

Sports Law as an Independent Branch of Law

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Abstract

Sports law is one of the newest branches of the legal system. It is determined by the fundamental principles and specific normative solutions belonging to the constitutional, civil, criminal and administrative law. It is indisputable that sports from its creation to this date, was carried out on the basis of certain pre-established rules. These special pre-established rules provide fulfillment of the core values on which the sport is based represented by the fundamental principles that provide the fair play and free competition. In fact, the interaction that occurred from the relationship between sports and law as two separate phenomena that are each individually developed, provided the emergence of the sports law as a separate branch of law. This article aims to highlight the need for legal intervention in sports and sports activities and emphasize that sports law is independent legal discipline.

Key words: Sports law, Criminal law, sports crime, legal provisions, sports science.

Introduction: The urgent need for legal regulation of sports

Sports law is one of the newest branches of the legal system. It is determined by the fundamental principles and specific normative solutions belonging to the constitutional, civil, criminal, administrative law and other areas of law mentioned below in this article.¹ Hence, sports law and its totality is the result of the unification of the different segments in a separate system primarily motivated by practical needs. We will make an effort to argue and justify the need for the separation of the sports law as a separate legal entity.

From the beginning of 21st century, the legal systems of some countries recognized and accepted sports law in order to protect, through legal regulation of sport and sporting activities, the values that sports provide and promote. The

¹ Нанев, Л., Атанасовски, И. (2011): Спорт и право – УКИМ, Факултет за физичка култура, р.74;

purpose of the state is to intervene in sporting relations, by providing legal standards that regulate the functioning of sports system and the realization of sporting activities.

*Law is defined as a set of rules that regulate human behavior and which prescribes coercive sanctions.*² Considering this definition we can conclude that because sport is one of main human activities, it is in the responsibility of the state and its legal system to provide special norms to govern this issue. In addition, the state's role is to enable and support the realization of the social functions of sport, which are possible only if the system has special pre-defined rules and laws for sports and sporting activities that enjoy protection by the state.

Comparing sports law with criminal, civil, constitutional and administrative law we can conclude that sports law is young but highly developed complex branch of law. Also sports law is a special legal discipline on numerous universities, institutes and other educational and scientific institutions in the countries of Western Europe and North America. The numerous experiences and results of scientific researches and institutions are of particular importance in the development of new sporting regulations and mechanisms for legal protection in sport and the individuals who are involved in sports.

Historically, the USA represents the cradle of sports law.³ The USA sports law is the basis for a comparative research because of the content of the legal acts that regulate sport and sports activity. Also of a great importance is the determination of the differences that exist between the legal regulations of sport in European countries in terms of the concept of legal regulation of sport that applies in the United States.

Also it is necessary to indicate the special important role of sport in the legal history of the USA because of its high profits.⁴ At the same time the United States⁵ has been one of sports highly developed forces in the modern world, which gives it special significance and importance of the role and content of legal rules governing the sport and the sports system in this state.

It is indisputable that sports, from its creation to this date, was carried out on the basis of certain pre-established rules. These special pre-established rules provide fulfillment of the core values on which the sport is based, represented by the

² Ibid, p.75;

³ D.Šuput, Sportsko pravo u Sjedinjenim Američkim Državama, u: Uvod u pravo SAD, Beograd, Institut za uporedno pravo, 2008, str. 348.

⁴ What is Sports Law, see: <http://www2.msstate.edu/~jag/intro.htm> last access 06.09.2013;

⁵ Нанев, Л., Атанасовски, И. (2011): Спорт и право – УКИМ, Факултет за физичка култура, p.72;

fundamental principles that provide the fair play and free competition.⁶ In fact, the interaction that occurred from the relationship between sports and law as two separate phenomena that are each individually developed, providing the emergence of the sports law as a separate branch of law.

Defining Sports Law, sports and sporting standards

To this day there is no specific or generally accepted definition on sports law. One of the reasons for the lack of a unique and acceptable definition of sports law is the fact that this branch of the legal system is developed much later and is set apart as a separate legal branch. Another reason is its rapid development during the last decade that was indicated from the significantly expanded regulation of a growing number of sports and other legal relations and social relations that occur in connection with sport.

