

THE FUNDAMENTAL PRINCIPLES OF OLYMPISM AS INTERNATIONAL STANDARDS OF LEGAL REGULATION OF PHYSICAL EDUCATION AND SPORTS

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Идеологический компонент Олимпийских игр основан на гуманизме, достижения мира и взаимного уважения между различными народами мира. Говоря о правовом регулировании в сфере спорта, рассмотрены основные принципы олимпизма, которые определены в Олимпийской хартии.

Международное право отдельно и широко определяет сферы физической культуры и спорта, связывая ее с развитием человека, терпимостью и гуманизмом, миром во всем мире. Для целей Устава Олимпийских игр установлены принципы Олимпийских игр (олимпизма): олимпизм – подъема и сбалансированного сочетания качеств тела и ума; спорт служит гармоническому развитию человечества, мирному сосуществованию, уважению человеческого достоинства; олимпийское движение; практика спорта является одним из прав человека; политический нейтралитет; запрещение дискриминации.

Установление запрета на дискриминацию как основной принцип олимпизма является позитивным в контексте общей борьбы против дискриминации. Олимпийские игры привлекают людей во всем мире, успешные спортсмены являются авторитетом для зрителей. Для преодоления явлений дискриминации основной идеологический компонент остается основным в современном мире, главной гарантией соблюдения прав человека является повышение уровня сознания.

Ключевые слова: Олимпийские игры, основополагающие принципы олимпизма, олимпийское движение, правовое регулирование физического воспитания и спорта, запрет дискриминации.

The ideological component of the Olympic Games is based on humanism and the pursuit of peace and mutual respect among the various peoples of the world. Speaking about legal regulation in the field of sports, we first consider the basic principles of Olympism, as defined in the Olympic Charter.

International law outlines the field of physical culture and sport separately and broadly, linking it with human development, tolerance and humanism, peace in the world. For the purposes of the games itself, the Olympic Charter has defined the principles of the Olympic Games (Olympism), as already noted earlier: Olympism - the elevation and balanced combination of qualities of the body, will and mind; sport serves the harmonious development of mankind, the peaceful existence, the preservation of human dignity; olympic movement; practice of sport is a human right; political neutrality; prohibition of discrimination.

Determination of the prohibition of discrimination as the main principle of Olympism is positive in the context of the general fight against discrimination. Olympic games attract people around the world, successful athletes are the authority for the spectators. To overcome the phenomena of discrimination, the basic ideological component remains the main in the modern world, since whatever legal mechanisms of protection of rights would not build the state, the main guarantee of observance of human rights is to increase the level of legal awareness.

Keywords: Olympic Games, fundamental principles of olympism, Olympic Movement, legal regulation of physical education and sports, prohibition of discrimination.

Componenta ideologică a Jocurilor Olimpice se bazează pe umanism, pe realizarea păcii și pe respectul reciproc între diferite popoare ale lumii. Referindu-se la reglementarea juridică în domeniul sportului, sunt luate în considerare principiile de bază ale Olimpismului, care sunt definite în Carta olimpică.

Dreptul internațional definește separat și pe scară largă sferile culturii fizice și ale sportului, legând-o cu dezvoltarea umană, toleranța și umanismul și pacea mondială. În sensul Cartei Jocurilor Olimpice, se stabilesc principiile Jocurilor Olimpice (Olimpism): Olimpismul - creșterea și combinarea echilibrată a calităților trupului și minții; sportul servește dezvoltării armonioase a omenirii, coexistența pașnică, respectul pentru demnitatea umană; Mișcarea olimpică; practica sportului este un drept uman; neutralitatea politică; interzicerea discriminării. Interzicerea discriminării ca principiu de bază al Olimpismului este pozitivă în contextul luptei generale împotriva discriminării. Jocurile Olimpice atrag oameni din întreaga lume, sportivii de succes sunt autoritatea publicului. Pentru a depăși fenomenele de discriminare, principala componentă ideologică rămâne principala în lumea modernă, principala garanție a respectării drepturilor omului este creșterea nivelului de conștiință.

