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European Union policies for the rights of citizens to participate in sport

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Abstract

"Sport for All" is the sporting movement of modern life that dictates the conscious choice of movement for the benefit of health, well-being, good physical condition, mental health, entertainment, social inclusion and social cohesion. The right of citizens to participate in sport is reflected in several legislative texts, as a political and moral commitment by the member countries of Europe. The present study aims, in the light of the law and international legal approach, to investigate whether sport is a right, how this right is guaranteed legally, whether it is satisfied and to what extent. The method of analyzing the rules of law, *de lege lata*, the method that teaches how to grasp the meaning of the rules of positive law, the rules of the applicable law, is used to achieve the purpose of the investigation, since these rules are the result of deliberate will of the legislator. Finally, the study examines the correlation of sport with the satisfaction of the public interest in the country's economic, educational and cultural life. The conclusions of this study could help to understand the legal status and entity of sport in order to develop the appropriate strategic planning of the "Sport for All" movement and the prospect of securing these activities for the benefit of the citizens.

Keywords: sport, rights, sport for all

1. Introduction

According to the data available from the European Union Guidelines for Sport ^[1], most people in Europe do not achieve the minimum levels of physical activity recommended by the World Health Organization (WHO) due to their sedentary way of life. To be more specific, 59% of European Union citizens do not do any sport at all or they rarely engage in some type of physical exercise or sport ^[2]. Indeed, the lack of physical activity is recognized as the fourth most important risk factor for premature mortality and disease in high-income countries worldwide, and, in Europe alone, this is responsible for more than 1,000,000 deaths ^[3].

The problem is particularly intense in the Mediterranean countries since there is no substantial use of leisure time by physical exercise ^[4]. Particularly, in Greece, 59% of the citizens do not exercise, in Italy the figure is 60%, in Portugal 64%, and 44% in Spain ^[2]. Consequently, the possibility of an individual's development through physical exercise becomes more imperative and the satisfaction of this right by the state countries is essential. "Sport for All" is the sporting movement of modern life that dictates the conscious choice of movement for health, well-being, good physical condition, mental health, entertainment, social inclusion and social cohesion ^[5]. It aims to offer all citizens, irrespective of gender, nationality, age, education, social inclusion and economic status, the opportunity to actively engage in sport. Exercise through recreational activities and physical exercise are a social investment as they improve the quality of life, health levels, the productivity of citizens and help to prevent chronic diseases while simultaneously promoting interpersonal relationships ^[6]. It is therefore clear that involvement with sport is more of a social issue than an individual one and the state itself must understand that most problems emanate from the social organization itself and the interactions it defines.

1.1 Purpose of the study

The study aims, in the light of the law and its international legal approach, to investigate if

sport constitutes a right, how this right is guaranteed legally, whether it is satisfied and to what extent, mainly at a national level. For the implementation of the purpose of this research, the method of analyzing the rules of law is used, *de lege lata*, which is the method that teaches how to grasp the meaning of the rules of positive law, the rules of the applicable law, so that these rules are the result of deliberate will of the legislator^[7]. Finally, the study examines the association of sport with the satisfaction of the public interest regarding the economic, social and cultural life of the country.

2. Literature Review

2. 1. International Sports Policies.

The term "Sport for All" means the physical activity that is mainly carried out for leisure, entertainment and for health reasons during a person's free time^[8]. The citizen's right to do sport is first imprinted as a political and moral commitment by the Member countries at the Declaration Council of Europe^[9], where the "Sport for All" movement is recognized as a social service. For the State-members of the United Nations, the promotion and protection of sport, the right of citizens to physical activity is enshrined by the Charter of Physical Education and Sport of UNESCO^[10]. At the core of the aforementioned declarations is the institutional nature of sport, the context of sporting activities and the human activity that is developing therein, in relation to individual development and satisfaction of the right to participate in sport as an institution that promotes the individual but also the public interest^[11]. The European sport policy, with a strong verbal rhetoric (decisions of the Council of Ministers, adoption of laws, directives, recommendations and resolutions) sets out political principles and objectives, intervenes, urges and encourages member states to create an environment that will eliminate all obstacles that recant, impede or diminish the possibility of equal sporting participation.

