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ADMINISTRATIVE AND LEGAL PRINCIPLES OF ACTIVITY OF SPORTS FEDERATIONS IN UKRAINE: ANALYSIS OF CURRENT PROBLEMS

(ABSTRACT, KEY WORDS)

It is shown that the mechanism of administrative-legal regulation of activity of sports federations in Ukraine is determined by the state's sports policy, the role of local self-government in this process, as well as public associations and organizations of sports and sports orientation. The purpose of the article is to deepen understanding of the peculiarities of the legal principles of the specified regulation of social relations in this area and the development of proposals for improving its efficiency. It is determined that the basic principle in the field of physical culture and sports in the state is the Law of Ukraine "On Physical Culture and Sports" of 1993, which defines the general legal, organizational, social and economic foundations of activity in the field of physical culture and sports and regulates social relations in creating conditions for the development of physical culture and sports. Among the subjects of physical culture and sports occupy special place sports federations. The differences in the understanding of sports federations in Ukraine and abroad, where foreign sports federations, a system of sports clubs, and the activities of foreign sports federations is really aimed at obtaining sporting results and meeting the sports needs of its members. It is recommended in Ukraine to focus on the third type of organization and activities of sports federations of France, the priority of which is the equation for all sports and multidisciplinary activities among different categories of the population. Recommended for sports federations among the unique, recognized only in Ukraine, types of physical culture and sports to receive international recognition before granting them the status of national ones. Provided suggestions to eliminate unacceptable duplication of sports federations and the observance by all sports federations of the task of developing sports as the main statutory requirements, as well as the restoration of the general principle of the existence and organization of sport – free access to what is defined for its subject. It is recommended to consider the conditions for the sports federation to acquire a certain (for example, national, all-Ukrainian) status as an element of its state accreditation. It is concluded that the results only confirm the urgent need for a further revision of some of the fundamental principles of the sports federations' activity and to improve the current legal framework, which will contribute to the unequivocal improvement of the sphere of physical culture and sports in Ukraine.

Key words: administrative and legal bases; activities; sports federations; physical culture and sport

Problem statement

The specificity of the field of physical culture and sport as a social and cultural system of the state today requires a comprehensive management of it. The currently engaged mechanism of administrative and legal regulation of the industry, on the one hand, allows a clearer distribution and

coordination of management efforts to develop domestic sport, and on the other hand, has led to the emergence of negative signs of increasing administrative and functional isolation and the formation of narrow-minded interests.

The mechanism of the administrative-legal regulation of activity of the sports federations rep-

resenting certain kinds of sports existing in Ukraine, and the list of which is confirmed by the central body of executive power in the sphere of physical culture and sports, is defined by a sports policy of the state, a role in this process of bodies of local government, and also public associations and the organizations of a physical culture and sports orientation. Therefore *the analysis of modern problems of administrative-legal bases of activity of sports federations in Ukraine*, is chosen as the purpose of the article, allows to deepen understanding, including, the mechanism and features of the legal bases of the specified regulation of public relations in the given sphere and to develop offers on the increase of its efficiency.

Moreover, as of today, research in this field of science has already received support and interest from both scientists and practitioners. It, for example, works Lischuk S.V. "Mechanisms of the state regulation of physical culture and sports of Ukraine" [1], Zhurba M.A. "Public management in the field of physical culture and sports" [2], Dutchak M.V. "Theoretical and methodological bases of formation of system of sports for all in Ukraine" [3], Morgun V.P. "Administrative and legal status of sports federations in Ukraine" [4] and others.

Mission and types of sports federations

It is necessary to notice that base in the field of physical culture and sports in the country is the Law of Ukraine "About physical culture and sports" from 24.12.1993 No. 3809–XII [5] by which the general legal, organizational, social and economic bases of activity in the field of physical culture and sports are defined and public relations in the creation of conditions for development of physical culture and sports are regulated. Among the subjects of physical culture and sport, such as sports clubs, schools of higher sportsmanship, etc., a special place is occupied by sports federations, which, in particular, may be the founders of Olympic training centers. In article 20 of the specified Law *sports federations (associations, unions, unions, etc.) are understood as "public organizations of a physical culture and sports orientation which main objectives are: maintenance of interests of members of corresponding sports federations in sphere of sports, including assistance in protection of their social, economic, creative, age, national-cultural and other interests; assistance to development of corresponding kind (kinds) of sports by participation in working out and performance of corresponding programs; attraction of members of corresponding sports federations in the field of sports"*.

