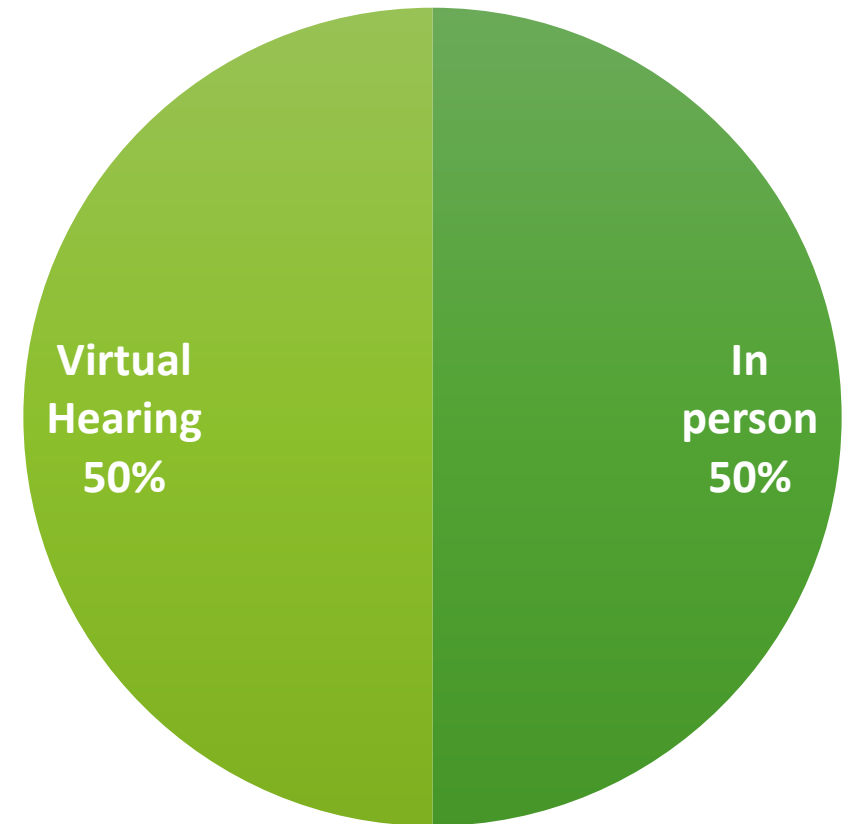
COVID-19 and Virtual Hearing

Cases in 2020 (8 hearings)



■ In person ■ Virtual Hearing

Cases in 2021 (8 hearings)



■ In person ■ Virtual Hearing

Cases from 2020 to 2022

1	D	2020-001	Para Swimming	Appeals against decisions to reprimand or disqualify membership made by a sports governing body based on harassment or other reasons.	Dismissed
2	A	2020-002	Cycling	Appeal against a sports governing body's decision to amend the athlete selection criteria	Dismissed
3	D	2020-003	Para Table Tennis	Appeals against disciplinary action taken by sports governing bodies for coach	Upheld
4	D	2020-004	Def Skiing	Appeals against disciplinary measures imposed by sports governing bodies.	Dismissed
5	E	2020-005	Badminton	Appeal against the decision to refuse to accept the complainant team's registration as a member of the league	Upheld
6	O	2020-006	Cycling	Appeals against the establishment of competition regulations relating to the event	Dismissed
7	A	2020-007	Para Badminton	Appeals against decisions not to designate an athlete who is to be trained as a high performance athlete	Upheld
8	D	2020-008	Japanese Kempo	Appeal against the decision to remove the complainant from the committee member of a sports governing body.	Settlement
9	E	2021-001	Badminton	Appeal against the decision to refuse to accept the complainant team's registration as a member of the league	Terminated
10	D	2021-004	Boxing	Appeal against the sports governing body's decision to declare University A the winner by default after the complainant withdrew from the competition	Dismissed

A:Selection、 D:Disciplinary、 E:Eligibility、 O:Others

Cases from 2020 to 2022

11	S	2021-006	Equestrian	Appeal against selection criteria	Dismissed
12	D	2021-007	Water polo	Appeal against the decision to invalidate the complainant's score made after the match and the decision of the Respondent Appeals Board to dismiss the appeal against that decision	Partially Upheld
13	D	2021-008	Karate	Appeal against disciplinary action taken by a sports governing body in relation to inappropriate practice with shinai (bamboo swords) by the complainant	Upheld
14	D	2021-009	Bowling	Appeal against a decision by the respondent to dismiss an appeal against a decision made by a member organisation of the respondent against the complainant.	Upheld
15	N/A	2021-010	Def Surfing	Appeal against a decision by sports governing body which refused an application for membership by claimant	Settlement
16	S	2022-001	Para Badminton	Appeals against decisions not to designate an athlete who is to be trained as a high performance athlete	Dismissed
17	S	2022-002	Fencing	Appeals against decisions on national team selection	Dismissed
18	D	2022-003	Kyudo	Appeal against disciplinary action taken against the complainant by the sports governing body	Partially upheld
19	O	2022-004	Cycling	Appeals against the establishment of competition regulations relating to the event	Upheld
20	O	2022-005	Cycling	Appeal against a sports governing body's decision not to hold a competition.	Disissed