The World Forum on Physical Activity and Sport^[12] recognizes that in addition to the role of physical activity in the prevention of both physical (cardiovascular diseases, diabetes, obesity, osteoporosis) and mental health (stress, depression), physical activity and sport, can play an important role in enriching social life and developing the individual's social interaction skills.

In the Treaty of Amsterdam^[13], the Conference stresses "the social importance of sport, and in particular its role in identifying and bringing people together". Therefore, it invites the organizations of the European Union to consult sporting bodies when discussing important issues that may affect sports. In this context, particular attention should be paid to the particularities of amateur sport. This position goes beyond the traditional perception of sport and establishes a homogeneous and consistent dogma for the sporting sector. It highlights the need to take into consideration the nature and the importance of the social role of sport in the implementation of any community policy^[7, 14].

In the 2nd Summit meeting of the Council of Europe^[15] the special contribution of sport was recognized in the consolidation of mutual understanding and trust among the people of Europe as follows: "... The EU recognizes the role of sport in promoting social integration, especially among young people... ". Following this, the EU ascribes with clarity and immediacy the particular value in the development of sport and clarifies the reasons which are required for its strengthening and support in the European area in many fields of action.

The Green Paper^[16] "Promoting healthy diets and physical activity: a European dimension for the prevention of overweight, obesity and chronic diseases" strengthens the cooperation and dialogue at EU level to combat obesity and promote physical activity. Given that today in the EU countries, up to 27% of men and 38% of women, including over 3 million children, suffer from obesity, the strategic planning and regulation of the European policy for citizens' sport are more necessary than ever.

In the White Paper^[17], on a European Strategy for Health issues which are related to Nutrition, Overweight and Obesity, the Commission "considers that Member States and the EU should take preventive measures to reverse the reduction in physical activity rates over the past decades and underline the importance of physical exercise in the fight against obesity and related illnesses". Moreover, the same text highlights the social, cultural and recreational nature of sports and its contribution to economic and social cohesion and the formation of more cohesive societies^[18]. It is characteristic that during the period of 2002-2006, five resolutions of the Council were issued urging the European Union to undertake action to combat obesity, not only in relation to diet, but also in relation to physical activity.

The importance of the EU in terms of sport is reflected in Article 165 of the Treaty of Lisbon^[19], which gives the EU the mandate to support, coordinate and complement the Member States' policy initiatives on sport. The Commission intends to strengthen the European dimension of sport in close cooperation with the Member States, sports organizations, civil society and citizens.

The European Health Strategy also includes the European Platform for Action on Nutrition, Physical Activity and Health^[20], which aims to establish a joint forum for action on all relevant factors that are active at European level and which are eager to undertake binding and verifiable commitments for the containment and the reversal of current trends in overweight and obesity.

The World Health Organization^[21] has recognized that obesity is spreading rapidly and it is tending to become a global epidemic while pointing out that 5 to 10% of the population regardless of age are obese, while in 2000 it was observed how the rate of spread of this phenomenon from 1990 to 2000 throughout the planet was projected to rise from 10% to 40%^[21]. Consequently, the possibility of an individual's development through physical exercise becomes more imperative and the satisfaction of this right is essential.

According to the European Commission, sport is a social phenomenon characterized by uniqueness and the satisfactions of educational, health, social, cultural and recreational functions^[22]. According to Panagiotopoulos *et al*^[23], (a) the educational function consists of all-round, balanced and harmonious personal development of each age group through sport; (b) the functionality of public health which is achieved by the promotion of personal health, well-being and quality of life through physical activity, (c) social function that is achieved through sport as it is the most appropriate tool to tackle intolerance, racism, violence and alcohol and drug abuse and it is an excellent way of social inclusion and social cohesion; (d) the cultural function, since sport provides an additional opportunity for people to find their roots, to integrate better and to protect the environment from a greater risk; and (e) recreational function as an important use of leisure time via sporting activity.