As of today, according to some obsolete data of Ukrainian Wikipedia [6], in Ukraine there are federations of aviation sport, boxing, badminton, basketball, biathlon, bicycle sport, judo, etc., and together with the all-Ukrainian status, some of them, for example, the Federation of Athletics of Lviv region, has a clearly defined regional status. Approximately the same situation with sports federations is observed in Azerbaijan (https://uk.wikipedia.org/wiki/Категорія:Спортивні_федерації_Азербайджану) Russia (https://uk.wikipedia.org/wiki/Категорія:Спортивні_федерації_Росії), Croatia (https://uk.wikipedia.org/wiki/Категорія:Спортивні_федерації_Хорватії) and others.

It is quite clear, that any sports federation in a certain kind of physical culture and sports should be focused, first of all, on development of this kind of physical culture and sports, and it should be reflected both in its name, and in the charter. And the Azerbaijan Badminton Federation itself (Azerbaijan: Azərbaycan Badminton Federasiyası) is an organization engaged in badminton competitions on the territory of Azerbaijan (https://uk.wikipedia.org/wiki/Федерація_бадмінтону_Азербайджану); All-Russian Athletics Federation is a "Russian sports organization engaged in the development and popularization of athletics in Russia and the organization and conduct of national competitions in this sport" (https://uk.wikipedia.org/wiki/Всеросійська_федерація_легкої_атлетики).

At the same time, regarding the concept of federation, without considering its well-known meaning in the theory of state and law, it is a union of separate societies and organizations – for example, a federation of national associations, sports federation.

Concerning *Sports Federation*, it is, according to foreign standards, *the existing system of sports clubs, including for a certain category of citizens*, for example, for persons with sight impairment, the mentally retarded, deaf people and so on. Probably, it is not superfluous to say that in Ukraine, in our opinion, there are not enough official sports federations for people with disabilities and certain physical disabilities. And this is despite the fact that the site (<http://scu.org.ua/federacii-neolimpijskogospory-ukrainu-28.html>) of the Sports Committee of Ukraine directly indicates the existence of 47 All-Ukrainian federations, which is somehow not enough for 164 there are listed existing sports.

In general, it is necessary to notice that in the Register of recognized sports in Ukraine [7] for today it is designated 56 Olympic sports, 110 non-Olympic kinds of sports, and 51 kinds of sports of

invalids with lesions of the musculoskeletal system, lacks of sight, hearing and mental and physical development (*sports, but not sports federations!* – *Aut.*) – about what, actually, it was spoken earlier.

Differences in understanding of sports federations in Ukraine and abroad

Today we see certain differences in the understanding of sports federations in Ukraine and abroad. First, foreign sports federations, it is, as already noted, *a system of sports clubs*, and their number in the early XXI century, only in the EU countries was 700 thousand, which were engaged in about 40 million people [8, p.182]. Secondly, the activities of foreign sports federations are actually aimed *at obtaining sports results and meeting the sports needs of their members*. In Ukraine it is, conditionally speaking, a kind of "business", though officially unprofitable, organizations. Moreover, they even allow their representatives to be engaged in activities not at all sports orientation [9]. Although here, as well as abroad, sports federations are not disgusted with mere sponsorship [10] and the search for additional government funding. It is possible that domestic sport will someday receive a rule of law, according to which "sports clubs belonging to the state (municipal) or public form of ownership are non-profit and private clubs are commercial".