A:Selection、 D:Disciplinary、 E:Eligibility、 O:Others

Cases from 2020 to 2022

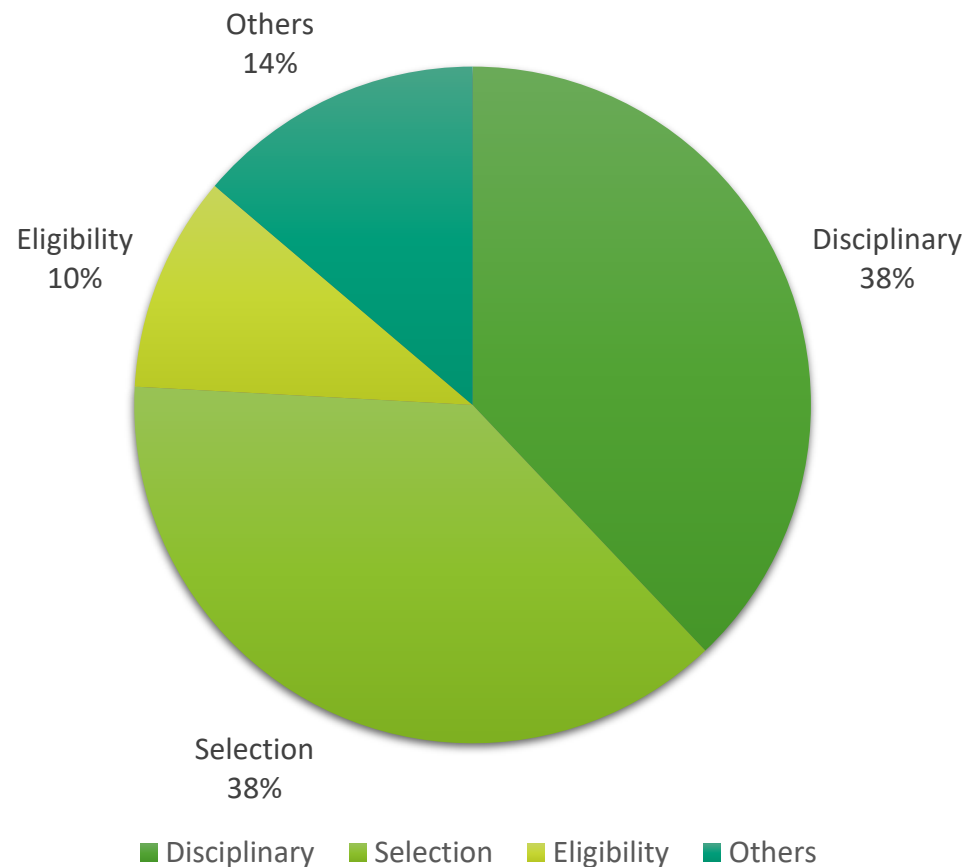
21	S	2022-006	Golf	Appeal against the decision on the selection of athletes and claim for the selection of the complainant as a representative athlete	Settlement
22	S	2022-007~011	Roller Skating	Appeal against a sports governing body's decision to designate a certain event as a national team selection event	Upheld
23	O	2022-012	Cycling	Appeals against the establishment of competition regulations relating to the event	Settlement
24	E	2022-013	Tennis	Appeal against the sports governing body's decision to freeze the registration of players and a request to register the complainant as a player.	Upheld
25	D	2022-014	Dodge ball	Appeal against the respondent's dismissal of an appeal against a disciplinary action taken against the complainant by the respondent's affiliated association	Upheld

A:Selection、 D:Disciplinary、 E:Eligibility、 O:Others

Characteristics of Cases 事案の性質

Appeal Arbitration

Characteristics of Appeal Arbitration Cases from 2020 to 2022



Characteristics 性質	Cases
Disciplinary 規律処分	11
Selection 選手選考	11
Eligibility 資格	3
Others その他	4
Total 合計	29

