

The Autonomy and Specificity of Sport in a National and European Context

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Abstract: This article addresses the issue of autonomy and the specifics of sports activities, kinds of rules and structures in terms of their inclusion in the sphere of important principles of national and community law. One of the main problems for each sports entity represents the assurance of an efficient management (organized and competitive) given its legitimate objectives, knowledge and application of the legal framework that regulates the activity as well as their impact on competition, as appropriate is inherent and proportionate to the objectives pursued. At the same time, the sports independence and sports organizations must be supported and protected, and their autonomy must competitively provide cohesion and participatory democracy. In national and international legislation, the autonomy of sport is treated differently. In this context, the formation of sports law, as a new branch of law will contribute to the professionalization of sports, to ensure the protection of the subjects' rights of sports activities, the sports against abusing, as well as protection against corruption and the manipulation of the competitions results on various sport events. European Council is interested in the development of sports and its regulation along with the member states, fact reflected by the approved recommendations and implemented in practice, on the principles of good governance in sport, the recognition of the autonomy of sport, the promotion of honesty in the management of the basic values of sport (specificity of democratic, ethical, efficient and responsible sports activities). The legislative framework remains one of the most acute problems in this area whereas some states provide an extensive legislation (codified) and regulations for the sports autonomy, but most of them are limited to policy statements and sports development plans. Good governance with the recognition and respect of autonomy is an important issue for sports, including sports organizations, as their management must be ensured in a sustainable manner in close collaboration with public bodies, non-profit organizations and various economic organizations (economic agents), sports equipment, manufacturers, sponsors and media. At the beginning of the 21st century, the concepts of "autonomy" and "governance" have become major issues in international, national and - sometimes - local sports debates. Thus, the issue of "sport specificity" (recognized in Europe in 2009 by Article 165 of the Lisbon Treaty), autonomy and governance was broadly addressed. Thus, these concepts are in a direct connection with the development of national and international policies in the direction of improving the management of sport and profile organizations.

Keywords: *sport, autonomy, specificity, rules, law.*

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The actuality of the paper

Etymologically, the concept of autonomy is a combination of the Greek words *auto and nomos*, which means "those who make their own law." This concept was also approached in the moral sciences, being developed, especially, by the German philosopher Immanuel Kant in the eighteenth century and later taken over by authors who used the expression "self-government". During the twentieth century, associative and non-commercial sports organizations (sports clubs and federations) enjoyed a high degree of autonomy in governing the sport.

Governance is an important issue for sports, including sports organizations, as their management must be ensured in a sustainable manner in close collaboration with public bodies, non-profit organizations, as well as with various economic organizations (economic agents producing sports equipment, sponsors and media). At the beginning of the 21st century, the concepts of "autonomy" and "governance" have become major issues in international, national and - sometimes - local debates about sport. Thus, the issue of "sport specificity" (recognized in Europe in 2009 by Article 165 of the Lisbon Treaty), autonomy and governance was broadly addressed.

These concepts are in direct connection with the development of national and international policies in order to improve the management of sport and specialized organizations. Another argument of the topicality of this scientific approach is the fact that the principle of sports autonomy has a new meaning in the context of globalization. Thus, in accordance with Article 25 of the 1949 Olympic Charter, the concepts of independence and autonomy were one of the main requirements for the National Olympic Committees (Chappelet, 2010). In this context, as Markus F. Mazucco stated, "issues related to the normative autonomy of international sports bodies were usually of purely academic interest. However, where the rules and activities of international sports bodies conflict with national law, then this issue acquires practical significance" (Mazucco, 2010). We can also mention that certain issues of legal content, characteristics and limits of sports autonomy were few explored, although such questions have emerged in practice, becoming a topic of theoretical and scientific-practical discussion. According to Mariangela Claudia Calciano (2010), the principle of sports autonomy implies the maintenance of sports order and sports discipline, which is achieved by observing and applying regulatory, organizational and statutory rules to ensure the proper conduct of sports activities and by applying appropriate disciplinary sanctions in sports. Law enforcement practice requires a detailed scientific interpretation of the

principle of sporting autonomy. Thus, we intend to address certain situations and cases of compliance with the principle of autonomy in sports organization, including certain limits thereof. The principle of sports autonomy vis-à-vis public authorities is, in the opinion of most authors who have dealt with this issue, respectively on the legal regulation of sport, one of the most important principles on which the entire sphere of sport is built. At the same time, this principle acquires a new meaning in the context of the globalization of sport.