Cuvinte cheie: Jocurile Olimpice, principiile fundamentale ale olimpismului, mișcarea olimpică, reglementarea juridică a educației fizice și sportului, interzicerea discriminării.

Introduction. The physical culture and sports, as a sphere of public life, requires legal regulation no less than all others. In the modern world, physical health of people is an important goal, not only of state policy, but also of the world community. With regard to the Olympic Movement, the ideological component of the Olympic Games is based on humanism and the pursuit of peace and mutual respect among the various peoples of the world. Speaking about legal regulation in the field of sports, we first consider the basic principles of Olympism, as defined in the Olympic Charter.

The purpose of the article is to study the principle of Olympism, defined by international legal acts, other principles of regulation of the sphere of physical culture and sports

In the Preamble of the Olympic Charter it is said: "Modern Olympism was conceived by Pierre de Coubertin, on whose initiative the International Athletic Congress of Paris was held in June 1894. The International Olympic Committee (IOC) constituted itself on 23 June 1894. The first Olympic Games (Games of the Olympiad) of modern times were celebrated in Athens, Greece, in 1896... The first Olympic Winter Games were celebrated in Chamonix, France, in 1924" [1, p. 10]

Charter defines the fundamental principles of Olympism:

1. Olympism is a philosophy of life, exalting and combining in a balanced whole the qualities of body, will and mind. Blending sport with culture and education, Olympism seeks to create a way of life based on the joy of effort, the educational value of good example, social responsibility and respect for universal fundamental ethical principles.

2. The goal of Olympism is to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.

3. The Olympic Movement is the concerted, organised, universal and permanent action, carried out under the supreme authority of the IOC, of all individuals and entities who are inspired by the values of Olympism. It covers the five continents. It reaches its peak with the bringing together of the world's athletes at the great sports festival, the Olympic Games. Its symbol is five interlaced rings.

4. The practice of sport is a human right. Every individual must have the possibility of practising sport, without discrimination of any kind and in the Olympic spirit, which requires mutual

understanding with a spirit of friendship, solidarity and fair play.

5. Recognising that sport occurs within the framework of society, sports organisations within the Olympic Movement shall have the rights and obligations of autonomy, which include freely establishing and controlling the rules of sport, determining the structure and governance of their organisations, enjoying the right of elections free from any outside influence and the responsibility for ensuring that principles of good governance be applied. The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status.

7. Belonging to the Olympic Movement requires compliance with the Olympic Charter and recognition by the IOC.

The Olympic Charter considers olympism as a philosophy of life which exalts and combines in its harmonious whole the qualities of the body, the will and the spirit (International Olympic Committee, 2001). Associating sport with culture and education, olympism aims to create a life style based on the joy of endeavour, the educational value of good example and the respect for fundamental universal principles of ethics. It is for this reason that the objective of olympism is to always place sport at the service of the harmonious development of humankind with the goal of favouring a peaceful society committed to the maintenance of human dignity. For this, the Olympic movement carries out activities in favour of peace on its own or in cooperation with other organizations and within its possibilities. Therefore, one could consider olympism as a philosophy of life which uses sport as the transmission belt of its fundamental formative, peace-keeping, democratic humanitarian, cultural and ecological principles [2, p. 4].

Ryan Gauthier describes literature devoted to the legal regulation of the Olympic Games in the way it can be split into two bodies: law and the Olympic Games, and literature from other disciplines that focuses on bidding to host the Games. In regards to law and the Olympic Games, one le-

gal study has examined the role of law in bidding to host the Olympic Games, in passing [3, p. 6-7].

In their article, Stephen A. Stuart and Teresa Scassa outline the guarantees required by the IOC in the Candidature Procedure of the host selection process. They do so to argue that the IOC could use its clout to improve post-Games sustainability, but point out that most of the guarantees protect the IOC's intellectual property rights, and by extension its commercial interests. Stuart and Scassa do not address the broader role of public law in the bids, outside of the guarantees, nor do they examine how the hosts respond to these guarantees. Otherwise, literature on law and the Olympic Games focuses on legislation passed to support the hosting of the Olympic Games, leaving aside bidding to host the Olympic Games [4; 5; 6].