In the same France, however, *"a sports federation is an alliance of sports associations (governed by the 1901 Act) whose purpose is to bring together affiliated sports groups and licensed players in order to organize sports, particularly through competition. Federations can be accredited by the Ministry: the law recognizes that they have a public service mission. Some of them have been delegated to establish sports discipline practices. They sign a permanent contract with the state, which allows the organisation of competitions"* [11]. There are several types of federations – Single-sport federations, Multisport federations and "Peer" federations. In our opinion, *Ukraine*, for activation of attraction of the wide masses of the population to physical culture and sports, *it is necessary to be guided by the third type of the organisation and activity of sports federations of France*, which priority is equalisation on all kinds of sports and versatile actions among different categories of the population (that, actually, is the key to understanding of appointment of sports federations. – *Aut.*).

In Ukraine sports federations follow the accepted grouping by kinds of sports as Olympic, non-

Olympic and sports of disabled people, and are structured as national, all-Ukrainian and local.

In any case, for the federations recognized only in Ukraine, as follows from Part 8 of Art. 20 of the Law of Ukraine "On Physical Culture and Sport" from 24.12.1993 No. 3809–XII [5] as amended by the Law No. 2074–VIII of 25.05.2017, *the status of national sports federation is given only "in case of absence of corresponding international sports federation"* – that is, *the conflict in equality of the rights to reception of the status "national"* between traditional already internationally recognised national sports federations and federations unique, but recognised only in Ukraine is imposed. And this is despite the fact that the status of the national is predetermined only one sport federation in the relevant sport.

In this regard, our comments found support and the Main scientific and expert department of the Verkhovna Rada of Ukraine in the fact that "questions of recognition of national sports in Ukraine are already sufficiently regulated in the current legislation, in this regard, the proposals of the bill will only lead to the burden of the current version of the law" [5, p.2]. Besides, perhaps, without detracting from the importance and need for the emergence and development of unique, inherent only in Ukraine, types of physical culture and sports, nevertheless, *it would be necessary to get at least some international recognition*, and not to crown themselves with a national status at once. By the way, contrary to the present norm of the Law, the so called ordinary way of inclusion in the Register of recognized sports in Ukraine [7] in the status of national federations at one time quite successfully passed such non-Olympic sports based on national-cultural traditions, as Ukrainian Belt Wrestling (All-Ukrainian Federation of Traditional Wrestling), Ukrainian Hand-to-hand Combat "Spas" (All-Ukrainian Federation of Hand-to-hand Combat) and Horting (All-Ukrainian public organization Ukrainian Horting Federation).

Restricting people free access to sport in the activities of some sports federations

Again, analyzing the names of sports federations with the status of a national sports federation [12], one can see that there are very few "purely sports" federations in this list – so, out of 69 federations only 24 have the word "sports" in their name or derivatives of it. The same Law of Ukraine "About physical culture and sport" [5] defines sport as "activity of subjects of physical culture and sport, directed on revealing and uniform compari-

son of the achievements of people in physical, intellectual and other preparation by carrying out of sports competitions and corresponding preparation for them". At least, in our opinion, this definition exactly as a sports federation does not formally meet the same public association "All-Ukrainian Federation of Cynological Sports", where "sports competitions and appropriate preparation for them" are aimed at dogs, not "to identify and uniform comparison of the achievements of people in physical, intellectual and other preparedness. By the way, the public organization "Cynological Union of Ukraine" is registered in Ukraine at the same time, apparently, with similar in meaning statutory tasks.

Or, for example, to compare the All-Ukrainian public organization "Federation of the security guards of Ukraine", the sport for which is "all-round bodyguards", and the public organization called "All-Ukrainian Union of public organizations the "Federation of bodyguard of Ukraine". Obviously, the nonsense here is too narrow, purely professional composition of persons who can be members of such federation. Firstly, it limits the possibilities of free access directly to participation in such kind of sport, as "not bodyguards", and secondly, Public Association "All-Ukrainian Federation of Military and Sport All-rounds", registered as national much earlier, already has a task to develop such sport as "military and sport all-rounds", the unconditional part of which is "all-rounds of bodyguards" or "all-rounds on other professional features of united persons".