The aim of the research is to present some praxiological aspects of the autonomy and specificity of sport in a national and European context.

Research methodology: analysis of the literature and synthesis of normative acts in the field, interview and systematic observation method. The concomitant use of these methods allowed us to collect and obtain additional information that helps us to better assess the issue of autonomy and specificity of sport. The interviews were conducted with personalities from the world of national sports in a number of 59 people (presidents of sports federations, sports clubs, principals of sports schools, performance athletes).

Interpretation of accumulated data

On the question: Do you consider that national legislation regulates the autonomy of sport?

No.crt.	Answer options	No. of respondents	Percentage
1.	Yes	17	29%
2.	No	28	47%
3.	Difficult to answer	14	24%

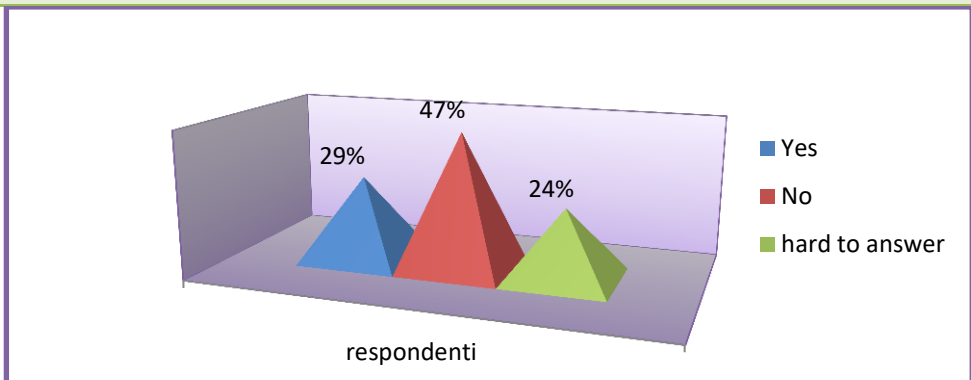


Figure 1. Graphic representation of the answers regarding the regulation of sports autonomy in the Republic of Moldova

From the data reflected in Figure 1 we can see that most respondents gave negative answers to this question (47%). Thus, we can mention that in the Law on physical culture and sports no. 330-XIV of 25.03.99 in the Republic of Moldova was regulated by art.6 the concept of relations between public authorities and other subjects in the field of sports (for example collaboration with sports federations by authorizing their affiliation to international sports federations and other European forums or global ones by exercising the supervision and control regarding the observance by the sports structures of the legal provisions contained in their statutes and constitutive documents), with the National Olympic and Sports Committee (collaborating for the development of programs on training and participation of Republic of Moldova athletes at Olympic Games, as well as for the promotion of the educational valences of Olympism). However, the issue of autonomy and specificity of sport has not been fully elucidated in this normative act, not regulating the issues regarding the legal form of sports autonomy, the subjects who are allowed to exercise it and how the principle of sports autonomy should be combined in the context of government regulations. Moreover, the practice of applying the legislation in the field requires details regarding the scientific interpretation of the principle of sports autonomy.

Jean Corneloup promotes the view that the autonomy of sport does not really exist, it exists only in the form of a rhetorical coverage of business interests in the sports entertainment industry. Other authors, such as V.V. Saraev considers the autonomy of sport to be "invented". Lincoln Ellison (Allison, 1993) considers that sports autonomy is "a myth, and sport still exists somehow separate from society, or is outdated or has nothing in common with politics and social conflicts", while Yuri Bakman or Anders Stridh believes, that today's sport "quickly loses its traditional role and autonomy". Starting from these points of view, we can mention that the world of sports and sports management would be desirable to be free from political or governmental interference, which means that central and local public authorities do not interfere with certain interests in the choice of governing bodies of national Olympic committees or to carry out actions that would result in preferences in the selection of coaches and athletes. Autonomy in sport is an issue based on the unique nature of sport, as it is a global action focused on the principles of fair play and competition, but an excessive intervention by public authorities can have the effect of violating it based on individual interests or group.