The most widely observed definition on sports law as a separate branch of the legal system is the following one: sports law *“is a systematic set of regulations in the field of sports system and sporting activities.”*⁷ The definition on sports law as a science is the following one: *“sports science is a system of legal concepts of sport, sports organizations, sports activities, athletes, sports infrastructure and legal proceedings related to civil rights in sports and performing sports activities.”*⁸

In modern society, sports represents a highly profitable activity, which in its normative content seriously takes place in all areas of law, primarily in law of obligation, commercial law, criminal law and etc. Sports Law encompasses a multitude areas of law brought together in unique ways.

Sports law and its legal regulation, represents a kind of law which determines the area of legal relationships that are developing in this field of sport. Sport is a special legal area that defines specific decisions regarding sports activities. Relations in sport cannot be imagined without an appropriate legal framework that defines these relations. In the narrow sense sports law and legislation of sport

⁶ Ibid, p.73;

⁷ KRÁLÍK, M. Právní odpovědnost za sportovní úrazy. In Právní Rádce [online]. Pravniradce.cz, 2007 [cit. 2010-03-13] on http://pravniradce.ihned.cz/c4-10078260-20421910-F00000_d-pravniodpovednost-za-sportovni-urazy last access 06.09.2013; also SLUKA, T. Profesionální sportovec (právní a ekonomické aspekty). Praha : Havlíček Brain Team, 2007. p. 18;

⁸ HORA, J. K otázce trestní odpovědnosti hráčů při sportovních úrazech. Acta Universitatis Carolinae Gymnica. 1979, roč. 15, č. 1, p. 18, 20-21.

include the entire system of sports activities and the types of sports, relationships within the sports events and sports events. Sports law also specifies requirements arising during the occurrence of sporting events, or on behalf of the participants.

The purpose of sports law is to regulate all issues that arise in sports and propose specific and practical proven solutions so that legal provisions can regulate disputes in the world of sports.

Therefore, only by applying sports law, sports can play a serious role in society, for the benefit of all those involved in sport. This particularly applies to regulations regarding competitions as well as other associated elements of organized sports. We have to note that many of the sports activities are often organized outside the state borders, which leads to a new aspect of the sport with international dimension.

The vigorous development of the sports law must be in touch with its specific legal practice because for these legal disputes there is absence of theoretical solutions and the theory in this matter is far behind the practical needs. There is an obvious lack of serious analysis of numerous legal principles, institutions and there is also a lack of specific normative solutions. This problem is of a general nature, which is present in many countries, including those with most developed jurisprudence. Sports law covers all state norms governing social relations in sports. Legal norms are rules of conduct or social laws prescribed by the legislature.

Unlike moral, customary, religious and technical norms, legal norms have:

- Disposition, rules of conduct, imperative or tenure / limit behavior , choosing another type of behavior, and
- Sanction, behavior of other entities to the offender disposition, punishment;⁹

Although the law is one of the social phenomena that defines other social phenomena like sports, sports and sports activities, sports exist regardless its definition.

In circumstances where sports changes its dimension, transcending the boundaries of the nation-state, the question of its international character and its international defining is more and more interesting.

In the field of international law, the European Charter for Sport from 1992 under the auspices of the Council of Europe, gives the following definition of sport: *Sport means all forms of physical activity, which, through casual or organized*

⁹ Нанев, Л., Атанасовски, И. (2011): Спорт и право – УКИМ, Факултет за физичка култура, p.76;

*participation, aim at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels.*¹⁰

In the Charter, sports is seen as a special social right on every individual and encourages national governments to take measures for providing this right. This concept is with accordance to the trends in modern society and it is accepted in Macedonian legislative. Hence, the Constitution of Republic of Macedonia, in the part for the basic rights and freedoms of man and citizens, guarantees the freedom of association to exercise and protect their political, economic, social, cultural and other rights and beliefs. Within the realization of economic, social and cultural rights in the Constitution, it is stated that the state encourages and assists technical education and sport, which is a basic foundation for changing the position and role of the state and creating a completely different value system and attitude towards sport.