Globally, the right to Physical Education and Sport is enshrined by the provisions of the UNESCO International

Charter ^[10], which for the member states of the United Nations. is binding. According to the Declaration, national institutions play a major role in sport and it is necessary to strengthen legislation and provisions that promote material support, motivation and control to enhance such activities. In addition, it should be noted that each individual should have opportunities to develop his physical condition through Physical Education and Sport in order to achieve improvement. Particular opportunities should be provided to youngsters and school children with the option of choosing sports programs that meet their own needs, capabilities and requirements. Through the provisions of the Charter, the equal educational role of Physical Education at school and its particular contribution to all-round development of the personality of the individual is highlighted.

2.2 Personal development and the right to sporting activity

Although the term "personal development through participation in sporting activities" is novel, this means not only the right to participate freely in the sporting action but also in the social, educational, cultural and humanitarian functions of the exercise through physical activity or recreation of the individual to gain good psychological state on a permanent basis, sociability, interpersonal relationships, body image, individual physical fitness, physical and mental health and personal prestige. This is true for body action, as Hetherington claims, since all forms of actions (physical, mental, psychomotor and moral) can be achieved through exercise and sport. In addition, taking part in an athletic activity contributes to the creative use of leisure time, which means a special contribution to the complete development of their personality, physical and mental health.

According to the World Health Organization, the lack of physical activity is considered to be the second most harmful morbidity factor after smoking ^[24], while a sedentary lifestyle is one of the ten key factors responsible for premature mortality and disability ^[25].

Individual development through participation in sporting activity is primarily derived from the benefits of exercise for health. Physical activity contributes to the prevention of coronary artery disease ^[26], myocardial infarctions ^[27], hypertension ^[28], diabetes mellitus ^[29] and obesity ^[26]. In the context of an individual's development and his participation in athletic action, expansion factors are included such as reducing stressors and promoting mental health ^[30-33], since it has anxiolytic and antidepressant properties ^[34-36], increasing self-confidence and relaxation ^[37-39].

According to Wipfli, *et al*, ^[40], sport is the best non-pharmaceutical intervention in the treatment of depression. The psychological variables affected by engagement with sport include increasing the level of self-esteem ^[41-43], improving body self-image ^[38, 44-45], and a good psychological state ^[46]. All these educational, health, social, cultural and recreational functions impose the need for sport as a fundamental element in the daily routine of citizens. ^[16]. Indeed, it is noted that factors such as socio-economic inequalities, social status, income and education are key determinants of nutrition and physical activity. Some neighborhoods can discourage physical activity, lack recreational facilities, and affect people who are more disadvantaged than people with financial means. Lower levels of education and reduced access to relevant information reduce the potential for informed choices in all areas ^[16].

2.3 Sport as a social right.

Participation in sporting activity promotes social interaction, social inclusion and cohesion ^[47, 48]. The social role of sport is recognized in the documents of the European Union, such as the White Paper ^[17], which endorses the view that sport is an effective tool for social integration and integration of many categories of people in the fight against racism and violence. In the European Union, sport is an excellent way of achieving social cohesion and it contributes to the elimination of social barriers ^[49]. In the paper "Developing the European Dimension in Sport", the EU supports and encourages the social inclusion of disabled people in sport. It recognizes their right to participate in sporting activities on an equal basis. Indeed, the European Union and its Member States have signed the UN Convention on the Rights of People with Disabilities, which includes the obligation to take appropriate measures in order to enforce these rights. In addition, the EU recognizes that women are under-represented in some areas of sport and that measures are needed to ensure equal access to sport for women. Finally, it accepts that sport enhances intercultural dialogue, allowing for a positive interaction between migrants and a host society and the social inclusion of such vulnerable social groups ^[49]. According to a recent report by the EU Fundamental Rights Agency ^[50], racism, xenophobia and other forms of intolerance continue to cause problems in European sport, even at amateur level, and Member States should take action to address them.