The concept of "sports autonomy", as Pascal Chantelat stated, reflects the desire of sports entities to avoid control from the sides of the

political and institutional system. Also, as Jose Luis Arno remarks, "sports federations must remain the guarantor of unity and must play a central role in promoting solidarity between different levels of sports practice" (Arnot, 2006; Chantelat, 2001).

Regarding the question: can you mention how the principle of autonomy applies in the context of the European sports system?

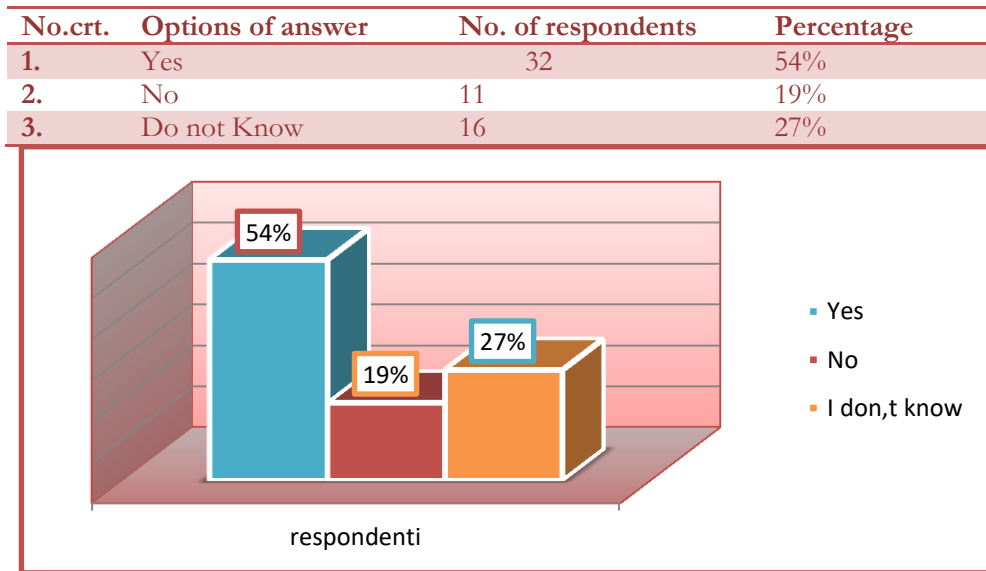


Figure 2. Graphic representation of the answers with reference to the application of the principle of autonomy in the context of the European sports system

From the data reflected in Figure 2 we can see that the majority of respondents (54%) were able to present some information on this issue at European level.

Thus, in the context of the European sports system, we can say that according to this concept

National sports federations must remain independent and have their regulatory autonomy respected, and their rules must be recognized, operational and applicable. The influence of the state in the praxiological sphere of sport affects the legislation of the reference field. Moreover, we can say that the principle of sports autonomy involves maintaining the order and discipline of sports, which in fact is achieved by respecting and applying the regulations in force, the statutes containing organizational rules and respect for the rights / obligations of all members involved in such activities. An argument in this regard was also made by A.V. Serdyukov who draws

attention to the fact, that among the scientists who studied the autonomy of sport, most referred to the existence of a specialized system of bodies with special competence in resolving disputes in the field of sport (Court of Arbitration for Sport). From the end of the 1980s, the autonomy of sports organizations began to be provided for by intergovernmental organizations, by European Governments, in particular at meetings of the Sports Council Committee. Thus, in 1992, this concept was introduced in Article 3 of the European Charter for Sport according to the phrase: "voluntary sports organizations shall establish autonomous decision-making mechanisms within the law. Both governments and sports organizations should recognize the need to respect each other's decisions." (Article 3 (3)) This issue was later addressed in Lille in 2000, at the 9th European Sport Forum, which brought together, under the auspices of the European Commission, all European sports organizations and public authorities in formulating a series of conclusions regarding the specificity of sport (especially its educational and social role) and its consequences in terms of respect for sports autonomy, including rules of the game, protection of young people in order to ensure fair competition and ensure solidarity. Also in the European context, the statutes, practices and activities of the International Federations within the Olympic Movement are required to comply with the Olympic Charter, in particular with regard to the adoption and implementation of the World Anti-Doping Code. Notwithstanding this, International federations keep their independence and autonomy in the administration of their representative sports. Thus, only an autonomous, self-regulated and self-governing sports movement can be the guarantor of an "exhilarating philosophy of balanced life together with the qualities of body, will and spirit" (fundamental principles of Olympism). Just as the International Olympic Committee respects the autonomy of the National Olympic Committees and the International Federations, so the International Federations must respect the autonomy of the national ones. However, in the UEFA statutes, the word autonomy are not found, therefore we consider that the pressure of the international federations on the autonomy of the national ones varies depending on the sport and the subject approached. The International Olympic Committee also exercises more rigorous control over the autonomy of the National Olympic Committees, compared to that of international federations.