Also, Amendment XVII provides a guarantee by which citizens participate in the local government, directly and through representatives in the decision making process on issues of local importance, particularly in the areas of public services, urban and rural planning, environmental protection, local economic development, local finance, public works, culture, sports, social and child protection, education, health care and other fields determined by law, which in itself suggests a new dimension to sport and the commitment of citizens participation in sports activities by creating the legal conditions of the country to participate in sports. But besides the fact that the proclamation of sports in our country is very explicit, sports is still on the margins of the state.

Our opinion is that there must be crucial changes in Macedonian legislation inspired from the above-mentioned Charter of Sports.

On EU level, sports is referred in Article 165 of the Treaty on the Functioning of the European Union, according to which, sport is characterized by its specific nature, structure, based on voluntary activity and social and educational functions.

Also the concept on sports is evident by the case law of the European Court of Justice, including one of the key decisions about the relationship of EU law and

¹⁰ United Nations Educational, Scientific and Cultural Organization, http://portal.unesco.org/education/en/ev.php-URL_ID=2221&URL_DO=DO_TOPIC&URL_SECTION=201.html last access 30.10.2013;

sport - Bosman v. Union Royale Belge Sociétés de Football Association,¹¹ also known as the Bosman case¹² or the Bosman ruling. This is a 1995 European Court of Justice decision concerning freedom of movement for workers, freedom of association, and direct effect of article 39 (formerly 48) of the EC Treaty. The case was an important decision on the free movement of labour and had a profound effect on the transfers of football players within the European Union (EU). The decision banned restrictions on foreign EU players within national leagues and allowed players in the EU to move to another club at the end of a contract without a transfer fee being paid.¹³

Reasons for the existence of sports law

With the emergence of sports crime and offenses that started to occur during or while performing sports activities or in connection with sports activities, the need for legal regulation of sport and sporting activities became crystal clear. The legal regulation of sports was necessary in order to establish sanctions for violations of the legal norms, established rules of the game and rules of sportsmanship. The creation of these legal norms provides the basis for the establishment of a legal mechanism of criminal justice in sport and sport related activities, as well as space for the emergence of state intervention in sports relations.

From an historical angle, the need of special rules for sport competitions was discussed by Plato in his monumental "Laws", where he explicitly states that the existence of special norms for sports. The internationalization of the sport¹⁴ led

¹¹ Court of Justice of the European Communities (ECJ) in Bosman v. Union Royale Belge Sociétés de Football Association, (case C-415/93 [1995] ECR I-4921, hereinafter Bosman case).

¹² For more see: Borja García, "From regulation to governance and representation: agenda-setting and the EU's involvement in sport", Entertainment and Sports Law Journal, ISSN 1748-944X, July 2007, <http://go.warwick.ac.uk/eslj/issues/volume5/number1/garcia/> last access 30.10.2013;

¹³ Barbara Bogusz, Adam Jan Cygan, Erika M. Szyszczak (2007): The Regulation of Sport in the European Union, Edward Elgar Publishing, Jan 1, p.38;

¹⁴ D. Šuput, Dokumenti međunarodnih organizacija koji propisuju zabranu upotrebe dopinga u sportu, u: Strani pravni život br. 2/2009, Institut za uporedno pravo, Beograd, 2009, p. 292;

international law that would have its impact of particular importance and to dominate in this particular area.

Some theoreticians have begun increasingly to question the traditional view that no corpus of law exists that can be characterized as an independent field of law called sports law. Amongst the critics of the traditional view, are those who have staked out what represents a middle ground. Others, for instance, say that it is more appropriate to apply the "sports and the law" rather than the "sports law" designation to legal matters that arise in the sports context.¹⁵

Legal intervention in sports law

Sports as well as all areas of society, nowadays cannot work and survive as independent and free from external influences from other systems in society.