Conversely, a purely sporting one by the name of the All-Ukrainian public organization "Federation of Underwater Sports and Activities of Ukraine", in our opinion, requires the deletion of the words "underwater activities" from its name as not having an obvious connection with the legally defined notion of sport. Or, is there a significant difference between such sports federations with the status of national sports federations, such as the Public Association "Ukrainian Federation of Wakeboarding and Waterskiing" and All-Ukrainian public organization "Federation of Water Skiing and Wakeboarding", registered by the same order of the State Youth sport from 04.12.2012 No. 5038? Why in Ukraine absolutely does not work the principle that *"the possibility of two... sports federations, cultivating the same kind of sport, is excluded by the structure of sports federations, built by analogy with the structure of national cultural autonomies"* [13, p.156].

Therefore, today is an urgent need for a more critical attitude to the order of registration by the

Ministry of Youth and Sports of Ukraine of these or those sports federations – at least *eliminate unacceptable duplication and compliance with all sports federations of the task of developing sports as the main statutory requirements*. In addition, *violated and the general principle of the existence and organization of sport – free access to what is defined as its subject*: if it is, by example, sports tourism, or water skiing, or chess, etc., participation in it may not be limited to any professional or other features and requirements. Perhaps, the conditions for a sports federation to acquire a certain (for example, national, All-Ukrainian) status should even be considered as an element of its original state accreditation.

It should be noted that in Ukraine, along with sports federations registered and other organizations aimed at the development of sports - for example, the Physical Culture and Sports Society "Dynamo" of Ukraine (1990), the Association "National Sport and Health of Ukraine" (1991), All-Ukrainian Physical Culture and Sports Society "Kolos" agro-industrial complex of Ukraine (1991), All-Ukrainian public sports organization "Central sports club of the militia of Ukraine" (1998), which has not yet updated its name, Sports Student Union of Ukraine (2002), All-Ukrainian public sports organization "Association of Women's Football of Ukraine" (2010) and others, which, hopefully, and still successfully perform their statutory functions in relation to the development of sports. And by the way, as noted by A.N. Semerkina, "the most common types of public organizations in modern Ukraine are physical culture and sports (18 %)" [14].

Selective financing and perception of sports federations as problematic by the state program of physical culture and sports development

By the way, as earlier it was already mentioned about the *state financing of activity of organizations of sports direction*, then, for example, among such items of expenses of the State budget of Ukraine for 2017 [15], as "physical and sports training of pupils and students"; "financing of creation of objects of the Western rehabilitation-sports center and creation of the All-Ukrainian rehabilitation-restorative sports center of NKSIU"; "Ministry of youth and sports of Ukraine"; "development of sports of invalids and their physical culture-sports".

Unfortunately, last year's questions of the organization and activity of sports federations in Ukraine have not received due attention in such important legal act, as the State target social pro-

gram of development of physical training and sports for the period till 2020, accepted by the Decision of the Cabinet of Ministers of Ukraine from 01.03.2017 No. 115 [16], if not to pay attention to the small thesis present there about "increase of level of publicity and transparency of activity of the Ministry of Youth and Sports, *autonomy of sports federations*" as a component "the third, optimum". But there is much more misunderstanding here – why the Government considers the development of physical culture and sports for the period up to 2020 to be a "problem" by giving one of the thematic titles: "Ways and means of solving the problem". Or, as it is possible to describe with the State Program by years ahead the number of persons who *have received* (exactly so, "will not receive", but "have received"! – Author's note) monetary rewards, or "the number of athletes who *have received* assistance to solve social and domestic issues" – see Annex 3 to the Program.

Today the basic in activity of the majority of federations, as the public organizations of physical culture and sports orientation that allows them to work, is presence at them the certificate of registration of association of citizens and an extract from the Uniform state register of legal bodies and phys-

ical persons-entrepreneurs; the registered charter and the certificate or other document confirming membership of sports federation in corresponding international federation; presence of the certificate on development of corresponding kind (kinds) of sports on territories.

Conclusions

Now there is no question about complication or restriction of activity of sports federations or the organizations of a sports direction in Ukraine by some artificial frameworks – on the contrary, the state only promotes their development. At the same time, the results only confirm the urgent need for further revision of some basic principles of such activity and improvement of the current regulatory framework, which promotes the unconditional improvement of physical culture and sports in Ukraine.

Competing interests

There is no conflict of interest in the subject matter of the article.

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