As we see, Western European law focuses on the procedural aspects and details, we consider it urgent and worthwhile to pay more attention to the fundamental rules. Especially in today's world, the basic principles are gathering momentum.

Alexandre Miguel Mestre in his work ascertains that there was never really any detectable logical coherence in the way the Olympic rules were drawn up, and the constant modifications that ensued gave rise to much academic criticism [7].

From the history of the legal regulation of the Olympic games, in 1967, the so-called "Olympic Rules" were divided between four separate documents: (i) Fundamental Principles; International Olympic Committee (IOC); National Olympic Committees (NOC); Olympic Games (OG); Olympic Protocol; (ii) Code of Eligibility; (iii) General Information; and (iv) Information for cities that wish to host the Olympic Games (OG). Then, in 1976, just nine years later, the same "Olympic Rules" had another format: (i) Rules; (ii) Bye-laws; (ii) Instructions (which included the conditions applying to candidate cities to organise the OG; (iii) Regional Games and (iv) Olympic Awards. In 1978, in the document finally entitled OC, the legal framework was contained in a single text, organised as follows: (i) Rules; (ii) Bye-laws; (iii) Instructions; (iv) Organ-

isation of the OG; (v) Committees of the IOC; and (vi) Olympic Rewards. The OC thus emerged as the principal locus of the IOC rules. Despite this unifying logic, in 1982, the OC still had annexed to it texts such as "Standard constitution of a NOC", "List of members belonging to, or who have belonged, to the IOC since it was founded" and "Standard contract for purchase of television rights to the Games". The completion and simplification of the OC was indeed a slow and gradual process [7, p.2-3].

As we see the process of formation of legal norms regulating relations in relation to the organization, holding, participation, distribution of information about the Olympic Games, was a long, and occurred with its beginning from a practical plane.

Alexandre Miguel Mestre also says that, the legislators have increasingly been developing a healthy practical sense, which is clearly focused on the requirements of those who have to interpret and apply the OC, as can be surmised from the trilogy currently adopted: in addition to the General Principles, which can be viewed as an ideological declaration or teleological interpretation of the OC - in the nature of guidelines for those who consider themselves part of the OM - the text of the OC includes a body of legislation composed of 61 rules, to which are added 27 Bye-laws, which function as glosses and annotations of those Rules, which the legislator thinks likely to pose the main difficulties of interpretation or which appear to be more laconic [7, p. 3].

Tomáš Grell recently wrote the paper about new view on the human rights reform provided by the International Olympic Committee. The author notices that, in the past few years, the International Olympic Committee has increasingly neglected other than commercial aspects of the Olympic Games. Some of the latest editions of the Games were awarded to cities that turned out to be either unable or unwilling to respect and protect human rights of local citizens and other individuals contributing in one way or another to the successful delivery of the Games. One of the reasons why these cities and other entities involved in hosting and staging the Games failed to uphold human rights was that the International Olympic Committee did not explicitly require

them to do so. This changed In February 2017 some changes were made by the adoption of the Olympic Agenda 2020 in December 2014, explicit human rights obligations were finally added to the Host City Contract for the 2024 Games. This paper critically examines the International Olympic Committee's human rights reforms, with a particular focus on the Host City Contract as the core legal document regulating the execution of the Games. But T. Grell thinks, that it identifies several weaknesses and proposes solutions that could help reduce adverse human rights impacts of the Games. While welcoming the International Olympic Committee's awareness of human rights risks related to the execution of the Games, the author remains sceptical that the reforms carried out to date will produce tangible results anytime soon [8].

The edition of the OC currently in force was approved in 8 July 2011, and henceforth all references we shall make to the Lex maxima of Olympism will be to this version. In the Introduction to the OC its form and purpose is immediately made apparent: the OC is the codification of the Fundamental Principles of Olympism, Rules and Bye-laws adopted by the IOC. It governs the organisation, action and operation of the Olympic Movement and sets forth the conditions for the celebration of the OG. From this introduction and a reading of the entire text of the OC we can suggest that the legislator's intent is to create a kind of "scripture" or Codex of Olympism, something done through a fine normative filter and through a methodical structuring of the organisation of the OM [9].