In particular, the isolation of sports from other social disciplines is impossible in the cases during sporting events with consequences like injury or death of a participant. This means that the concept of absolute autonomy of sporting regulations in the handling of such events in the world has not been defensible for a long time. The question that arises is not whether the state has the legitimacy to intervene in a sporting event, but what should be done to prevent these criminal acts. At this point, we distinguish between direct and indirect interference with the laws of the sport.¹⁶

The choice of type and way of manifesting the intensity of the intervention should be primarily based on the criteria of suitability, efficiency and social efficiency of a particular legal intervention. Such interference should always be by using the right legal instrument, one that is within the legitimate public interest and proportionate to the objectives that should be achieved. As for the public interest, it seems most convenient to detect problems that are emerging in practice, because it emphasizes the need for legislation itself in relation to different aspects of the sport. This is especially important in doping scandals and corruption, and increasing fan violence at sporting events. We also think that of a great importance would be the link between practices of different countries on the basis of specific national conditions with different traditions and manners, because such questions often vary

¹⁵ Timothy Davis (2001): What Is Sports Law?, 11 Marq. SportsL. Rev. 211, p.213;

¹⁶ Richard Parrish (2003): Sports law and policy in the European Union, Manchester University Press;

in different countries largely because of the different determined geo specific and social conditions.

Regarding the necessity for stronger legal intervention in sports, the need for enforcement of the criminal law and the identification of crimes and their perpetrators in terms of sports is more and more obvious. This is essential for defining, identifying and incriminating, with proper convictions, the following crimes related to sport and sporting events: corruption, bribery, money laundering, and forgery, misuse, fixing of sporting events and organized sport crime. These crimes are derogating the entire sports system in all countries in the world.

We also once more emphasize the need for the redefining some spheres of private law, contract law, labor law and trade law which must make some adjustments in the field of sports.

Sports and sports activities cannot develop, grow, progress and exist separated from the legal system. On the contrary, they should be in accordance with the legal provisions that define sports and sports activities and give rules of conduct for better fulfillment of the main goals of sports. Sports autonomy can solely be based on the constitution, laws and courts decisions in national states.

Substantive areas of law implicated by sports

Whether or not sports law represents a separate corpus of law it is more than certain that sports is related to various substantive areas of law. It is often said that sports law, with its wide variety of legal aspects, probably encompasses more areas of the law than any other legal discipline. We will attempt to illustrate how sports intersects law.

Contract Law. Despite having been displaced considerably by antitrust and labor law as it relates to defining relationships, contract law retains a vitally important role in the business of sports.¹⁷ Collective bargaining agreements are largely governed by labor law principles. Nevertheless, contract law principles retain their importance with respect to the interpretation and application of the terms of agreements. Moreover, freedom of contract is one of the fundamental premises underlying the justification for the agreement. In addition, contract principles remain relevant with respect to terms of player/team contracts that are open to individualized negotiation, notwithstanding uniform player contracts in the major

¹⁷ Timothy Davis, *Balancing Freedom of Contract and Competing Values in Sports*, 38 S.Tex. L. REv. 1115, 1134-35 (1997).

team sports.¹⁸ For example, in professional football the following are provisions that are subject to individualized negotiation:

- a. The amount of a signing or reporting bonus.
- b. The time of payment of bonus.
- c. The desirability of a loan.
- d. The length of the contractual relationship.
- e. Skill or injury guarantees.
- f. Function of initial-year salary and annual increments.
- g. The importance of final year salary.
- h. Option clauses.
- i. Salary adjustment agreements.
- j. Roster bonuses.
- k. Individual and team incentives.¹⁹

Beyond player/team agreements, principles of contract law are relevant to the creation, formation and enforcement of a wide variety of agreements that are struck in the sports world. These include endorsement contracts, coach/team contracts, arena lease agreements, and student-athlete/university scholarship agreements and letters of intent.²⁰

Thus, courts have relied upon familiar contract law concepts such as the doctrine of consideration, the parole evidence rule, the statute of frauds, and the implied duty of good faith and fair dealing in resolving disputes related to the foregoing types of sports related contracts.

Labor Law. In most cases, players in all of the major team sports are represented by labor unions. Because of this, labor law and antitrust law have emerged to impact significantly the law that governs team's sports.