2.4 The right to freely develop a personality through sport

The International Charter on Physical Education and Sport ^[10] states that "... it is obvious that physical education and sport are not only limited to physical well-being and health, but they contribute to the full and balanced development of the human being ". In the first article of the International Charter, it is argued that every human being has the fundamental right to access physical education and sport and the freedom to develop physical, mental and moral forces through sport must be ensured both within the educational system and in every facet of social life. Everyone who has a desire to participate in sporting activities and physical activity must be guaranteed by rules of law and the ability to develop his / her personal ability without being hindered, but with respect to their personality, physical integrity and moral environment in sporting action ^[51]. Sport is an essential dimension of education and cultivation, and therefore the right determines physical education and sport as activities and cultivation and education fields, as educational resource aimed at humans, either in education or in the social process as a cultural asset of the personality ^[52, 53]. Special care for the children is provided by the United Nations Convention on Rights (UNCRC), which has a general tendency to promote child welfare and provides opportunities for the child to be able to cope in a healthy way with freedom and dignity in his life ^[54]. Sport promotes values, knowledge, stimuli and skills that are particularly important for the all-round harmonious development of young people ^[17]. On the other hand, the sport phenomenon is subject to a number of threats, such as doping, violence and intolerance, from which young athletes must be particularly protected.

2.5 The right of the elderly to play sport

Physical exercise is an important factor in the quality of life of elderly people, as limited physical activity is reported as a major cause of mortality and morbidity in particular in these age-groups ^[55, 56]. Physical activity is considered to be

important for the health of particularly high-risk population groups [57], since it is closely related to the risk of developing cardiovascular diseases [58-60]. The reduction in physical activity reflects limitations in functional ability [61] and mobility [62]. The low physical activity leads to a reduction in the independent living of the elderly [63-64] and consequently to the increase in the need for intensive and chronic care services [65]. The "Sport for All" movement can save resources from health costs and ultimately bring significant economic benefits with their added value.

2.6 The right of vulnerable social groups in sport

The Council of Europe supports the right to sport and the physical activity of vulnerable categories of citizens. With a series of decisions, European Ministers support and strengthen the right to sport for (a) people with disabilities (No. 5 & 7/1981), (b) people suffering from deprivation and urban tensions (MLS -6 (88) B1-E, No. 6/1981), (c) non-privileged and marginal groups (MLS -6 (88) B1-E, No 8/1984), prisoners and new criminals (3/1986 MLS -6 (88) B1-E).

Equality of human rights is confirmed as regards to people with special needs, as there is evidence that sport bridges the differences between people. This equality is a basic principle of human rights. Sports and physical education are a way for people with disabilities or cultural minorities to safely enjoy themselves, as they can play on equal terms and enjoy the joy of success as all the contestants [66]. The UNESCO International Charter [10], which is mandatory for all UN member states enshrines the right of citizens with citizens' disabilities to do physical exercise and sports.

3. Conclusion

Sport as an activity is not just exercising the body, but a phenomenon that promotes human values, being a dominant component of social cultural, educational, economic and political life. The sporting movement is closely linked to a citizen's quality of life and it is important for EU Member States to draw up national plans to support physical activity in order to understand the health benefits of sport, changing unhealthy habits and how to adopt an active lifestyle. EU Member States are required to take all necessary measures to protect sport, to prevent risks that change its meaning and moral principles, and to ensure the right of every citizen to participate in sporting activities and not to abolish or diminish it.

The protection of the right to exercise and the "Sport for All" movement is part of the institutions under the criteria: "functional" that fulfills a vital function, "symbolic" that highlights the word of the institution and the "regulatory element" which ensures the institution and the function to meet the needs of the individual in a symbolic way.

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