In order to interpret the legal content of the principles of Olympism, it is necessary to find out what is the composition and general organization of the Olympic Movement. So, under the supreme authority and leadership of the International Olympic Committee, the Olympic Movement encompasses organisations, athletes and other persons who agree to be guided by the Olympic Charter. The goal of the Olympic Movement is to contribute to building a peaceful and better world by educating youth through sport practised in accordance with Olympism and its values. The three main constituents of the Olympic Movement are the International Olym-

pic Committee ("IOC"), the International Sports Federations ("IFs") and the National Olympic Committees ("NOCs"). In addition to its three main constituents, the Olympic Movement also encompasses the Organising Committees for the Olympic Games ("OCOGs"), the national associations, clubs and persons belonging to the IFs and NOCs, particularly the athletes, whose interests constitute a fundamental element of the Olympic Movement's action, as well as the judges, referees, coaches and the other sports officials and technicians. It also includes other organisations and institutions as recognised by the IOC [1, p. 17].

The term "principle" comes from the Latin word "principium", which means the beginning, the basis. Simultaneously, the principle is that which underlies a certain theory of science, the internal conviction of a person, the basic rule behavior. The word "principle" means the scientific or moral principle, the basis, the rule from which do not retreat [10, p. 40].

The philosophical approach to understanding the concept of principle considers it as the first principle, that underlies a certain set of facts, theory, science [11, p. 519].

The new encyclopaedic dictionary gives the following insight: the principle (from the Latin principium - the beginning, basis): 1) the original position of any theory, doctrine, science, world outlook, political organization, or 2) the basis of the construction or operation of any device, machine, etc. [12, p. 968].

The legal encyclopedia offers the definition of the notion of the principle as the basic principles, the original ideas characterized by universality, general significance, higher imperative and reflect the essential provisions of theory, doctrine, science, system of internal and international law [13, p. 110].

The notion of principles is applied in their works by the vast majority of constitutionalists, since the principles are fundamental, ideas that have a high level of concentration of legal positions, and underlie the formation of legal norms, with the aim of regulating legal relations.

In the first place, the principles are ideas. The element of generalization, elevated above the specifics, inherent in the idea, is quite clearly traceable in the principles of law. Then the principles

turn into norms, embodied in them. Principles concentrate the result of the development of law, they are embodied in the inextricable link of the past, present and future [14, p. 25].

A. Kolodiy in his doctoral dissertation explores the principles of law as the initial ideas of his being, expressing the most important patterns and foundations of this type of state and law, are one-order with the essence of law and make up its main features, differ in universality, higher imperative and universality [15, p.19].

The universal human rights principles considers as universal normative principles fixed in positive law, which have been created by humanity as a global macro-civilization system, objectively predetermined by the needs and level of development of human civilization and embody its best achievements in the legal sphere, determine the essence and direction of legal regulation and are suitable for use in any system of law [16, p. 8].

As we have noted in previous publications, the constitutional principles of regulation of physical culture and sports in Ukraine are the main initial ideas and provisions that express the most important regularities in the formation of legal norms in the sphere of regulation of the development of physical culture, motor activity of the population and popularization and support of sport in Ukraine.

International law outlines the field of physical culture and sport separately and broadly, linking it with human development, tolerance and humanism, peace in the world. For the purposes of the games itself, the Olympic Charter has defined the principles of the Olympic Games (Olympism), as already noted earlier: Olympism - the elevation and balanced combination of qualities of the body, will and mind; sport serves the harmonious development of mankind, the peaceful existence, the preservation of human dignity; olympic movement; practice of sport is a human right; political neutrality; prohibition of discrimination.

From the position of law, in today world the prohibition of discrimination still remains very painful question.

So, international law has developed a serious system of protection against discrimination, which are presented by the Convention for the

Protection of Human Rights and Fundamental Freedoms of November 4, 1950, the International Covenant on Civil and Political Rights of December 16, 1966, the International Covenant on Economic, social and cultural rights of December 16, 1966, the UN Convention against Torture of December 9, 1975, the International Convention on the Elimination of All Forms of Racial Discrimination of January 4, 1969; The Convention on the Elimination of All Forms of Discrimination against Women of December 18, 1979, the UN Convention on the Rights of Persons with Disabilities of December 13, 2006, the UN Convention on the Rights of the Child of November 20, 1989 and the Universal Declaration of Human Rights of December 10, 1948.