Tort Law. Generally, tort principles applicable in other contexts are equally applicable in sports settings. Nevertheless, because of the unique characteristics of sports, the application of certain tort doctrine is imbued with difficulty such as in cases of tort liability stemming from on-the-field conduct. In this regard, Weller and Roberts²¹ state: *Sports, however, pose a unique problem to the law of personal injury.* The aim of a sporting event is to produce spirited athletic competition on the field or floor. In sports such as boxing, football etc. a central feature of the contest is the infliction of violent contact on the opponent. In other sports, such as basketball

¹⁸ Timothy Davis, What Is Sports Law?, 11 Marq. Sports Law Review 211 (2001), p.220;

¹⁹ Ibid, p.220;

²⁰ Robert C.R. Siekmann, Janwillem Soek: Lex Sportiva: What is Sports Law? Springer, Jan 19, 2012 - Biography & Autobiography, p.10;

²¹ Timothy Davis (2001):What Is Sports Law?, 11 Marq. SportsL. Rev. 211, p.231;

such contact is an expected risk, if not a desired outcome, of intense competition. Even sports such as golf that are intrinsically non-violent for their participants may inflict harmful contacts upon the spectators. This characteristic feature of sports requires the law to undertake a delicate balancing act when it tailors for use in sports litigation the standards of liability developed to govern relationships in very different aspects of life. The jurisprudence of personal injury in sports should include: Liability for Player-to-Player Conduct and assumption of the Risk.

Constitutional and Statutory Law. Traditionally, private law was viewed as providing the principal legal mechanism for regulating the sports industries. However, public law concepts, in addition to labor and antitrust law, play an increasingly important role in governing legal relationships in sports. Moreover, constitutional principles have been called upon to adjudicate the respective rights of parties involved in the sports world.

Other Substantive Areas. In addition to the forgoing, legal practice in the sports context may require familiarity with additional substantive areas of the law including: administrative law, criminal law, tax law, and intellectual property law etc.²²

Sources of sports law

The sports law has many sources that contain norms and provisions that regulate the main issues of sports and sport activities. Besides the sources of sports law, which are the fruit of the work of international organizations and law enforcement agencies of individual countries, there are numerous documents ascribed as "general legal acts", transnational - international non-governmental sports organizations and national sports organizations that adopt and prescribe sporting rules "rules of competition, rules for the organization and conduct of sports competitions in individual disciplines", as well as sanctions for possible infringements. Source of law in the formal sense is a general legal act in writing adopted by the competent state authority. Given the fact that sports is a positive legal right discipline, the sources of sports law are constitutional and legal regulations and international treaties.

²² Timothy Davis (2001):What Is Sports Law?, 11 Marq. SportsL. Rev. 211, p.238;

National sources of sports law (Case of Macedonia)

Having in mind the importance of individual national legal acts, the national sources of sports law will be presented by the division that takes into account the importance of the legal act in terms of sports right. Here we separate the sources of main and secondary sources of sports law.

Main national sources of sports law are:

1. The Constitution of Republic of Macedonia²³ and Amendment XVII.²⁴

In Article 20 of the Constitution of Republic of Macedonia in the part of fundamental rights and freedoms of man and citizen it is guaranteed the freedom of association to exercise and protect their political, economic, social, cultural and other rights and beliefs. Within the realization of economic, social and cultural rights in the Constitution, it is stated that the state encourages and assists technical education and sport, which is a basic foundation for changing the position and role of the state and create a completely different value system and attitude to sport.

Also, Amendment XVII provides a guarantee by which citizens participate in the local government, directly and through representatives in decision making process on issues of local importance, particularly in the areas of public services, urban and rural planning, environmental protection, local economic development, local finance , public works, culture, **sports**, social and child protection, education, health care and other fields determined by law , which in itself suggests a new dimension to the sport and commitment of citizens participation in sports activities a and by creating the legal conditions of the country to participate in sports .

2. The Law of Sports²⁵ is a source of law that fully regulates all areas of sports law. The Law regulates the conditions under which sport is performed and exercised, in order to fulfil the public interest in the sport under the jurisdiction of the Republic of Macedonia (local and regional), management of sports facilities owned by the Republic of Macedonia (local and regional) as well as other issues of importance to the sport. The Law of Sports attempts to fully define sports in terms of this Law. Hence, in terms of this law, sports is defined as *an activity that encompasses all forms of sports athletes of all ages and sports - recreational activities of citizens*. Sports activities are performed by sports associations and other entities in the field of sports. Other entities in terms of this Law are: sole trader and trading company registered for sports activities, as well as a legal entity which besides sport activities is registered for other activities as well.