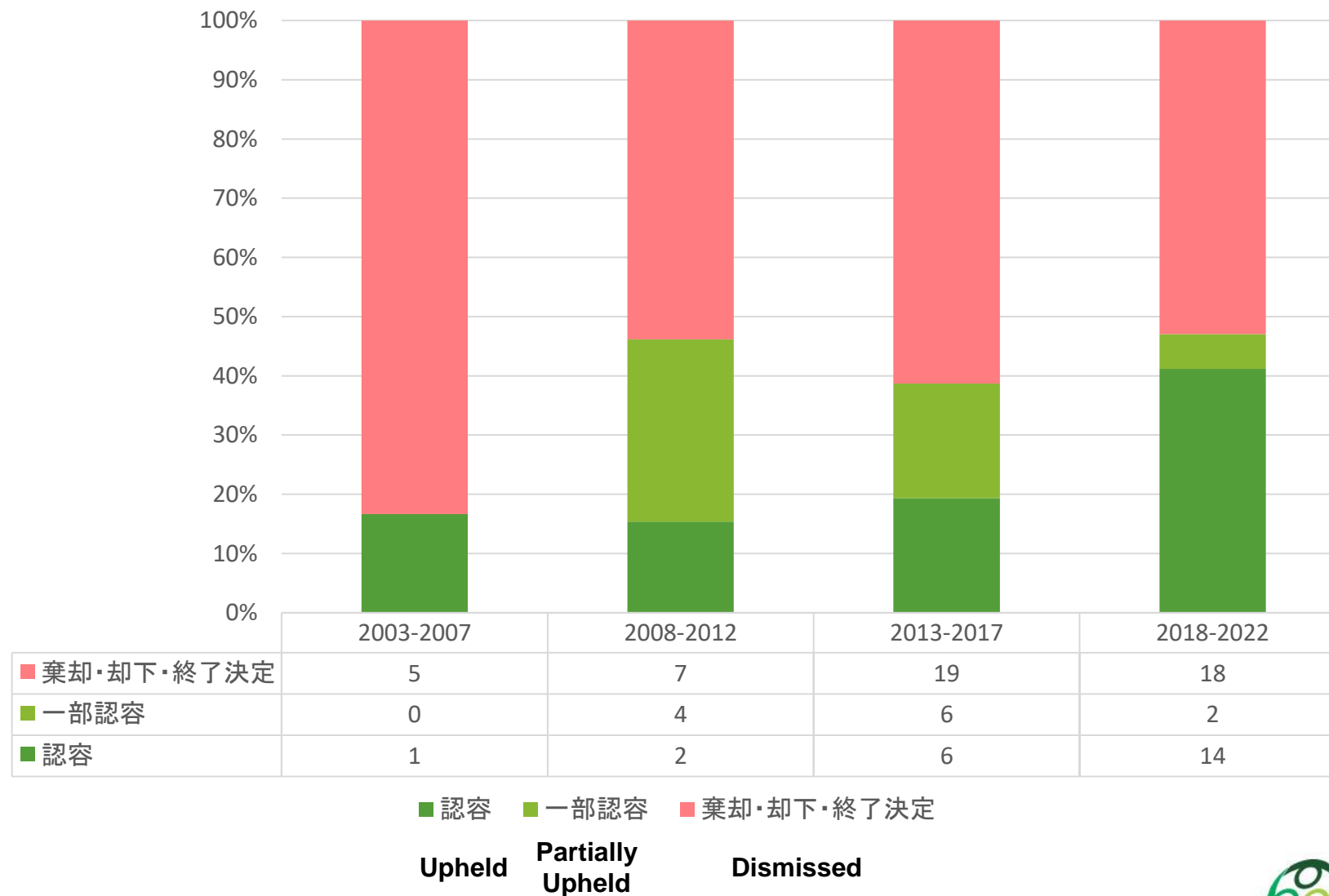
Trend of Cases 事案の傾向

Appeal Arbitration



Success Rate 請求が認められる割合

Appeal Arbitration



Standard of Review 判断の基準

When the SGB's decision to be overturned
どのような場合にスポーツ統括団体の決定が取り消されるか

- **Sports Arbitration Rules Art.43** (スポーツ仲裁規則43条)
Arbitral awards shall be made in accordance with the rules and regulations of the sports governing body and the general principles of law. However, for legal disputes, the arbitral award shall be made in accordance with the applicable law.
- According to the jurisprudence of the JSAA's case law, a decision of Sports Governing Body(SGB) should be overturned if one of the four conditions are met. Such conditions are;
- If SGBs' decision is;
 - in violation of their own rules or regulations (規則違反)
 - in violation of national law/regulations (法令違反)
 - made under defective procedure; or (手続違反)
 - made under the SGB's rule but the decision itself was extraordinary unreasonable (著しく合理性がない)

**In which case
the decision of
the SGB should
be deemed as
extraordinary
unreasonable?**

スポーツ統括団体の
決定が著しく合
理性を欠く場合は
どのような場合
か？

If the decision of the SGB is contrary to the general principles of law, such decisions may be set aside.

For example, decision which is

- not comply with the rules/regulations of the International Federations;
- not in conformity with the principle of proportionality;
- contrary to the principle of estoppel; etc.

Thank you for paying your attention!!

Kazushige OGAWA

Expert Staff, The Japan Sports Arbitration Agency

E-Mail: kzog@rikkyo.ac.jp