In addition, it is indicative that the European Union has also paid special attention to this issue. EU instruments are Charter of Fundamental Rights of the European Union of 7 December 2000, Commission Recommendation 92/131 / EEC on the protection of the dignity of women and men in labor relations of 27 November 1991, Council Declaration on the implementation of the Recommendation of the Commission on the Protection of the Dignity of Women and Men in Labor Relations, including the Code of Practice on Combating Sexual Violence of 19 December 1991, Council Directive 79/7 / EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social protection of 19 December 1978, Dir Council Directive 2000/78 / EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Directive 2006/54 / EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and professional activities (new edition) of 5 July 2006, Council Directive 76/207 / EEC on the implementation of the principle of equal treatment for men and women in matters of employment, vocational training and career development and working conditions of 9 February 1976 Council Directive 2004/113 / EC of 13 December 2004 on the implementation of the principle of equal treatment for men and women in matters of access to the markets for goods and services, Coun-

cil Directive 2000/43 / EC on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin the ethnic origin of 29 June 2000 and the Treaty of Lisbon, amending the Treaty on European Union and the Treaty establishing the European Community of 13 December 2007.

In the theory of law, views on the notion of discrimination in content are homogeneous, but somewhat different. A. Hinarar believes that discrimination occurs when a person or group of individuals is treated less favorably and less favorably than others due to factors that are not related to their merits, abilities or potential [17, p. 61].

M. de Salvia noted that "justifying the difference in attitude is possible only when the situations themselves differ significantly from one another. In addition, such a discrepancy should ensure a balance between the protection of the interests of society and the rights of individuals" [18, p. 171].

O. Vashanova defines the concept of "discrimination" through four "elements":

1) differences in the attitude expressed in the unjustified establishment of the difference in the legal status of certain individuals or social communities, that is, in the possession of them different amounts of rights and freedoms, which determines the unequal factual situation subjects;

2) the negative nature of the difference in attitude. Discrimination has the purpose or effect of encroachment on legal equality, resulting in a change in the legal status of some individuals compared with others in the direction of deterioration; 3) signs on the basis of which the difference in attitude is prohibited (differences can be made on the basis of countless numbers of signs, in some cases such differences are legal, in others - discriminatory);

4) the scope of the prohibition of discrimination (the only circumstance affecting the scope of the prohibition of discrimination is the scope of legal regulation) [19, p. 35-41].

For the practical use basic meaning of the prohibition of discrimination is defined in the Universal Declaration of Human Rights. Article 2 says, that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour,

sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty [20, p. 6].

Conclusion.

Consequently, discrimination is a phenomenon in which a person or a group of people experiences a different attitude in relation to a "protective feature". Under the protection feature, any feature that is inseparable from a person should be understood, and not limited to categories such as race, color, political convictions, religious or other beliefs, gender, age, disability, ethnic origin, social origin, citizenship, marital status, property status, place of residence or language.

Determination of the prohibition of discrimination as the main principle of Olympism is positive in the context of the general fight against discrimination. Olympic games attract people around the world, successful athletes are the authority for the spectators. To overcome the phenomena of discrimination, the basic ideological component remains the main in the modern world, since whatever legal mechanisms of protection of rights would not build the state, the main guarantee of observance of human rights is to increase the level of legal awareness.

Legal regulation of physical culture and sports is a difficult task, since it covers many different aspects. The so-called sports law concerns the organization of sports competitions, rules for their conduct, the legal status of participants, the legal status of fans, this area is interwoven with the field of health, pharmaceuticals, etc.

The Olympic Charter obviously became a document that summarizes the approaches that are put into practice in the exercise of legal regulation of sporting events. The principles of Olympism, defined in it, are at the heart of the right regulation of physical culture and sport, are the fundamental basis of the sports law field.

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