

CERTAIN HISTORICAL AND CONTEMPORARY ASPECTS OF THE REGULATION OF SPORT ACTIVITIES IN NORTH MACEDONIA

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Abstract

Research on historical and contemporary concept of legal regulation of sports is realized, including an analysis of the primary and secondary historical sources in the periods of the Antiquity, the Byzantine period, the Ottoman Rule, and the modern times. Furthermore, a review of certain theoretical considerations is also provided. Relevant primary and secondary historical sources (written material) were particularly examined. The concept of contemporary Macedonian sports law is elaborated, including links to other legal disciplines. Several conclusions with respect to the character of sports law in contemporary law are derived.

Keywords: *sports law, sports history, Macedonian legislation*

INTRODUCTION

The evaluation of historical legal sources can play a considerable role in confirmation, improving and advancement of sports law as a new legal discipline. This role has numerous elements. For instance, the usage of the historical method in the research of legal phenomena related to sport activities is very significant, having in mind the character of historical legal science. Coming to conclusions for contemporary sports law requires research of a variety of legal and social-economic circumstances through history (the laws of the antiquity, as well as medieval law and modern law history). One of the current problems is also the determination of the place of sports law as a new discipline in contemporary legal systems.

METHODS

The historical method was applied during collection of data concerning the development of regulation of sport activities in different time periods. Primary and secondary historical sources (written material) were particularly examined. This examination included historical legal acts and documents referring to sports law. Internal and external critics and evaluation of the data in the sources have been conducted.

Besides the historical method, the study of the research subject was realized by application of the descriptive method, i.e. its minor methods: analytical, synthetic, comparative and normative.

The obtained data were treated with inductive and deductive method of interpretation of facts relevant to regulations of sports in history and their corresponding forms in contemporary law.

The interpretation of the empirical data collected was realized by exploratory and logical approach of the essence of legal solutions concerning sports law.

RESULTS AND DISCUSSION

Regulation of Sport Activities in the Antiquity

An example of the importance of sport activities and the historical importance for contemporary Macedonian culture, i.e., its continuity since antiquity until today, is the Maenad, a small bronze statue, representing a dancer-follower of Dionysus, dating from 530-520 BC discovered in the centre of Tetovo in 1933. Certain scholars (Dimova, 1978) believe that its representation in dancing position resembles the contemporary 2/4 rhythm folk dance "Tresenica", from the Mariovo region.

The analysis of available literature indicates that historical science has not sufficiently treated the regulation of sport activities in the antiquity, particularly regarding Upper Macedonia, which reaffirms the challenge to address these issues in subsequent research.

On the other hand, due to the Roman conquest of Macedonia, after the end of the third Roman-Macedonian war in 168 BC, given the fact that Macedonia became a formal Roman province in 146 BC, it could be concluded that the Roman law was introduced in Macedonia (Naumovski, 2004a). Under Roman rule, Macedonia was divided in two provinces: Macedonia Prima and Macedonia Salutaris (Macedonia Secunda).

In the Roman provinces of Macedonia, games (specially gladiators' fights) as well as fights

with wild beasts (venationes) were organized. Such games for instance were held in the theater of Stobi, especially in the first century with the enhanced colonization of Roman veterans (Stanimirovic, 1976). Furthermore, evidence of sport activities is found in the ancient city of Scupi (today's Skopje), particularly those dating from the time of Diocletian as well as later when Scupi became seat of the bishopric. Swimming, games with large and small ball (similar to contemporary tennis), as well as jumping, running, throwing sports, wrestling, were everyday activities in the thermae, palaestrae and esplanades (Stanimirovic, 1977). Of particular interest are also historical sources regarding the sport activities and rules of work (particularly oil supply) of the gymnasium in Styberra on the Erigon river (near today's Prilep) (Stanimirovic, 1975).