²³ Constitution of Republic of Macedonia (Official Gazette No.52/91);

²⁴ Amendment XVII (Official Gazette No.91/01);

²⁵ Law of Sports (Official Gazette of RM No.29/02);

3. Law on Associations and Foundations.²⁶ This Law regulates the conditions and procedures for the establishment, registration and termination of associations, foundations, unions, organizational forms of foreign organizations in the country, available assets, monitoring, status changes and the status of public benefit organizations. This law is the basis for establishing the association as a first step of the organizational form of a sports organization. The Law also, defines the procedure for the establishment.

Secondary domestic sources

Secondary domestic sources are those that govern individual sports areas. These include:

- 1) Statutes of sports federations and organizations;
- 2) Rules for competition in individual sports;
- 3) The disciplinary rulebooks and;
- 4) Other acts adopted by the sports federations and organizations.

International sources of sports Law

International sources of sports law are international instruments relevant to sports law with a possibility of direct application. Given their specificity, international documents that are adopted by international sports organizations are obligatory to sport federations and organizations. These include:

1. The International Convention against doping in sport, adopted on 19 October 2005;²⁷
2. Nordic Anti-Doping Convention from 1985;²⁸

²⁶ Law on Associations and Foundations (Official Gazette of RM No.52/10);

²⁷ International Convention against Doping in Sport 2005, Paris, 19 October 2005; Also see Paul Marriott-Lloyd, International Convention against Doping in Sport, UNESCO, 2006; and Michael Straubel (2006): The International Convention Against Doping in Sport: Is It the Missing Link to USADA Being a State Actor and WADC Coverage of U.S. Pro Athletes? Marquette Sports Law Review, Fall, Volume 19, Article 5;

²⁸ Norwegian Confederation of Sports, Finnish Central Sports Federation (1985): Nordic Anti-doping Convention, Norwegian Confederation of Sports;

3. Convention against doping from Council of Europe and the Additional Protocol to the Convention against doping from Council of Europe;²⁹
4. Convention against doping from Council of Europe in Strasbourg, adopted on 16 November 1989;³⁰
5. International Convention against doping in sport adopted on October 19, 2005 by the General Assembly of UNESCO;³¹
6. Action Plan of the European Union for fight against drug from 2000-2004, adopted by the Council of Europe;³²
7. The European Charter for Sport - adopted by the Committee of Ministers of Council of Europe;³³
8. The European Charter for all sports - adopted by the Committee of Ministers of Council of Europe;³⁴
9. Declaration by the EU for the specific characteristics of sport and social function of sport in Europe;³⁵
10. Conclusions from the First Conference of EU on sports, where is defined the European model of sport;³⁶

²⁹ For a clean and healthy sport The Anti-Doping Convention, Sport Conventions Division / Directorate of Youth and Sport Council of Europe F – 67075 Strasbourg Cedex;

³⁰ ANTI-DOPING CONVENTION, European Treaty Series - No. 135, Strasbourg, 16.XI.1989;

³¹ International Convention Against Doping In Sport, Miscellaneous No.3 (2006), Paris, 19 October 2005;

³² Action Plan to Combat Drugs (2000-2004) available on http://europa.eu/legislation_summaries/justice_freedom_security/combating_drugs/133092_en.htm last access 08.06.2013;

³³ The European Sports Charter (adopted by the Committee of Ministers on 24 September 1992);

³⁴ See also RECOMMENDATION No. R (86) 18 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE EUROPEAN CHARTER ON SPORT FOR ALL: DISABLED PERSONS (Adopted by the Committee of Ministers on 4 December 1986 at the 402nd meeting of the Ministers' Deputies), Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe;

³⁵ Declaration on the specific characteristics of sport and its social function in Europe, of which account should be taken in implementing common policies, The European Council, 13948/00;

³⁶ Conclusions Of The First European Union Conference On Sport: The declaration on sport included in the Treaty of Amsterdam calls on the European institutions to give sports organizations a hearing before taking any important questions affecting sport. The Commission, in response to this call, assembled the principal actors in European sport in order to discuss the major issues which this sector will be facing in the years

Governance of Sport

The rules that are applied to sport can be classified into four types:

1. The rules of the game. Each sport has its own technical rules and laws of the game. These are usually established by the international sporting federations. These are the constitutive core of the sport. They are by definition unchallengeable in the course of the game.