The sports system was originally conceived by Pierre de Coubertin, as a civil institution independent of public authorities. This concept was established to guarantee and protect the integrity of the sports sphere (without political intervention and influence on it) or against unjustified

external interference when referring to economic effects (ownership of sports clubs, player transfers, the influence of television and economic partners etc).

Regarding the legal nature of sport autonomy, this is given by the specific structure of sport (especially regarding the management of sport which is a decentralized system). At the same time, the public authorities, in order to ensure the good management of the sports field, are put in the situation of delegating a part of their competences to the structures in this sphere, thus recognizing their regulations and institutional autonomy (Serdyukov, A.V., 2010).

Taking into account the views and conceptual approaches presented, we can mention that the autonomy of sport is an essential feature of the sports sphere, reflecting the decentralization of management. In this field, the normative, institutional-structural and organizational independence of the financial, economic, political and ideological activity of the sports sphere from public authorities, political organizations, religious associations and business organizations, independence from authorization, interference and pressure from them, allow us to reflect the following essential characteristics:

- the freedom to create non-commercial sports organizations, including the freedom to choose their organizational and legal forms;
- the independence and integrity of the sports organizations competence (their founders and / or managers with appropriate attributions) in establishing and organizing them on hierarchical internal levels, in establishing internal and sports service order (sports-coach hierarchical relations, etc.), as well as independence in the implementation of decisions and in the election of governing bodies;
- the independence and completeness of the non-commercial sports organizations competence in the definition and normative consolidation of professional qualifications, educational competence, moral and loyalty requirements for applicants, by applying for the position of elective management positions, and last but not least in defining and implementing their own personal policy;
- the independence of non-commercial sports organizations in the establishment, official interpretation (authentic) and application of internal regulations (sports law), including the rules of sport, the conduct of sports qualifications and sports competitions, sporting events, rules of establishment and application of disciplinary and other sporting liability in sport, rules for the settlement of disputes and conflicts in sport;
- normative independence and recognition of autonomy in defining the sports order (compared to the state regulation, the common law), in

regulating the internal problems of organization and functioning of sports organizations, sports rules and in the implementation of sports arbitration at national level;

- the independence and completeness of the sports organizations competence in establishing and maintaining the functioning of mechanisms for disciplinary and other sports liability for violating the regulatory provisions in the field;

- the independence and completeness of the non-commercial sports organizations competence in order to use at their discretion the achievement of statutory objectives according to the funds attracted, including those received from state and municipal budgets, from extra-budgetary funds of public authorities;

- independence of internal control in sports organizations.

In conclusion, we can say that sports autonomy would be desirable to be an effective principle in building a dialogue between representatives of public authorities and non-profit organizations in the field of sport, since they are interested not only in the development of sports, but also in the impact on which may have an impact on others, such as combating discrimination, promoting public health, educating minors and preventing crime. Moreover, the principle of autonomy is the main cornerstone of the sports order, and its observance is of major importance in ensuring the sustainability of the reference field. At the same time, the autonomy of sport is not an absolute principle, but is conditioned by the fact that sports organizations respect the principles of good governance and the correct resolution of disputes. Without these adjustments, sports stakeholders and related activities will be encouraged to resolve disputes in ordinary courts or the government may justify the imposition of external rules on sport.

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