The Roman proverb "Mens sana in corpore sano" (a sound mind in a sound body) (Juvenal, Satires, 10.356), is the best proof of the status of physical activities in the ancient Roman society. Among the most important sport games were: *expulsum ludere* (a type of today's handball), *trigon* (similar to baseball or softball), *harpastum* (that looked a bit like American football), *pila* (passing a ball to a player who was in the middle, trying to catch it). From the individual sports, wrestling was the main sport. On the other hand, part of the so-called manifestations of "panem et circenses (bread and games)", besides the games of the gladiators, were the chariot races, being held at "Circus Maximus (the Great Circle)" in the city of Rome. The status of gladiators was very specific, since they were persons to which a special civic penalty-*capitis deminutio maxima* was imposed, i.e., they were deprived of their freedom and citizenship). Identification of these persons with free persons that practices sports is impossible, not only from the aspect of *ius quod ad personas pertinet* (the law that refers to persons), but due to the absence of humanistic dimension of the fight (Naumovski, 2004b).

This is a sufficient reason to analyze Roman law sources that regulate sport activities. Furthermore, the role of Roman law is crucial in a general sports law context too, since, Roman law is a systematic basis of contemporary private law, particularly in the states that belong to the so-called Roman-Germanic legal family.

Byzantine Law

Byzantine law, as continuation of Roman law has reaffirmed the above regulations. Sports as a phenomenon of great significance in the Byzantine Empire, having in mind the rivalry between the "Blues" and the "Green" fractions (that were the leading two powers in the quadrigae, besides the Reds and the Whites). As noted by Schriodt, when it comes to sports, particularly chariot racing and other competitions, "Byzantine circus fractions were more than mere sporting associations", and "they represented the political, religious, economic and social divisions of the population of Constantinople creating 'an urban militia that played an important role in the city's history'". This tendency has been widely accepted around the territory of the empire, having as a result their institutionalization as part of

the state administration, dominated by Blues and Greens, resulting with the disappearance of the Reds and Whites. Venationes continued to exist, but other sports appeared, such as the *tyzkanion*, variant of Persian tschougan (predecessor of modern polo) (Schriodt, 1981).

Regarding the regulation of sport activities in Byzantium two other issues are of particular importance: 1) the 399 decree of Theodosius I (Theodosius the Great) stating that: "Just as We have already abolished profane rites by a salutary law, so We do not allow the festal assemblies of citizens and the common pleasure of all to be abolished. Hence We decree that, according to ancient custom, amusements shall be furnished to the people, but without any sacrifice or any accursed superstition, and they shall be allowed to attend festal banquets, whenever public desires so demand (CTh.16.10.17)." (Pharr, 1952); and 2) the issue whether there is was any decree forbidding the Olympic games, which remains a challenge for modern historians, having in mind the approach of Theodosian Code (438) under the rule of Theodosius II; the prohibition of pagan practices and the considerations that the last Olympic Games were held in 405 or 433 (Schriodt, 1981).

Ottoman Rule

During the Ottoman Rule in Macedonia the folk (*pehlivan*) oil wrestling becomes widely practiced sport. Other popular sport activities included rock throwing (from the shoulder) (*frlanje na kamen od ramo*) vaulting (over seven real horses), long jump, shooting competitions, horse riding etc. Most of these activities and their regulation are documented in the Macedonian historiography. For example, Gjurchin Kokale, one of the prominent figures among the Mijaks, a Macedonian ethnographic group, in his autobiography, provides us valuable details on the organization and regulation of sport activities (Kuševski, 1983). Furthermore, sport activities and competitions were organized within the Macedonian Revolutionary Organization such as: running, relay running, jumping for distance, wrestling, horse-racing, stick fighting, shooting etc. (Konstantinov, 1978).

According to Pop-Gjorcev, the first football ball was brought in Bitola in 1891, while the football competitions were organized in the physical education courses in Bitola schools (Pop Gjorcev, 1975). Until 1919 football clubs were established in Skopje, Prilep, Veles and Tetovo. In this period other sport competitions, such as horse racing and athletic competitions also started to flourish. (Pop Gjorcev, 1975).