2. The ethical principles of sport. These are not technical formal rules but govern issues of fairness and integrity. They cover what is usually referred to as ‘the spirit of the game’. These general principles can be at issue whenever sporting associations are challenged in the courts. They represent a distinct ‘legal’ order with its own characteristics that are specific to each sport. But this is an internal *lex specialis*, not distinctively global even when administered by international sporting federations.

3. International sports law. This accepts that there are general principles of law that are automatically applicable to sport. Basic protections, such as due process and the right to a fair hearing, are by this route incorporated into sport and represent a ‘rule of law’ in sport.

4. Global sports law. This describes the principles that emerge from the rules and regulations of international sporting federations as a private contractual order. They are distinctive and unique.³⁷

to come. The results of the conference should provide material for the discussions of the ministers responsible for sport, as well as for the report which the Commission is to submit to the European Council in Helsinki next December.

2. The work of the conference demonstrated the conviction that European sport, as diverse as it may be, has common characteristics that need to be preserved from possible commercial distortions. Sport, and in particular ‘sport for all’, is for European society an excellent means of social cohesion as well as an activity which goes beyond the strictly economic framework. Two principles define European sport: democracy and solidarity. It is in the interests of both public authorities and sports organizations that they be preserved.
3. Sport has to be in a position to fit into the new commercial framework in which it has to evolve, without losing either its identity or its autonomy which underline the functions it fulfils in the social, cultural, health or educational fields.

³⁷ KEN FOSTER (2008): *Is There a Global Sports Law?*, available on www2.warwick.ac.uk/fac/soc/law/elj/eslj/issues/volume2/.../foster.pdf, last access 06.09.2013;

Our opinion is that the norms of global sports law need to be unique. They cannot simply be the incorporation of general principles of public international law, for these have an independent validity and application. The rule of law in sport also operates upon sport and does not emerge from the practice of international sporting federations.

Conclusion

It is indisputable that sports, from its creation to this date, was carried out on the basis of certain pre-established rules. These special pre-established rules provide fulfillment of the core values on which the sport is based represented by the fundamental principles that provide the fair play and free competition. In fact, the interaction that occurred from the relationship between sports and law as two separate phenomena that are each individually developed, provided the emergence of the sports law as a separate branch of law. Comparing Sports law with criminal, civil, constitutional and administrative law we came to the conclusion that sports law is young but highly developed complex branch of law. Also sports law is a special legal discipline on numerous universities, institutes and other educational and scientific institutions in the countries of Western Europe and North America. The numerous experiences and results of scientific researches and institutions are of particular importance in the development of new sporting regulations and mechanisms for legal protection in sport and the individuals who are involved in sports.

Our opinion regarding sports law's character as a separate discipline is merely a matter of academic curiosity. No doubt, some will say the debate is only relevant to academics. Such a conclusion however, may be too narrow-minded or prejudiced. As alluded to above, such an attitude fails to recognize that the development of sports law can be viewed as evidence of the transformation of relationships in the sports context. In a more fundamental sense, however, perhaps the significance of whether sports law is a field of practice may lie in the perceptions of those who practice, study or write in the area.

We again note that the vigorously development of the sports law must be in touch with its specific legal practice because for these legal disputes there is absence of theoretical solutions and the theory in this matter is far behind the practical needs. There is obvious lack of serious analysis of numerous legal principles, institutions and there is also a lack of specific normative solutions. This problem is of a general nature, which is present in many countries, including those with most developed jurisdictions. Sports and sports activities cannot develop,

grow, progress and exist separated from the legal system. Contrary, they should be in accordance with the legal provisions that define sports and sports activities and give rules of conduct for better fulfillment of the main goals of sports. Sports autonomy can solely be based on the constitution, laws and courts decisions in national states.

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