First half of the 20th century

During the Yugoslav kingdom, a crucial factor was the appearance of the so called Sokol gymnastics movement. According to Stanimirovic, societies in the following cities were reorganized: Kumanovo (1909), Skopje (1910), Tetovo (1910) and Kriva Palanka (1912) (Stanimirovic, 1986). After the wars (1912–1918) the activity of the societies was renewed, and new ones were established. Since 1930 this movement also

expanded in Kumanovo, Prilep, Gostivar, Kocani, Kicevo, Radovish, Kratovo, Berovo, Bitola, Debar, and other cities, as well as in the villages: Miravci, Negorci, Smokvica, Pirava, Rostuse and others. In certain places (Veles, Strumica, etc.) The active members regularly practiced with treadmills, treadmills, simple, row exercises, marching, etc., they also had activities from athletics, and in more developed societies to a lesser extent from archery, cycling, basketball, volleyball, skiing, etc. Occasionally, on various occasions, public classes, parades, academies, competitions, prefectural and provincial. The Sokol organization maintained close ties with all state authorities, the military, and schools (Stanimirovic, 1986). The organization's statute had to be granted an approval of the Ministry of Interior, while the rules also included "elections, desired profile, establishing of a quorum, extraordinary and emergency meetings, finance management, audit and disciplinary proceedings through the established Court of Honor". Of particular importance for this period is 1932 Law on Mandatory Physical Education that contained regulations "on organizational setting and sports rules/programs for Sokol clubs and umbrella organizations with the Ministry for Physical Education acting in an executive manner" (Begovic, 2021).

After World War II, in 1945 the Presidium of the first legislative body of the contemporary Macedonian State, the ASNOM (Anti-fascist Assembly for National Liberation of Macedonia.), has enacted a Decree on Establishment of an Interim Sports Board of Macedonia (Decree, 1945). According to Article 2 of the Decree, under the competence of the board is the realization of the organization of all sport branches in the entire territory of Macedonia. The board included representatives of the Committee on Education, the Headquarters of the NOV and POJ (People's Liberation Army of Yugoslavia and Partisan Squads of Yugoslavia.) for Macedonia, the ENOF (Unique National Liberation Front.), the AFŽ (Anti-fascist Womens' Front.), the NOMSM (National Liberation Youth Union of Macedonia.) and the Action committee of the trade unions in Macedonia. The later act is obrogated by another decree that was promulgated by the Macedonian government in 1945-the Decree on Establishment of Initiative Sports Committee for Macedonia (Decree on Establishment of Initiative Sports Board, 1945). This decree stipulates that the movable and immovable property, such as the premises and other objects related to sport activities previously owned by the sport societies before and during World War II, are transferred to the newly established committee, for the purpose of reorganization and advancement of sports in Macedonia. At the same time, the decree grants competence to the Ministry of Education to enact regulations, drafts, plans and management decisions for sports in Macedonia, following relevant proposals by the Sport Committee.

The period of the Yugoslav federation

Begovic notes several aspects of development of the regulation of sport activities

during the period of the Yugoslav federation (in which Macedonia was one of the six constituent republics): 1) The provisions of the 1974 Constitution of Yugoslavia that recognized the citizens' rights to nurture and develop their persons, presupposing an increased need for play, recreation and other similar activities; 2) the 1976 Law on Physical Culture and Self-Management Communities of Interest /samoupravni interesni zaednici-SIZ/; 3) the 1976 Law on Associated Labour ; 4) the 1979 Resolution on the Yugoslav Assembly on the Free Exchange of Labour in Social Activities (1979). In this context, of particular importance in 1975 is the a Social Agreement on position, rewards and remuneration of top athletes was adopted by the Yugoslav Association for Physical Culture—Savez fizičke culture Jugoslavije that has introduced three sorts of athletes (merit, international and state class), as well as duties for the state and sport organizations to provide medical care and insurance policy, social security, pension plan and remuneration for athletes (Begovic, 2021).

In the second half of the 20th century, many Macedonian prominent lawyers have been either active as athletes and/or participated in the management of sports activities. Examples include the professors of the Law Faculty in Skopje, Nikola Matovski (handball) and Todor Pelivanov (athletics), the famous attorney Panta Polenak (activist of the "Vardar" sport society, president of the volleyball federation and secretary of the physical culture union and organizer of "mass games" and organizer of numerous waterpolo, boxing, gymnastics and other sports), (Македонска академија, 2009), Vlado Buchkovski (handball) and others. Within the activities of the Federation of Sports Pedagogues of Macedonia the kinesiology professors Tihomir Popovski, Slavko Matovski and Aleksandar Naumovski, have outlined the need of analysis of societal and legal aspects of sports in several events and works, including in the "Fizicka Kultura" scientific journal, that first published in 1973, a predecessor of the current "Research in Kinesiology (RIK) scientific journal.

Sports law in the Republic of Macedonia

With the Macedonian independence on September 8th, 1991 and with then enactment of the Constitution of the Republic of Macedonia on November 17th, 1991 (Constitution, 1991), sport is a constitutional category, especially since the Republic is obliged to stimulate and assist sports (Article 47), providing participation of citizens (directly or through their representatives) in the units of local-self-government in the decision making on issues related to sports (Article 115). This provided a legal framework for further development of sports law primary and secondary legislation elaborated bellow.

Due to the increasing demand of enhancing professional training of the legal and sport management community, the first Macedonian Sports Law Association „Lex Sportiva“ was established on 16.02.2010. The founders of the association are: Goce Naumovski, Blagoja Pandovski, Dimitri Chapkanov, Dimitar Apasiev, and Dime Milevski. Sports law has been first

introduced at Macedonian universities as a course within the LL.M studies curricula in 2011 at the Justinian I Law Faculty, of the SS. Cyril and Methodius University in Skopje, taught by professors Goce Naumovski and Borče Davitkovski.

The essentials of regulations of sports and sports activities today in Macedonia is progressively imposed as a pillar of contemporary law. This feature is provoked by the occurrence of a great amount of 'negative phenomena' in sports (including corruption in sports) and synergies to diminish them. Even more, the European integration process imposes challenges to Macedonia as a candidate country to take measures in order to harmonize regulations in the field of sports law with the appropriate EU legislation. In Macedonia, sport, in the sense of the Law on Sport (LS), is an activity that covers all forms of sports activities of athletes of all ages, as well as sports - recreational activities of citizens (Law on Sports, Article 2).

LS regulates the major quantity of rules of comportment in sports, but at the same time formally confirms the traditional practice of state recognition of sports autonomy. The law recognizes the implementation of sports rules by national federations and the Macedonian Olympic Committee (MOC). It includes the possibility of resolving disputes in the field of sport and entrusting them to sports arbitrations. Also, the Law accepts the existing organizational structure in the field of sports and adds to it certain organizational forms in order to improve social relations that are not regulated by international sports organizations and are of interest to the Republic of Macedonia. Macedonian legislation also includes the Law on Law on Prevention of Violence and Inappropriate Conduct at Sports Contests as one of the major sport law sources. The most important ratified international conventions and documents important for the field of sports in the Republic of Macedonia include the Anti-Doping Convention and the European Convention for Prevention of Violence and Misconduct at Sports Events, Especially Football Matches [Law on Ratification of International Convention against Doping in Sport, 2008].

CONCLUSION

The justification of legal regulation of the sports activities lies in many centuries of existence, tradition, enormous expansion, and profound presence of sports in society on one hand, and the awareness that sport represent an important sphere of public interest, on the other hand. Consequently, sports law studies the legal norms that aim at achieving equilibrium between the interests of all parties involved in the process: the interest of the state that the organization of sports, the interest of the athletes and the interest of the business entities included, particularly in the context of legal certainty.

Modern national legislations seem to offer appropriate response to the challenge imposed by the practice of sports. In recent years relevant legal and institutional infrastructure, sports practice and

case law are becoming pillars for the development of this branch of the law as a separate branch in the legal system of the Republic of Macedonia. However, it is evident that primary and secondary sports law sources need to be improved in order to be in line with the trends of the contemporary European and international sports law doctrine.

In this sense, the above historical and other aspects sports law presented have a significant place in the subsequent research of the sports and legal science and in the examination of the characteristics and development of sports law in the Macedonian legal system.

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